

**Article**

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### Town of Clear Lake Unified Development Ordinance

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# Article

# 01

## Ordinance Foundation

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## Town of Clear Lake Unified Development Ordinance

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## 1.01 Title

This Ordinance shall be formally known as the “Town of Clear Lake Unified Development Ordinance,” and may be cited and referred to as the “Zoning Ordinance,” “Subdivision Control Ordinance,” or “Unified Development Ordinance.”

## 1.02 Unified Development Ordinance

The Town of Clear Lake's Zoning Ordinance and Subdivision Control Ordinance have been combined into one (1) ordinance for the purpose of maintaining consistency, shortening the overall length of the document, and to improve user-friendliness for the end users. Articles 1, 7, 8, 9, 10, and 11 are shared by both the Zoning Ordinance and Subdivision Control Ordinance. Articles 2, 3, 4, and 5 are exclusively zoning ordinance components. *Article 06: Subdivision Types* is exclusively a subdivision control ordinance component.

## 1.03 Defined Words

Words used in a special sense in this Unified Development Ordinance are defined in *Article 11: Definitions*.

## 1.04 Authority

This Unified Development Ordinance is adopted by the Town of Clear Lake pursuant to its authority under the laws of the State of Indiana, *IC 36-7-4 et seq.*

## 1.05 Purpose

This Unified Development Ordinance is intended to guide the growth and development of the Town in accordance with the *Town of Clear Lake Comprehensive Plan* for the following purposes:

- A. Basic Rights: To secure adequate light, air, convenience of access and safety from fire, flood, and other dangers, which may include providing adequate open spaces for light, air, and outdoor uses.
- B. General Welfare: To promote the public health, safety, morals, comfort, convenience, and general welfare.
- C. Development and Growth: To promote the orderly, responsible, and beneficial development and growth of the areas within the planning jurisdiction in accordance with the Town of Clear Lake's land use policy.
- D. Character: To protect the character and stability of agricultural, residential, institutional, commercial, and natural areas.
- E. Circulation: To minimize or avoid congestion on public streets and to ensure safe, convenient, and efficient traffic circulation.
- F. Environmental Integrity: To preserve and enhance the scenic beauty, aesthetics, and environmental integrity of the planning jurisdiction.
- G. Compatibility: To bring about compatibility between different land uses and to protect the scale and character of existing development from the encroachment of incompatible uses.
- H. Intensity: To regulate and restrict the use of buildings, structures, and land for business, residence, and other uses.
- I. Public Service: To define the powers and duties of administrative officers and bodies, and to establish procedures for the implementation and enforcement of this Unified Development Ordinance.
- J. Compliance: To require ongoing compliance with the regulations and punitive recourse for noncompliance regarding the provisions of this Unified Development Ordinance.

## 1.06 Compliance

Except as provided for in *Article 08: Nonconformances*, no structure shall be located, erected, constructed, reconstructed, moved, altered, converted, enlarged, or used, nor shall any piece of land be used, nor shall any existing use be expanded except when in full compliance with all provisions of this Unified Development Ordinance and the permits and certificates required by this Unified Development Ordinance have lawfully been issued.

## 1.07 Severability

If any provision or the application of any provision of this Unified Development Ordinance is held unconstitutional or invalid by the courts, the remainder of this Unified Development Ordinance or the application of such provision to other circumstances shall not be affected.

## 1.08 Interpretation

- A. Minimum Requirements: The provisions of this Unified Development Ordinance are the minimum requirements necessary for the protection of the health, safety, comfort, morals, convenience, and general welfare of the people at large.
- B. Conflict or Inconsistency:
  - 1. *Internal*: Unless otherwise specifically stated within this Unified Development Ordinance, if two (2) or more provisions of this Unified Development Ordinance are in conflict or are inconsistent with one another, then the most restrictive provision shall apply.
  - 2. *Federal, State, and Local*:
    - a. Whenever a provision of this Unified Development Ordinance imposes a greater restriction or a higher standard than is required by any State or federal code or regulation or other Town ordinance or regulation, the provision of this Unified Development Ordinance shall apply.
    - b. Whenever a provision of any State or federal code or regulation or other Town ordinance or regulation imposes a greater restriction or a higher standard than is required by this Unified Development Ordinance, the provision of the State or federal code or regulation or other Town ordinance or regulation shall apply.
  - 3. *Other*: Whenever a private covenant, contract, commitment, agreement or other similar private land use regulation imposes a greater restriction or a higher standard than is required by a provision of this Unified Development Ordinance, the Town is not obligated to enforce the provisions of such private covenants, contracts, commitments, agreements, or other similar regulations.
- C. Text: If differences are found between the meaning or implication of any drawing, table, figure, title, or section heading, the text of this Unified Development Ordinance shall apply.
- D. Time Frames: Unless specifically noted otherwise, time frames stated within this Unified Development Ordinance shall be calculated to include weekdays, weekends, and holidays. If a time frame ends on a Saturday, Sunday, or holiday that the Town offices are closed, the time frame will be extended to the end of the next business day.
- E. Delegation of Authority: If a provision in this Unified Development Ordinance requires the Zoning Administrator or other Town officer to perform an act or duty, that provision shall also include any person working under the authority and supervision of the Zoning Administrator unless specified otherwise.
- F. Mandatory and Permissive Terms: The words “shall” or “must” are always mandatory. The words “may” or “should” are always permissive.
- G. Words Used: If words used in this Unified Development Ordinance are not defined in *Article 11: Definitions*, they shall be construed to be the common usage of the language. Any legal or technical words not defined in this Unified Development Ordinance shall be construed to be as defined by appropriate lexicon or current and common dictionary.
- H. Tense: If words are used in a specific tense (past, future, or present) it shall be construed to include all tenses, unless the context clearly indicates a single tense.
- I. Singular/Plural Form: If words are used in singular form, the plural form shall apply and vice versa, unless the context clearly indicates the contrary.
- J. Gender: If a feminine term is used, the masculine shall also apply and vice versa.
- K. Conjunctions: The word “and” shall be construed to include all connected items in a series, conditions and provisions. The word “or” shall be construed to include one (1) or more of the items in a series, conditions and provisions, unless the context clearly suggests the contrary.
- L. Rounding: If a formula is used within this Unified Development Ordinance and results in a non-whole number of an indivisible object or feature, the non-whole number shall be rounded to the next highest whole number.
- M. Intent: The intent statements in *Article 2: Zoning Districts* and *Article 6: Subdivision Types* are not regulatory. Rather, they are provided to describe why the districts and subdivision types were created.

## 1.09 Ordinance Jurisdictional Area

This Unified Development Ordinance applies to all land and water bodies within the corporate limits of the Town of Clear Lake, Indiana.

## 1.10 Repealer

The following ordinances are hereby repealed and are replaced by this Unified Development Ordinance and Official Zoning Map:

- A. Zoning Ordinance: The Town of Clear Lake Zoning Ordinance of 1971 as amended, and its associated Zoning Map, otherwise known as Ordinance 84.
- B. Subdivision Control: The Town of Clear Lake Subdivision Control Ordinance of 1968 as amended, otherwise known as Ordinance 61.

## 1.11 Transition Rules

- A. Plan Commission: Any application (e.g. Development Plan Review or Primary Plat) filed with the Plan Commission that is full and complete prior to the effective date of this Unified Development Ordinance shall be regulated by the terms and conditions of the zoning ordinance and/or subdivision control ordinance that was in place at the time of filing. However, all administrative procedures and fees shall follow those established in this Unified Development Ordinance.
- B. Rezone: Any petition for a Zone Map Amendment (Rezone) filed with the Plan Commission that is full and complete prior to the effective date of this Unified Development Ordinance shall continue through the process to completion pursuant to the terms and conditions of the zoning ordinance that was in place at the time of filing. However, if there is a specific use for which the rezone was proposed, and that use would no longer be permitted in the proposed zoning district, or if the proposed zoning district no longer exists under this Unified Development Ordinance, the Zoning Administrator shall amend the petition such that the request for rezoning would accomplish the same end goal for the petitioner.
- C. Board of Zoning Appeals: Any petition (e.g. Development Standards Variance, Use Variance, or Administrative Appeal) filed with the Board of Zoning Appeals that is full and complete prior to the effective date of this Unified Development Ordinance shall continue the process pursuant to the terms and conditions of the Zoning Ordinance that was in place at the time of filing, provided that:
  - 1. *Required*: The petition is still required by the terms of this Unified Development Ordinance; or
  - 2. *Additional Approvals*: If the proposed use or development requires additional approvals from the Board of Zoning Appeals pursuant to the terms of this Unified Development Ordinance that were not required under the previous ordinances, the petition will be amended to include only those additional approvals that are now required and within the jurisdiction of the Board of Zoning Appeals.
- D. Planned Development:
  - 1. *Detailed Development Plan*: A Detailed Development Plan for a Planned Development District filed with the Plan Commission that is full and complete prior to the adoption of an amendment to the Planned Development District Ordinance shall continue the process pursuant to the terms and conditions of the Planned Development District Ordinance in place prior to the amendment.
  - 2. *Final Development Plan*: A Final Development Plan for a Planned Development District filed with the Plan Commission that is full and complete prior to the adoption of an amendment to the Planned Development District Ordinance shall continue the process pursuant to the terms and conditions of the Planned Development District Ordinance in place prior to the amendment. If the Final Development Plan is compliant with a Detailed Development Plan that was approved prior to the adoption of such amendment to the Planned Development District Ordinance, then the Final Development Plan may be considered for approval utilizing the same standards that applied to the Detailed Development Plan.

- E. **Building Sites:** All new building sites shall meet the requirements of this Unified Development Ordinance unless:
1. *Building Permit:* A complete Building Permit application was filed and is still valid; or
  2. *Improvement Location Permit:* A complete Improvement Location Permit petition was filed and is still valid; or
  3. *Buildable Lot:* A parcel was approved as a buildable lot by the Plan Commission (approved Primary or Secondary Plat) or the Board of Zoning Appeals (approved Variance) prior to the effective date of this Unified Development Ordinance; or
  4. *Primary Plat:* A complete and valid Primary Plat petition has been filed with the Zoning Administrator prior to the effective date of this Unified Development Ordinance.

## 1.12 Enforcement Official

The Zoning Administrator shall have the primary responsibility for administration and enforcement of this Unified Development Ordinance within the Town's planning jurisdiction. The enforcement official may also include the Plan Commission and Town Council.

## 1.13 Saving Provision

This Unified Development 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 Unified Development Ordinance shall not be construed as discontinuing, reducing, modifying, or altering any penalty accruing or about to accrue.

## 1.14 Effect of Annexation or Vacation on Zoning

The Plan Commission shall be guided by the principles and directives of the *Town of Clear Lake Comprehensive Plan* and this Unified Development Ordinance in making recommendations to the Town Council regarding zoning district classifications for newly annexed areas.

## 1.15 Statutory Changes

Whenever Indiana Code cited in this Unified Development Ordinance has been amended or superseded, this Unified Development Ordinance shall be deemed amended in reference to the new or revised code.

## 1.16 References

Whenever any agency, department, position, document, map, or publication referenced in this Unified Development Ordinance changes, the new or substitute agency, department, position, document, map, or publication shall be deemed incorporated into this Unified Development Ordinance.

## 1.17 Establishment of Standard Zoning Districts

Each of the standard zoning districts in this Unified Development Ordinance stand alone and is not a part of a hierarchy or pyramidal system of zoning. For example, what is permitted in the Agricultural District (AG) zoning district is not necessarily permitted in the Intense Agricultural (IA) zoning district. Only those uses and development standards which are expressly permitted and noted for each zoning district apply to that zoning district.

For the purpose of this Unified Development Ordinance, the Town of Clear Lake has established the following zoning districts:

Zoning District Code	Zoning District Name	Zoning District Purpose
CO	Conservation	This district is established for areas that are environmentally sensitive, protected, or set aside by either a public and private entity for conservation.
PR	Parks and Recreation	This district is established for active and passive parks, recreation areas, and trails.
AG	Agricultural	This district is established for agricultural uses and buildings associated with agricultural production.
IA	Intense Agricultural	This district is established for high intensity agricultural operations or operations likely to have a significant adverse impact on surrounding non-agricultural uses.
RE	Rural Estate	This district is established for single-family detached homes on large-sized lots.
SR	Single-family Residential	This district is established for single-family detached homes on medium-sized lots.
LR	Lake Residential	This district is established for single-family detached homes on small-sized lots that are contiguous to a lake.
LA	Lake Accessory	This district is established for residential accessory structures.
MR	Multiple-family Residential	This district is established for multiple-family dwellings (2 or more units per structure).
IS	Institutional	This district is established for institutional and municipal structures and operations.
NC	Neighborhood Commercial	This district is established for the provision of small scale retail and business services.
MA	Marina	This district is established for watercraft maintenance facilities and watercraft fuel sales.



## **1.18 Establishment of Overlay Districts**

Overlay districts may be established to add additional and unique development standards which will help the Town of Clear Lake accomplish its goals. *Article 03: Overlay Districts* identifies and regulates the overlay districts.

## **1.19 Establishment of a Planned Development District**

As provided for in this Unified Development Ordinance, only the preceding standard zoning districts may be rezoned to a Planned Development District: AG, RE, and SR.

## **1.20 Zoning District Land Uses**

The two-page layout for each standard zoning district in *Article 02: Zoning Districts* identifies land uses permitted in that district. Such land uses are of two (2) kinds: permitted uses and special exception uses. The Town of Clear Lake's permitted and special exception uses for each district are noted in the "Permitted Use" and "Special Exception Use" columns on each two-page layout.

## **1.21 Unlisted Land Uses**

Any land use not listed in either the permitted use or special exception use column of a particular zoning district, shall be prohibited in that particular zoning district.

## **1.22 Questionable Land Uses**

Any land use not listed in either the permitted use or special exception use column of a particular zoning district, but that is significantly similar or related to a use that is a permitted use or a special exception use in that zoning district may be deemed permitted or a special exception through a Questionable Land Use Interpretation by the Zoning Administrator.

## 1.23 Official Zoning Map

- A. Description: The map labeled “Official Zoning Map” maintained by the Plan Commission is hereby included as part of this Unified Development Ordinance and is to function as the means to apply a zoning district to each lot within the Town's jurisdiction. The zoning map shall be formally known as the “Official Zoning Map,” and it may be cited and referred to as the “Clear Lake Zoning Map” or the “Zoning Map.”
- B. Location: The Official Zoning Map will be located in the Town Hall and maintained by the Plan Commission.
- C. Zoning District Boundaries:
  - 1. *Standard Zoning Districts*: The standard zoning district boundaries shall be shown on the Official Zoning Map. The two-digit abbreviations for the standard zoning districts appearing in this Unified Development Ordinance or a specific color noted on the map legend shall be used to identify the zoning districts on the map.
  - 2. *Overlay Districts*: The overlay district boundaries shown on the Official Zoning Map shall be interpreted as follows:
    - a. *Labeling*: An overlay district shall be noted on the Official Zoning Map with a hatch or textured pattern and be noted as such on the map legend.
    - b. *Fully Covered*: A lot that is fully covered (bounded) by an overlay district shall be interpreted to be subject to the overlay district standards found in *Article 03: Overlay Districts*.
    - c. *Partially Covered*: A lot that is partially covered (transected) by an overlay district shall be interpreted to be subject to the overlay district standards to the extent the lot area is covered by the overlay district.
  - 3. *Standards*: Zoning district boundaries on the Official Zoning Map shall be interpreted as follows:
    - a. *Lake Properties*: The lake-side district boundary shall be interpreted to be the shoreline at average lake level and any appurtenance that projects into the lake from or for the benefit of the subject property (e.g. a dock, sea wall, or platform).
    - b. *Streets*: Zoning district boundaries shown within or parallel to the lines of streets, easements, and transportation rights-of-way shall be deemed to follow the centerline of the affected street, easement or right-of-way.
    - c. *Section Lines*: Zoning district boundaries indicated as following or being parallel to section or fractional sectional lines, platted lot lines or Town's corporation lines shall be construed as following or paralleling such lines.
    - d. *Water*: Zoning district boundaries indicated as approximately following the centerline of streams, rivers or other moving bodies of water shall be construed to follow such center lines.
    - e. *Vacated*: Whenever any street, alley, public way, railroad right-of-way, waterway or other similar area is vacated by proper authority, the zoning districts adjoining each side of vacated areas shall be extended automatically to the center of the vacated area. All areas included in the vacation shall thereafter be subject to all regulations of the extended zoning districts. The following exception apply:
      - i. In the event of a partial vacation, the adjoining zoning district, or zoning district nearest the portion vacated, shall be extended automatically to include all of the vacated area.
  - 4. *Disputes*: Any disputes as to the exact zoning district boundaries shall be determined by the Zoning Administrator. The Zoning Administrator may refuse to make a determination when he/she cannot definitely determine the location of a zoning district boundary. The Plan Commission may then interpret the location of the zoning district boundary with reference to the scale of the Official Zoning Map and the purposes set forth in all relevant provisions of this Unified Development Ordinance.
- D. Regular Revisions: The Official Zoning Map shall be formally revised by the Plan Commission as changes are made (e.g. rezonings, planned unit developments, or annexations) or as the Zoning Administrator determines necessary. During the time it takes for each revision to be made electronically, hand drawn lines and text on a printout of the previous Official Zoning Map will be appropriate to note zoning district changes. Revisions may be made at any time to correct drafting errors, clerical errors, or omissions in the map.

- E. Copies: Print copies of the Official Zoning Map may be distributed. Each copy of the Official Zoning Map shall be accurate only to the date on which it was last modified. The date of the latest revision shall be printed on copies of the Official Zoning Map.
- F. Damage, Destruction, or Loss: In the event the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret, the Plan Commission may prepare a new map which shall depict the Official Zoning Map as best as possible, and shall supersede the prior map upon approval by the Town Council. The new map shall not have the effect of amending the Official Zoning Map.

## 1.24 Town Council Summary of Powers and Duties

The powers and duties of the Town Council are described below. Duties should be interpreted as activities that are obligations. Powers should be interpreted as activities that are optional and may be initiated.

### A. Town Council Duties:

1. *Documents:* Adopt, reject, or amend the *Town of Clear Lake Comprehensive Plan*, strategic plans, or Unified Development Ordinance that have been certified and submitted by the Plan Commission.
2. *Amendments:* Adopt, reject, or amend proposals to amend or partially repeal the text of the *Town of Clear Lake Comprehensive Plan*, strategic plans or Unified Development Ordinance that has been certified and submitted by the Plan Commission.
3. *Zoning Map:* Adopt, reject, or amend proposals to amend the Official Zoning Map certified and submitted by the Plan Commission.
4. *Fee Schedule:* Adopt, reject, or amend a fee schedule.
5. *Enforcement:* Enforce regulations and procedures of the *Town of Clear Lake Comprehensive Plan* and Unified Development Ordinance to the extent of the local resolutions, ordinances, and State of Indiana Law.
6. *Other:* Other duties as permitted by Indiana Code.

### B. Town Council Powers:

1. *Document Amendment Initiation:* Initiate amendments to the *Town of Clear Lake Comprehensive Plan*, strategic plans, or Unified Development Ordinance by making the proposal to the Plan Commission.
2. *Zoning Map Amendment Initiation:* Initiate amendments to the Official Zoning Map by making the proposal to the Plan Commission.
3. *Other:* Other powers as permitted by Indiana Code.

## 1.25 Plan Commission Summary of Powers and Duties

The powers and duties of the Plan Commission are described below. Duties should be interpreted as activities that are obligations. Powers should be interpreted as activities that are optional and may be initiated.

### A. Plan Commission Duties:

1. *Documents:* Adopt and maintain the Town Council approved *Town of Clear Lake Comprehensive Plan* and Unified Development Ordinance as authorized under Indiana Code.
2. *Rules of Procedure:* Adopt and maintain rules and procedures for holding meetings, holding public hearings, and administering and enforcing the *Town of Clear Lake Comprehensive Plan* and Unified Development Ordinance.
3. *Records:* Maintain complete records of all meetings, hearings, correspondences, and affairs of the Plan Commission.
4. *Materials:* Publish and make available to the public all plans, ordinances, and other related material that are the responsibility of the Plan Commission.
5. *Process and Seal:* Adopt and maintain a permitting process and seal used to certify official or approved documents.
6. *Recommendations for Documents:* Certify and submit recommendations to the Town Council including new versions of and revisions to the *Town of Clear Lake Comprehensive Plan*, Unified Development Ordinance, and Official Zoning Map.
7. *Recommendations for Planned Development District:* Certify and submit recommendations to the Town Council for adopting a Planned Development District.
8. *Fiscal Records:* Maintain monetary and fiscal records of the Plan Commission.
9. *Budget:* Prepare and submit an annual budget to the Town Council.
10. *Plats:* Approve or deny plats or replats of subdivisions.
11. *Waivers:* Approve or deny request for waivers to the subdivision requirements of this Unified Development Ordinance.
12. *Development Plans:* Approve or deny development plans and amendments to development plans.
13. *Names:* Approve or deny proposed subdivision names, street names, and addresses in new developments.
14. *Enforcement:* Enforce regulations and procedures of the *Town of Clear Lake Comprehensive Plan* and Unified Development Ordinance to the extent of the local resolutions, ordinances, and State of Indiana Law.
15. *Other:* Other duties as permitted by Indiana Code.

**B. Plan Commission Powers:**

1. *Staff:* Hire, remove, and determine job descriptions for support staff.
2. *Committees:* Establish advisory committees as necessary.
3. *Funding:* Seek funding assistance through grant programs as necessary.
4. *Distribution:* Distribute copies or summaries of the *Town of Clear Lake Comprehensive Plan* and Unified Development Ordinance to the general public and development community.
5. *Compensation:* Determine the compensation for support staff and members as provided within the budget submission to Town Council.
6. *Other:* Other powers as permitted by Indiana Code.

**1.26 Board of Zoning Appeals Summary of Duties**

The duties of the Board of Zoning Appeals are described below. Duties should be interpreted as activities that are obligations.

**A. Board of Zoning Appeals Duties:**

1. *Appeals:* Hear and determine appeals from, and review any order, requirement, decision, or determination made by an administrative official or commission (except the Plan Commission) charged with the enforcement of this Unified Development Ordinance.
2. *Exceptions:* Authorize exceptions to the zoning district and overlay district regulations only in the classes of uses or in particular situations as specified in this Unified Development Ordinance.
3. *Variances:* Authorize, on appeal in specific cases, variances from the terms of this Unified Development Ordinance.
4. *Interpretations:* Interpret the Official Zoning Map.
5. *Other:* Other duties as permitted by Indiana Code.

**1.27 Zoning Administrator Summary of Duties**

The duties delegated by the Plan Commission to the Zoning Administrator are described below. Duties should be interpreted as activities that are obligations.

**A. Zoning Administrator Duties:**

1. *Plan Commission and Board of Zoning Appeals Files:* Maintain complete records of all meetings, hearings, correspondences, budgets, rules of procedure, memberships, term expirations, and general affairs of the Plan Commission and Board of Zoning Appeals.
2. *Plan Commission and Board of Zoning Appeals Meetings:* Serve as staff for the Plan Commission, Board of Zoning Appeals and any of its committees by setting agendas, conducting research, distributing meeting information, and serving as Plan Commission Secretary.
3. *Publish:* Publish and make available to the public all plans, ordinances, and other related material that are the responsibility of the Plan Commission and Board of Zoning Appeals.
4. *Public Interaction:* Be available as a first point of contact for planning and zoning questions from the public.
5. *Administrative Decisions:* Make administrative decisions based on the standards and procedures in this Unified Development Ordinance.
6. *Interpretations:* Interpret the standards in this Unified Development Ordinance.
7. *Applications:* Process applications submitted to the Planning Department.
8. *Review:* Review permit applications and issue or deny permits submitted to the Planning Department and Board of Zoning Appeals.
9. *Inspections and Enforcement:* Complete field inspections of improvements, structures, and uses to verify compliance with this Unified Development Ordinance.
10. *Recommendations:* Prepare and present Plan Commission recommendations to other commissions and boards.
11. *Board of Zoning Appeals:* Support in the execution of determining Appeals, Exceptions, Variances, Interpretations of Zoning and other duties as permitted by Indiana Code.
12. *Other:* Other duties that may be delegated by the Plan Commission and Board of Zoning Appeals.

# Certification and Adoption

01

## 1.28 Plan Commission Certification

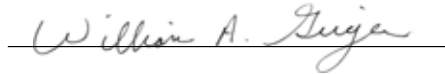
This Unified Development Ordinance was certified with a favorable recommendation for adoption on this 4th day of May, 2009, by the Town of Clear Lake Plan Commission after holding a legally announced public hearing. The certification was made by the following Plan Commission vote:

Signatures:

The Plan Commission of the Town of Clear Lake, Indiana.

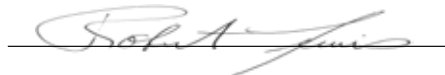
AYE

NAY



William A. Geiger,  
President

\_\_\_\_\_



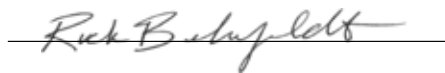
Robert Lewis,  
Vice President

\_\_\_\_\_

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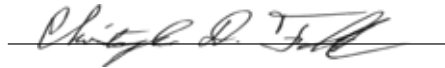
E. Gerald McArdle,  
Secretary





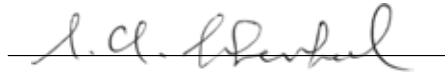
Rick Behnfeldt,  
Member

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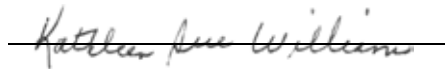
Christopher Folland,  
Member

\_\_\_\_\_



George Schenkel,  
Member

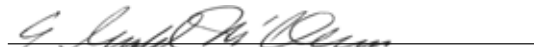
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Kathleen Sue Williams,  
Member

\_\_\_\_\_

Attest:



E. Gerald McArdle, Secretary, Town of Clear Lake  
Plan Commission, Clear Lake, Indiana

Date: May 4, 2009

Form and content approved by:



Neal Blythe, Attorney, Town of Clear Lake, Indiana

Date: May 4, 2009

# Certification and Adoption

01

## 1.29 Unified Development Ordinance Adoption/Effective Date

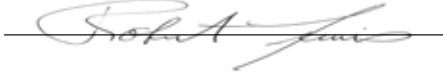
This Unified Development Ordinance shall become effective on September 1st, 2009. Adopted by the Town Council of Clear Lake, Indiana on this 13th day of July, 2009.

Signatures:

The Town Council of Clear Lake, Indiana

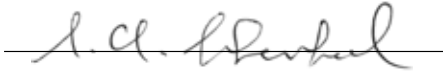
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NAY



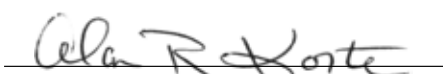
Robert Lewis,  
President

\_\_\_\_\_



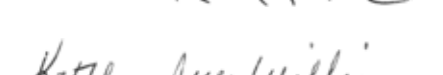
George Schenkel,  
Vice President

\_\_\_\_\_



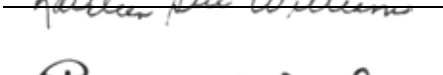
Alan Korte,  
Member

\_\_\_\_\_



Kathleen Sue Williams,  
Member

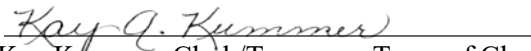
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Barry Worl  
Member

\_\_\_\_\_

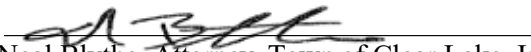
Attest:



Date: July 13, 2009

Kay Kummer, Clerk/Treasurer, Town of Clear Lake, Indiana

Form and content approved by:



Date: July 13, 2009

Neal Blythe, Attorney, Town of Clear Lake, Indiana





# Article

# 02

## Zoning Districts

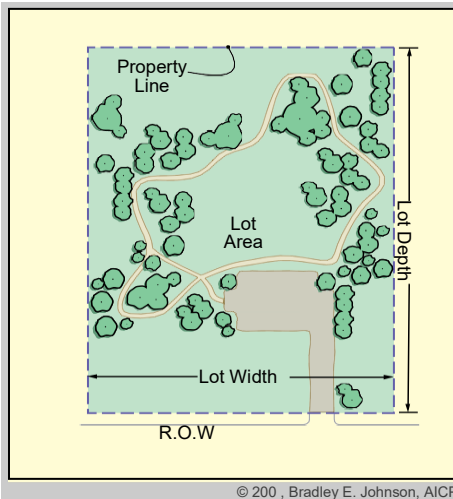
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### Town of Clear Lake Unified Development Ordinance

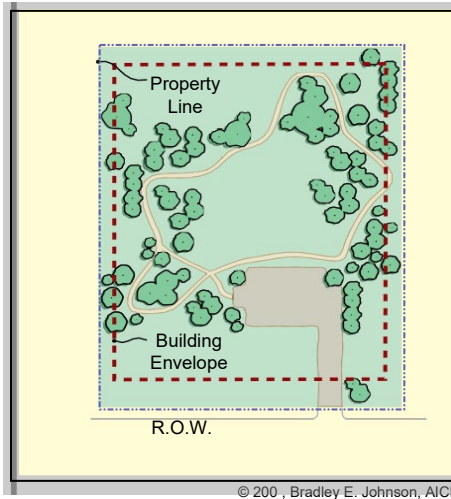
## 2.01 CO District Intent, Permitted Uses, and Special Exception Uses

District Intent	Permitted Uses	Special Exception Uses
<p><b>The CO (Conservation) District is intended to be used as follows:</b></p> <p><b>Use Type and Intensity</b></p> <ul style="list-style-type: none"> <li>Used to protect environmentally sensitive or unique land for conservation areas</li> <li>very low intensity</li> </ul> <p><b>Application of CO District</b></p> <ul style="list-style-type: none"> <li>Existing and new areas</li> <li>Typically spot zoned where environmentally sensitive land exists</li> <li>Buffer and transitional zoning district</li> </ul> <p><b>Development Standards</b></p> <ul style="list-style-type: none"> <li>Promote and protect high quality conservation areas</li> </ul> <p><b>Appropriate Adjacent Zoning Districts</b></p> <ul style="list-style-type: none"> <li>CO, PR, AG, RE, SR, LR, LA, MR, and IS</li> </ul> <p><b>Plan Commission</b></p> <ul style="list-style-type: none"> <li>Use the CO District to provide a land use category for land to be preserved from development</li> <li>Protect environmentally sensitive land within the CO District from adjacent agricultural, residential, and commercial land uses through the use of appropriate buffer yards, buffer landscaping, and setbacks</li> </ul> <p><b>Board of Zoning Appeals</b></p> <ul style="list-style-type: none"> <li>Protect the purity and integrity of environmentally sensitive land</li> </ul>	<p><b>Accessory Permitted Uses</b></p> <ul style="list-style-type: none"> <li>recreation-based accessory structure</li> <li>storage-based accessory structure</li> </ul> <p><b>Agricultural Permitted Uses</b></p> <ul style="list-style-type: none"> <li>agricultural crop production (organic)</li> <li>land conservation</li> </ul> <p><b>Institutional Permitted Uses</b></p> <ul style="list-style-type: none"> <li>nature center</li> <li>nature preserve</li> </ul>	<p><b>Accessory Special Exception Uses</b></p> <ul style="list-style-type: none"> <li>natural resources protection area</li> </ul>

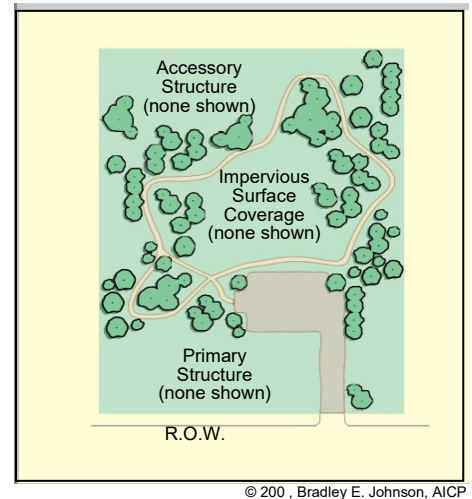
## 2.02 CO District Development Standards



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© 200 , Bradley E. Johnson, AICP



© 200 , Bradley E. Johnson, AICP

### Minimum Lot

- n/a

### Minimum Lot Width

- n/a

### Sewer and Water

- Sanitary sewer and water utility not required

### Minimum FrontYard

- 35 feet for primary and accessory structure

### Minimum Side Yard Setback

- 35 feet for primary and accessory structures

### Minimum Rear Yard Setback

- 35 feet for primary and accessory structures

### Minimum Lake Yard Setback

- 50 feet for primary and accessory structures

### Maximum Lot

- 5% of lot area

### Minimum Main Floor Area

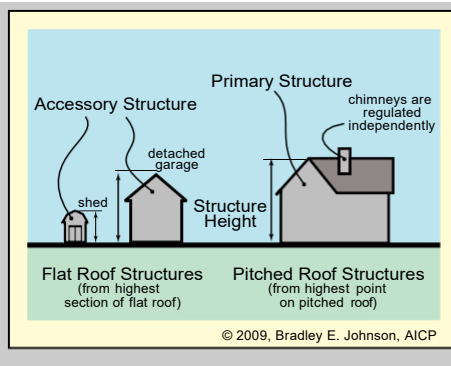
- n/a

### Minimum Dwelling Unit Size

- n/a

### Maximum Primary Structures

- 2 per lot



© 2009, Bradley E. Johnson, AICP

### Maximum Structure Height

- 25 feet for primary structure
- 20 feet for accessory structure

## Additional Development Standards that Apply

### Accessory Structure (AS)

- AS-01.....5-5
- AS-02.....5-6

### Deck (DS)

- DS-01.....5-13

### Density and Intensity (DI)

- DI-01.....5-15

### Driveway (DW)

- DW-01.....5-16

### Environmental (EN)

- EN-01.....5-21

### Fence (FN)

- FN-01.....5-22

### Floodplain (FP)

- FP-01.....5-25

### Floor Area (FA)

- FA-01.....5-26

### Height (HT)

- HT-01.....5-27

### Landscaping (LA)

- LA-01.....5-31

### Lot (LO)

- LO-01.....5-38

### Mechanical Equipment (ME)

- ME-01.....5-39

### Outdoor Storage (OS)

- OS-01.....5-41

### Parking (PK)

- PK-01.....5-42

### Performance (PF)

- PF-01.....5-46

### Pond (PO)

- PO-01.....5-48

### Public Improvement (PI)

- PI-01.....5-49

### Retaining Wall (RW)

- RW-01.....5-52

### Setback (SB)

- SB-01.....5-54

- SB-02.....5-55

### Sewer and Water (SW)

- SW-01.....5-58

### Sign (SI)

- SI-01.....5-59

### Structure (ST)

- ST-01.....5-71

### Temp. Use and Structure (TU)

- TU-01.....5-74

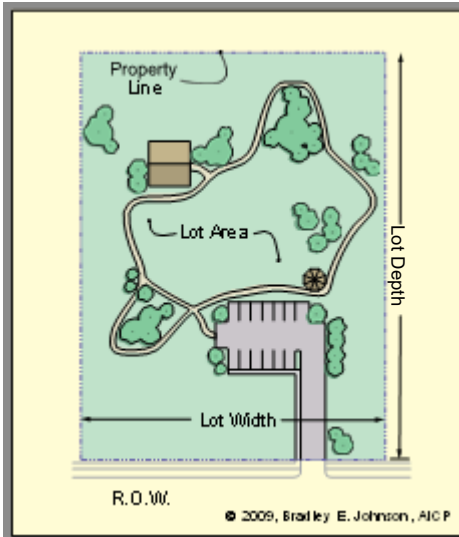
### Vision Clearance (VC)

- VC-01.....5-78

## 2.03 PR District Intent, Permitted Uses, and Special Exception Uses

District Intent	Permitted Uses	Special Exception Uses
<p><b>The PR (Parks and Recreation) District is intended to be used as follows:</b></p> <p><b>Use Type and Intensity</b></p> <ul style="list-style-type: none"> <li>Used to protect land for open space and recreation needs</li> <li>All intensities of active and passive recreation including parks, picnic areas, trails, playgrounds, and sports fields</li> </ul> <p><b>Application of PR District</b></p> <ul style="list-style-type: none"> <li>Existing and new areas</li> <li>Typically spot zoned and distributed around the community</li> <li>Buffer and transitional zoning district</li> </ul> <p><b>Development Standards</b></p> <ul style="list-style-type: none"> <li>Promote high quality recreation areas for public use and enjoyment</li> </ul> <p><b>Appropriate Adjacent Zoning Districts</b></p> <ul style="list-style-type: none"> <li>CO, PR, AG, RE, SR, LR, LA, RMIS, NC, and MA</li> </ul> <p><b>Plan Commission</b></p> <ul style="list-style-type: none"> <li>Use the PR District for existing and new parks and recreation facilities</li> <li>Protect the land and uses within the PR District from adjacent agricultural, residential, and commercial land uses through the use of appropriate buffer yards, buffer landscaping, and setbacks</li> </ul> <p><b>Board of Zoning Appeals</b></p> <ul style="list-style-type: none"> <li>Protect the integrity of the land and uses within the PR District</li> </ul>	<p><b>Accessory Permitted Uses</b></p> <ul style="list-style-type: none"> <li>farmers market</li> <li>recreation-based accessory structure</li> <li>storage-based accessory structure</li> </ul> <p><b>Agricultural Permitted Uses</b></p> <ul style="list-style-type: none"> <li>land conservation</li> </ul> <p><b>Commercial Permitted Uses</b></p> <ul style="list-style-type: none"> <li>golf course</li> </ul> <p><b>Institutional Permitted Uses</b></p> <ul style="list-style-type: none"> <li>community center</li> <li>nature center</li> <li>nature preserve</li> <li>park</li> <li>swimming pool (public)</li> </ul>	<p><b>Accessory Special Exception Uses</b></p> <ul style="list-style-type: none"> <li>natural resources protection area</li> </ul> <p><b>Residential Special Exception Uses</b></p> <ul style="list-style-type: none"> <li>caretakers residence</li> </ul>

## 2.04 PR District Development Standards



### Minimum Lot Area

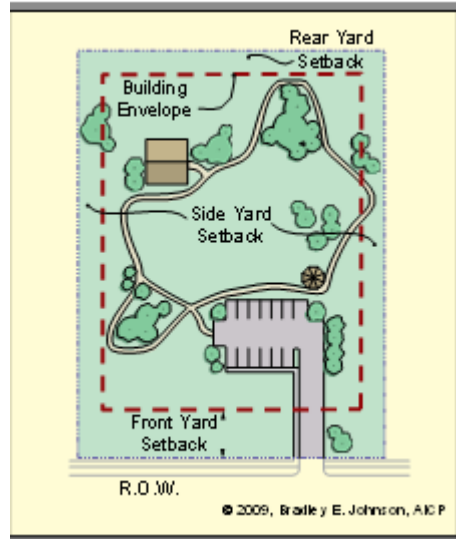
- n/a

### Minimum Lot Width

- 35 feet

### Sewer and Water

- Sanitary sewer and water utility not required



### Minimum Front Yard Setback

- 30 feet for primary structures
- 15 feet for accessory structures

### Minimum Side Yard Setback

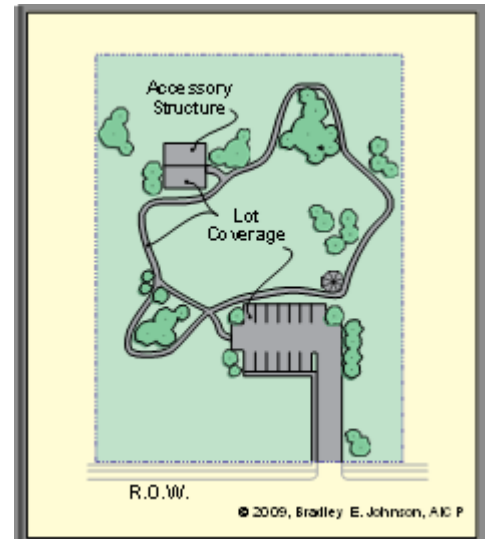
- 30 feet for primary structures
- 15 feet for accessory structures

### Minimum Rear Yard Setback

- 30 feet for primary structures
- 15 feet for accessory structures

### Minimum Lake Yard Setback

- 50 feet for primary structures
- 30 feet for accessory structures



### Maximum Lot Coverage

- 30% of lot area

### Minimum Main Floor Area

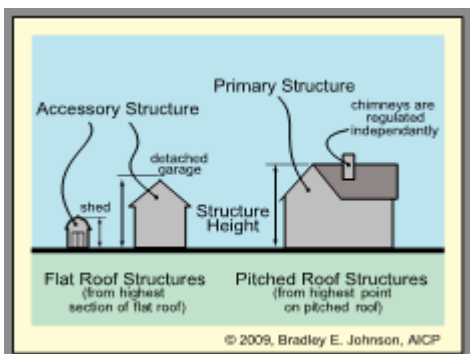
- n/a

### Minimum Dwelling Unit Size

- n/a

### Maximum Primary Structures

- 2 per lot



### Maximum Structure Height

- 25 feet for primary structure
- 20 feet for accessory structure

## Additional Development Standards that

### Accessory Structure (AS)

- AS-01 ..... 5-5

- AS-02 ..... 5-6

### Deck (DS)

- DS-01 ..... 5-13

### Density and Intensity (DI)

- DI-01 ..... 5-15

### Driveway (DW)

- DW-01 ..... 5-16

### Environmental (EN)

- EN-01 ..... 5-21

### Fence (FN)

- FN-01 ..... 5-22

### Floodplain (FP)

- FP-02 ..... 5-25

### Floor Area (FA)

- FA-01 ..... 5-26

### Height (HT)

- HT-01 ..... 5-27

### Landscaping (LA)

- LA-01 ..... 5-31

- LA-03 ..... 5-33

- LA-06 ..... 5-34

- LA-07 ..... 5-35

### Lighting (LT)

- LT-01 ..... 5-36

### Lot (LO)

- LO-01 ..... 5-38

### Mechanical Equipment (ME)

- ME-01 ..... 5-39

### Outdoor Storage (OS)

- OS-01 ..... 5-41

### Parking (PK)

- PK-01 ..... 5-42

### Performance (PF)

- PF-01 ..... 5-46

### Pond (PO)

- PO-01 ..... 5-48

### Public Improvement (PI)

- PI-01 ..... 5-49

### Retaining Wall (RW)

- RW-01 ..... 5-52

### Setback (SB)

- SB-01 ..... 5-54

- SB-02 ..... 5-55

### Sewer and Water (SW)

- SW-01 ..... 5-58

### Sign (SI)

- SI-01 ..... 5-59

### Special Exception (SE)

- SE-01 ..... 5-70

### Structure (ST)

- ST-01 ..... 5-71

### Temp. Use and Structure (TU)

- TU-01 ..... 5-74

- TU-04 ..... 5-75

### Trash Receptacle (TR)

- TR-01 ..... 5-76

### Vision Clearance (VC)

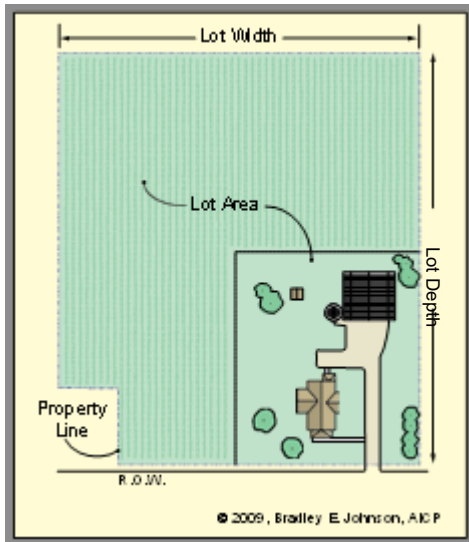
- VC-01 ..... 5-78

## Apply

## 2.05 AG District Intent, Permitted Uses, and Special Exception Uses

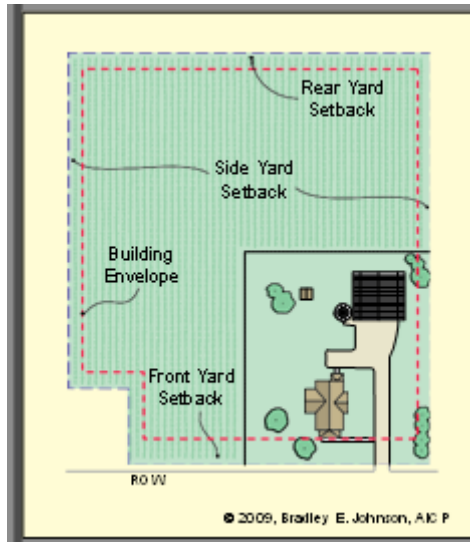
District Intent	Permitted Uses	Special Exception Uses
<p><b>The AG (Agricultural) District is intended to be used as follows:</b></p> <p><b>Use Type and Intensity</b></p> <ul style="list-style-type: none"> <li>• General agricultural operations</li> <li>• Low to medium intensity</li> </ul> <p><b>Application of AG District</b></p> <ul style="list-style-type: none"> <li>• Existing agricultural land</li> <li>• Newly incorporated land</li> </ul> <p><b>Development Standards</b></p> <ul style="list-style-type: none"> <li>• Maximize the protection of common and essential agricultural practices from adjacent land uses</li> </ul> <p><b>Appropriate Adjacent Zoning Districts</b></p> <ul style="list-style-type: none"> <li>• CO, PR, AG, IA, RE, SR, LA, MR, IS, and NC</li> </ul> <p><b>Plan Commission</b></p> <ul style="list-style-type: none"> <li>• Use the AG district for existing agricultural land</li> <li>• Protect the land and operations within the AG District from adjacent residential and commercial land uses through the use of appropriate buffer yards, buffer landscaping, and setbacks</li> </ul> <p><b>Board of Zoning Appeals</b></p> <ul style="list-style-type: none"> <li>• Protect the stability and integrity of the land and agricultural operations within the AG District</li> </ul>	<p><b>Accessory Permitted Uses</b></p> <ul style="list-style-type: none"> <li>• agricultural tourism</li> <li>• farmers market</li> <li>• recreation-based accessory structure</li> <li>• roadside sales</li> <li>• storage-based accessory structure</li> </ul> <p><b>Agricultural Permitted Uses</b></p> <ul style="list-style-type: none"> <li>• agricultural crop production</li> <li>• hobby farming</li> <li>• land conservation</li> <li>• orchard</li> <li>• plant nursery (retail)</li> <li>• plant nursery (wholesale)</li> <li>• raising of farm animals</li> <li>• sale of agricultural products</li> <li>• stable (private)</li> <li>• storage of agricultural products</li> <li>• tree farm</li> </ul> <p><b>Residential Permitted Uses</b></p> <ul style="list-style-type: none"> <li>• dwelling, single-family detached</li> <li>• fair housing facility (small)</li> </ul>	<p><b>Accessory Special Exception Uses</b></p> <ul style="list-style-type: none"> <li>• heliport (private)</li> <li>• natural resources protection area</li> <li>• wind-to-energy facility</li> </ul>

## 2.06 AG District Development Standards



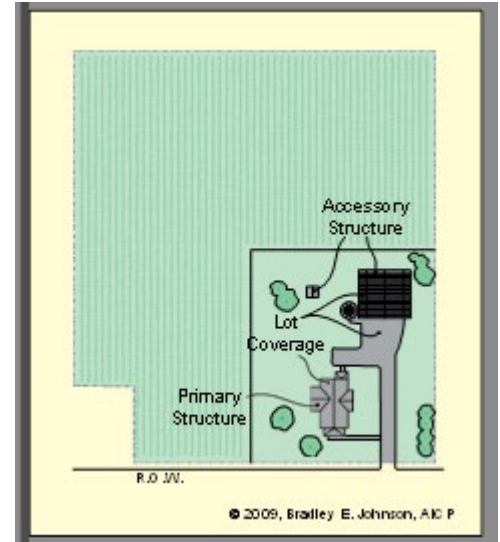
### Minimum Lot Area

- 2 acre
- **Minimum Lot Width**
- 200 feet
- **Sewer and Water**
- Sanitary sewer required where available
- Water utility required where available



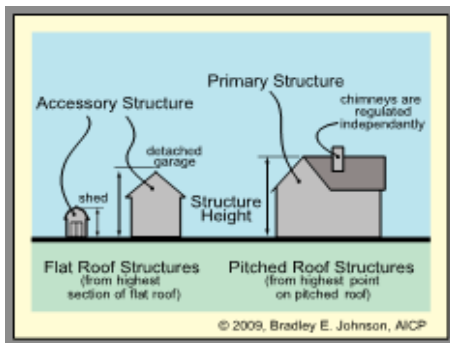
### Minimum Front Yard Setback

- 50 feet for primary and accessory structures
- **Minimum Side Yard Setback**
- 40 feet for primary structure
- 20 feet for accessory structure
- **Minimum Rear Yard Setback**
- 40 feet for primary structure
- 20 feet for accessory structure
- **Minimum Lake Yard Setback**
- 50 feet for primary and accessory structures



### Maximum Lot Coverage

- 20% of lot area
- **Minimum Main Floor Area**
- n/a
- **Minimum Dwelling Unit Size**
- 1,200 square feet
- **Maximum Primary Structures**
- 2 per lot



### Maximum Structure Height

- 40 feet for primary structure
- 40 feet for accessory structure

## Additional Development Standards that Apply

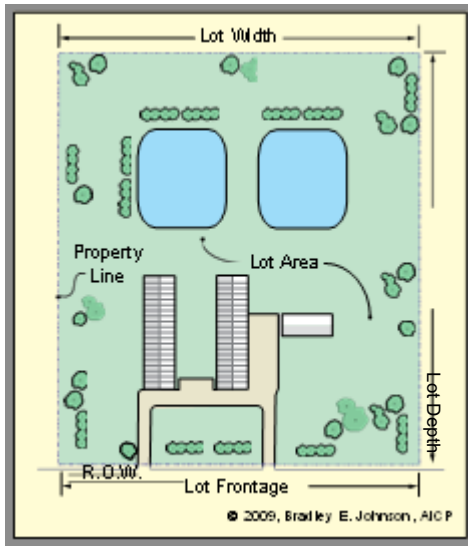
<b>Accessory Structure (AS)</b>	<b>Keeping of Animals (KA)</b>	<b>Setback (SB)</b>
• AS-01..... 5-5	• KA-01..... 5-30	• SB-01..... 5-54
• AS-02..... 5-6	<b>Landscaping (LA)</b>	• SB-02..... 5-55
<b>Deck (DS)</b>	• LA-01..... 5-31	<b>Sewer and Water (SW)</b>
• DS-01..... 5-13	• LA-07..... 5-35	• SW-01..... 5-58
<b>Density and Intensity (DI)</b>	<b>Lighting (LT)</b>	<b>Sign (SI)</b>
• DI-01..... 5-15	• LT-01..... 5-36	• SI-01..... 5-59
<b>Driveway (DW)</b>	<b>Lot (LO)</b>	• SI-02..... 5-62
• DW-01..... 5-16	• LO-01..... 5-38	<b>Special Exception (SE)</b>
• DW-02..... 5-17	<b>Mechanical Equipment (ME)</b>	• SE-01..... 5-70
<b>Environmental (EN)</b>	• ME-01..... 5-39	<b>Structure (ST)</b>
• EN-01..... 5-21	<b>Outdoor Storage (OS)</b>	• ST-01..... 5-71
<b>Fence (FN)</b>	• OS-01..... 5-41	<b>Temp. Use and Structure (TU)</b>
• FN-01..... 5-22	<b>Parking (PK)</b>	• TU-01..... 5-74
• FN-03..... 5-23	• PK-01..... 5-42	• TU-02..... 5-74
<b>Floodplain (FP)</b>	<b>Performance (PF)</b>	<b>Vision Clearance (VC)</b>
• FP-01..... 5-25	• PF-01..... 5-46	• VC-01..... 5-78
<b>Floor Area (FA)</b>	<b>Pond (PO)</b>	
• FA-01..... 5-26	• PO-01..... 5-48	
<b>Height (HT)</b>	<b>Recreational Vehicle (RV)</b>	
• HT-01..... 5-27	• RV-01..... 5-50	
	<b>Retaining Wall (RW)</b>	
	• RW-01..... 5-52	

## 2.07 IA District Intent, Permitted Uses, and Special Exception Uses

District Intent	Permitted Uses	Special Exception Uses
<p><b>The IA (Intense Agricultural) District is intended to be used as follows:</b></p> <p><b>Use Type and Intensity</b></p> <ul style="list-style-type: none"> <li>• Agricultural operations that may have a high impact on adjacent properties</li> <li>• Medium to high intensity</li> </ul> <p><b>Application of IA District</b></p> <ul style="list-style-type: none"> <li>• Existing agricultural land</li> </ul> <p><b>Development Standards</b></p> <ul style="list-style-type: none"> <li>• Enact strict development standards to maximize protection of common agricultural practices</li> </ul> <p><b>Appropriate Adjacent Zoning Districts</b></p> <ul style="list-style-type: none"> <li>• AG</li> </ul> <p><b>Plan Commission</b></p> <ul style="list-style-type: none"> <li>• Use the IA District for existing agricultural land</li> <li>• Protect the land and operations within the IA District from adjacent agricultural, residential, and commercial land uses through the use of appropriate buffer yards, buffer landscaping, and setbacks</li> </ul> <p><b>Board of Zoning Appeals</b></p> <ul style="list-style-type: none"> <li>• Protect the integrity of the land and agricultural operations within the IA District</li> <li>• Be sensitive to the potential for environmental pollution and other negative impacts to nearby agricultural, residential, and commercial land</li> </ul>	<p><b>Accessory Permitted Uses</b></p> <ul style="list-style-type: none"> <li>• recreation-based accessory structure</li> <li>• storage-based accessory structure</li> </ul> <p><b>Agricultural Permitted Uses</b></p> <ul style="list-style-type: none"> <li>• agricultural crop production</li> <li>• confined feeding operation (small)</li> <li>• hobby farming</li> <li>• orchard</li> <li>• raising of farm animals</li> <li>• raising of exotic animals</li> <li>• sale of agricultural products</li> <li>• storage of agricultural products</li> <li>• tree farm</li> </ul>	<p><b>Agricultural Special Exception Uses</b></p> <ul style="list-style-type: none"> <li>• confined feeding operation (medium)</li> </ul>

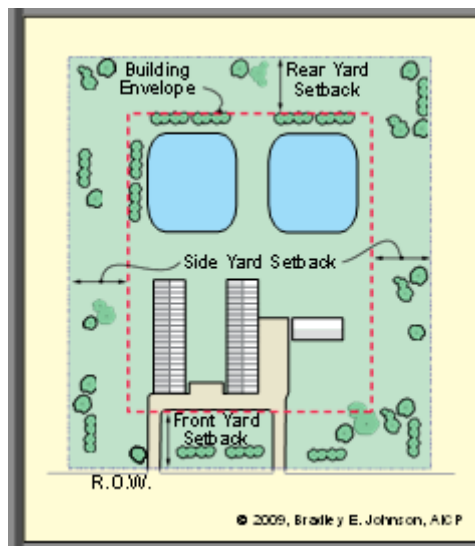


## 2.08 IA District Development Standards



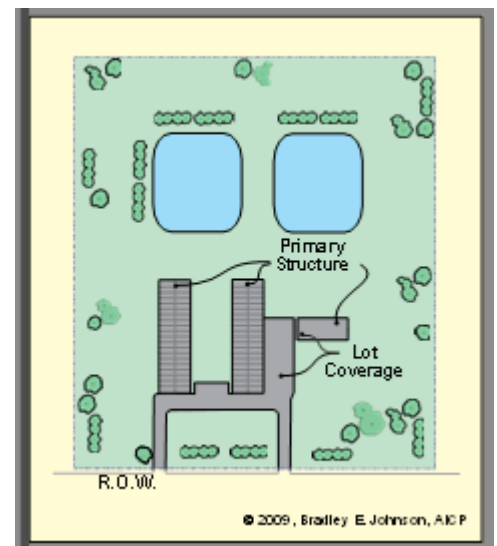
### Minimum Lot Area

- 4 acres
- Minimum Lot Width**
  - 1,600 feet
- Sewer and Water**
  - Sanitary sewer required where available
  - Water utility required where available



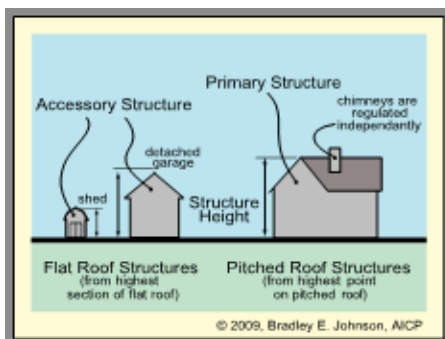
### Minimum Front Yard Setback

- 750 feet for primary and accessory structures
- Minimum Side Yard Setback**
  - 750 feet for primary and accessory structures
- Minimum Rear Yard Setback**
  - 750 feet for primary and accessory structures
- Minimum Lake Yard Setback**
  - n/a



### Maximum Lot Coverage

- 15% of lot area
- Minimum Main Floor Area**
  - n/a
- Minimum Dwelling Unit Size**
  - n/a
- Maximum Primary Structures**
  - 2 per lot



### Maximum Structure Height

- 40 feet for primary structure
- 40 feet for accessory structure

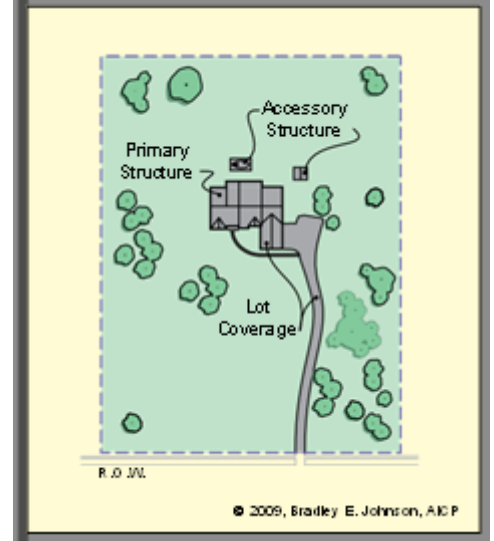
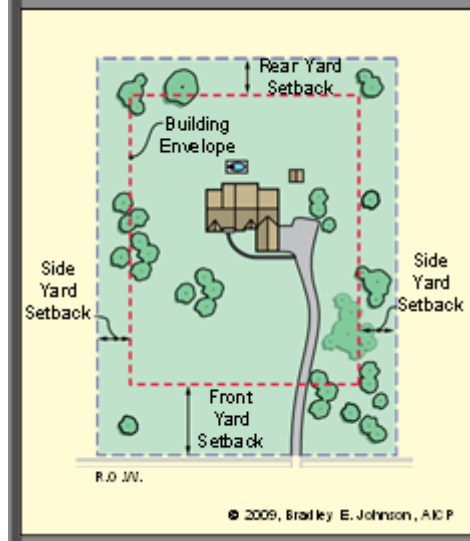
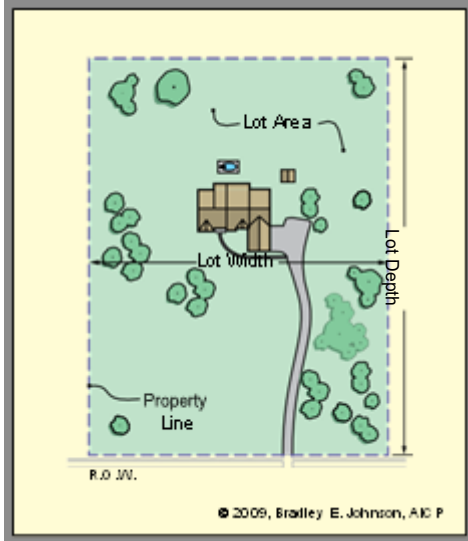
## Additional Development Standards that Apply

<b>Accessory Structure (AS)</b>		<b>Landscaping (LA)</b>		<b>Setback (SB)</b>	
• AS-01.....	5-5	• LA-01.....	5-31	• SB-01.....	5-54
• AS-02.....	5-6	• LA-07.....	5-35	• SB-02.....	5-55
<b>Deck (DS)</b>		<b>Lighting (LT)</b>		<b>Sewer and Water (SW)</b>	
• DS-01.....	5-13	• LT-01.....	5-36	• SW-01.....	5-58
<b>Density and Intensity (DI)</b>		<b>Lot (LO)</b>		<b>Sign (SI)</b>	
• DI-01.....	5-15	• LO-01.....	5-38	• SI-01.....	5-59
<b>Driveway (DW)</b>		<b>Mechanical Equipment (ME)</b>		• SI-02.....	5-62
• DW-01.....	5-16	• ME-01.....	5-39	<b>Special Exception (SE)</b>	
• DW-02.....	5-17	<b>Outdoor Storage (OS)</b>		• SE-01.....	5-70
<b>Environmental (EN)</b>		• OS-01.....	5-41	<b>Structure (ST)</b>	
• EN-01.....	5-21	<b>Parking (PK)</b>		• ST-01.....	5-71
<b>Fence (FN)</b>		• PK-01.....	5-42	<b>Temp. Use and Structure (TU)</b>	
• FN-01.....	5-22	<b>Performance (PF)</b>		• TU-01.....	5-74
• FN-03.....	5-23	• PF-01.....	5-46	• TU-02.....	5-74
<b>Floodplain (FP)</b>		<b>Pond (PO)</b>		<b>Vision Clearance (VC)</b>	
• FP-01.....	5-25	• PO-01.....	5-48	• VC-01.....	5-78
<b>Floor Area (FA)</b>		<b>Public Improvement (PI)</b>			
• FA-01.....	5-26	• PI-01.....	5-49		
<b>Height (HT)</b>		<b>Recreational Vehicle (RV)</b>			
• HT-01.....	5-27	• RV-01.....	5-50		
<b>Keeping of Animals (KA)</b>		<b>Retaining Wall (RW)</b>			
• KA-01.....	5-30	• RW-01.....	5-52		

## 2.09 RE District Intent, Permitted Uses, and Special Exception Uses

District Intent	Permitted Uses	Special Exception Uses
<p><b>The RE (Rural Estate) District is intended to be used as follows:</b></p> <p><b>Use Type and Intensity</b></p> <ul style="list-style-type: none"> <li>• Single-family detached homes on large sized lots</li> <li>• Low density</li> </ul> <p><b>Application of RE District</b></p> <ul style="list-style-type: none"> <li>• Existing and new development</li> <li>• Small area zoning</li> </ul> <p><b>Development Standards</b></p> <ul style="list-style-type: none"> <li>• Promote low-impact development in harmony with a rural setting</li> </ul> <p><b>Appropriate Adjacent Zoning Districts</b></p> <ul style="list-style-type: none"> <li>• CO, PR, AG, RE, SR, LR, LA, MR, IS, and NC</li> </ul> <p><b>Plan Commission</b></p> <ul style="list-style-type: none"> <li>• Use the RE District for existing developments and carefully for new residential development</li> </ul> <p><b>Board of Zoning Appeals</b></p> <ul style="list-style-type: none"> <li>• Allow a special exception use only when it is compatible with the surrounding residential areas</li> </ul>	<p><b>Accessory Permitted Uses</b></p> <ul style="list-style-type: none"> <li>• recreation-based accessory structure</li> <li>• storage-based accessory structure</li> </ul> <p><b>Agricultural Permitted Uses</b></p> <ul style="list-style-type: none"> <li>• hobby farming</li> <li>• stable (private)</li> </ul> <p><b>Residential Permitted Uses</b></p> <ul style="list-style-type: none"> <li>• dwelling, single-family detached</li> <li>• fair housing facility (small)</li> </ul>	<p><b>Accessory Special Exception Uses</b></p> <ul style="list-style-type: none"> <li>• accessory dwelling</li> <li>• natural resources protection area</li> </ul>

## 2.10 RE District Development Standards



### Minimum Lot Area

- 2 acre

### Minimum Lot Width

- 125 feet

### Sewer and Water

- Sanitary sewer required where available
- Water utility required where available

### Minimum Front Yard Setback

- 60 feet for primary and accessory structures

### Minimum Side Yard Setback

- 15 feet for primary structures
- 10 feet for accessory structures

### Minimum Rear Yard Setback

- 20 feet for primary structure
- 10 feet for accessory structure

### Minimum Lake Yard Setback

- 50 feet for primary and accessory structures

### Maximum Lot Coverage

- 20% of lot area

### Minimum Main Floor Area

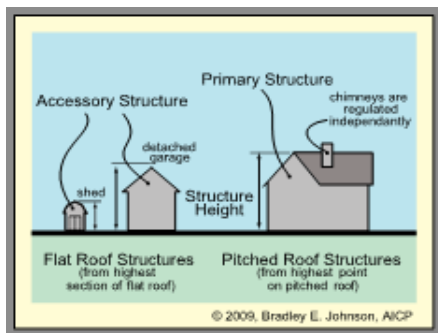
- n/a

### Minimum Dwelling Unit Size

- 1,200 square feet

### Maximum Primary Structures

- 1 per lot



### Maximum Structure Height

- 40 feet for primary structure
- 30 feet for accessory structure

## Additional Development Standards that Apply

### Accessory Dwelling (AD)

- AD-01..... 5-4

### Accessory Structure (AS)

- AS-01..... 5-5
- AS-03..... 5-6

### Architectural (AR)

- AR-01..... 5-12

### Deck (DS)

- DS-01..... 5-13

### Density and Intensity (DI)

- DI-01..... 5-15

### Driveway (DW)

- DW-01..... 5-16
- DW-03..... 5-18

### Environmental (EN)

- EN-01..... 5-21

### Fence (FN)

- FN-01..... 5-22
- FN-04..... 5-24

### Floodplain (FP)

- FP-01..... 5-25

### Floor Area (FA)

- FA-01..... 5-26

### Height (HT)

- HT-01..... 5-27

### Keeping of Animals (KA)

- KA-02..... 5-30

### Landscaping (LA)

- LA-01..... 5-31
- LA-03..... 5-33
- LA-06..... 5-34
- LA-07..... 5-35

### Lighting (LT)

- LT-01..... 5-36

### Lot (LO)

- LO-01..... 5-38

### Mechanical Equipment (ME)

- ME-01..... 5-39

### Outdoor Storage (OS)

- OS-01..... 5-41

### Parking (PK)

- PK-01..... 5-42
- PK-01..... 5-42

### Performance (PF)

- PF-01..... 5-46

### Pond (PO)

- PO-01..... 5-48

### Public Improvement (PI)

- PI-01..... 5-49

### Recreational Vehicle (RV)

- RV-01..... 5-50

### Retaining Wall (RW)

- RW-01..... 5-52

### Rural Residential (RL)

- RL-01..... 5-53

### Setback (SB)

- SB-01..... 5-54
- SB-02..... 5-55

### Sewer and Water (SW)

- SW-01..... 5-58

### Sign (SI)

- SI-01..... 5-59
- SI-03..... 5-63

### Special Exception (SE)

- SE-01..... 5-70

### Structure (ST)

- ST-01..... 5-71

### Temp. Use and Structure (TU)

- TU-01..... 5-74
- TU-02..... 5-74

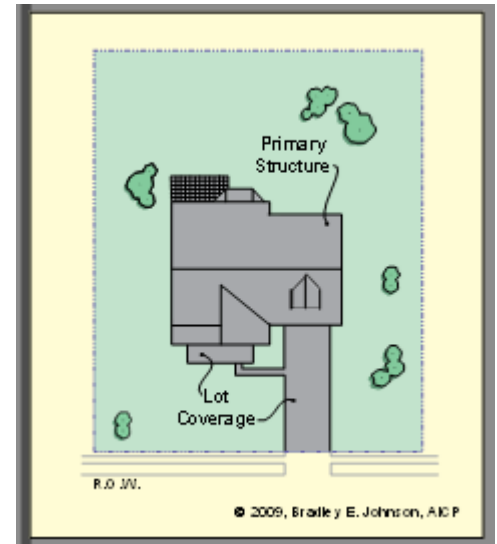
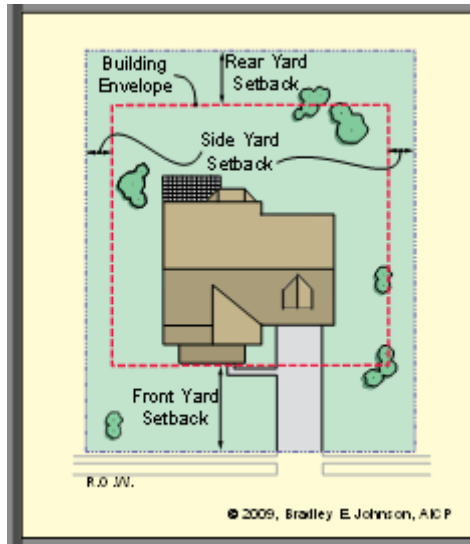
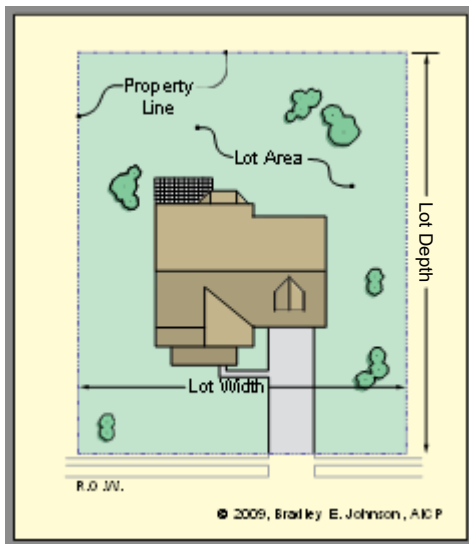
### Vision Clearance (VC)

- VC-01..... 5-78

## 2.11 SR District Intent, Permitted Uses, and Special Exception Uses

District Intent	Permitted Uses	Special Exception Uses
<p><b>The SR (Single-family Residential) District is intended to be used as follows:</b></p> <p><b>Use Type and Intensity</b></p> <ul style="list-style-type: none"> <li>Single-family detached homes on medium sized lots</li> <li>Medium density</li> </ul> <p><b>Application of SR District</b></p> <ul style="list-style-type: none"> <li>Existing and new development</li> <li>Small to large area zoning</li> </ul> <p><b>Development Standards</b></p> <ul style="list-style-type: none"> <li>Promote low impact development</li> </ul> <p><b>Appropriate Adjacent Zoning Districts</b></p> <ul style="list-style-type: none"> <li>CO, PR, AG, RE, SR, LR, LA, MR, IS, and NC</li> </ul> <p><b>Plan Commission</b></p> <ul style="list-style-type: none"> <li>Use the SR District for existing developments and carefully for new residential development</li> </ul> <p><b>Board of Zoning Appeals</b></p> <ul style="list-style-type: none"> <li>Allow a special exception use only when it is compatible with the surrounding residential areas</li> </ul>	<p><b>Accessory Permitted Uses</b></p> <ul style="list-style-type: none"> <li>home business</li> <li>recreation-based accessory structure</li> <li>storage-based accessory structure</li> </ul> <p><b>Residential Permitted Uses</b></p> <ul style="list-style-type: none"> <li>dwelling, single-family detached</li> <li>fair housing facility (small)</li> </ul>	<p><b>Accessory Special Exception Uses</b></p> <ul style="list-style-type: none"> <li>natural resources protection area</li> </ul>

## 2.12 SR District Development Standards



### Minimum Lot Area

- 12,000 square feet
- Minimum Lot Width**
- 70 feet

### Sewer and Water

- Sanitary sewer required
- Water utility required where available

### Minimum Front Yard Setback

- 30 feet for primary and accessory structures

### Minimum Side Yard Setback

- 10 feet for primary and accessory structures

### Minimum Rear Yard Setback

- 30 feet for primary
- 20 feet for accessory structures

### Minimum Lake Yard Setback

- 50 feet for primary and accessory structures

### Maximum Lot Coverage

- 40% of lot area

### Maximum Structure Coverage

- 35% of lot area

### Minimum Main Floor Area

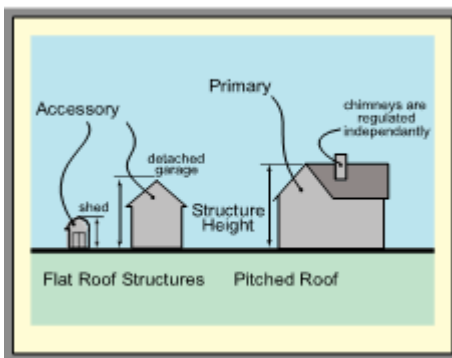
- 800 square feet

### Minimum Dwelling Unit Size

- 1,200 square feet

### Maximum Primary Structures

- 1 per lot



### Maximum Structure Height

- 35 feet for primary structure
- 18 feet for accessory structure
- 2 ½ stores for primary structure
- 1 story for accessory structure

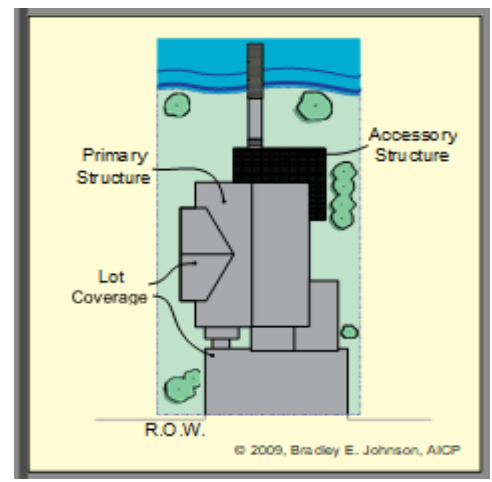
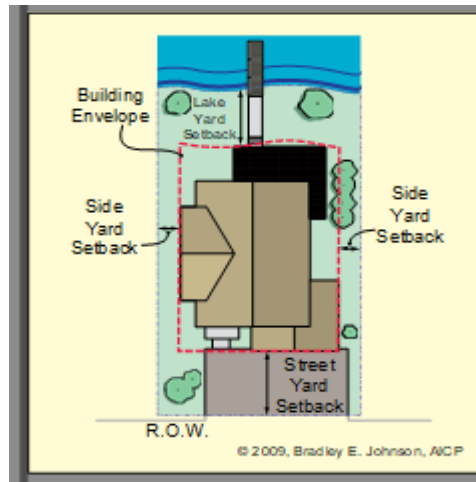
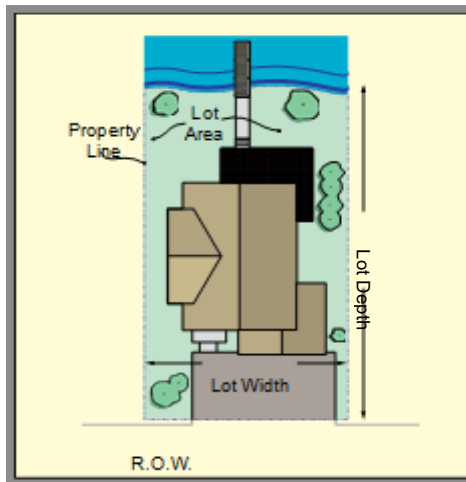
## Additional Development Standards that Apply

<b>Accessory Structure (AS)</b>	<b>Home Business (HB)</b>	<b>Recreational Vehicle (RV)</b>
• AS-01 ..... 5-5	• HB-01 ..... 5-28	• RV-01 ..... 5-50
• AS-04 ..... 5-7	<b>Landscaping (LA)</b>	<b>Retaining Wall (RW)</b>
<b>Architectural (AR)</b>	• LA-01 ..... 5-31	• RW-01 ..... 5-52
• AR-01 ..... 5-12	• LA-02 ..... 5-32	<b>Rural Residential (RL)</b>
<b>Deck (DS)</b>	• LA-03 ..... 5-33	• RL-01 ..... 5-53
• DS-01 ..... 5-13	• LA-06 ..... 5-34	<b>Setback (SB)</b>
<b>Density and Intensity (DI)</b>	• LA-07 ..... 5-35	• SB-01 ..... 5-54
• DI-01 ..... 5-15	<b>Lighting (LT)</b>	• SB-02 ..... 5-55
<b>Driveway (DW)</b>	• LT-01 ..... 5-36	<b>Sewer and Water (SW)</b>
• DW-01 ..... 5-16	<b>Lot (LO)</b>	• SW-01 ..... 5-58
• DW-03 ..... 5-18	• LO-01 ..... 5-38	<b>Sign (SI)</b>
<b>Environmental (EN)</b>	<b>Mechanical Equipment (ME)</b>	• SI-01 ..... 5-59
• EN-01 ..... 5-21	• ME-01 ..... 5-39	• SI-02 ..... 5-63
<b>Fence (FN)</b>	<b>Outdoor Storage (OS)</b>	<b>Special Exception (SE)</b>
• FN-01 ..... 5-22	• OS-01 ..... 5-41	• SE-01 ..... 5-70
• FN-02 ..... 5-24	<b>Parking (PK)</b>	<b>Structure (ST)</b>
<b>Floodplain (FP)</b>	• PK-01 ..... 5-42	• ST-01 ..... 5-71
• FP-01 ..... 5-25	• PK-02 ..... 5-42	<b>Temp. Use and Structure (TU)</b>
<b>Floor Area (FA)</b>	<b>Performance (PF)</b>	• TU-01 ..... 5-74
• FA-01 ..... 5-26	• PF-01 ..... 5-46	• TU-02 ..... 5-75
<b>Height (HT)</b>	<b>Pond (PO)</b>	<b>Utility (UT)</b>
• HT-01 ..... 5-27	• PO-01 ..... 5-48	• UT-01 ..... 5-77
	<b>Public Improvement (PI)</b>	<b>Vision Clearance (VC)</b>
	• PI-01 ..... 5-49	• VC-01 ..... 5-78

## 2.13 LR District Intent, Permitted Uses, and Special Exception Uses

District Intent	Permitted Uses	Special Exception Uses
<p><b>The LR (Lake Residential) District is intended to be used as follows:</b></p> <p><b>Use Type and Intensity</b></p> <ul style="list-style-type: none"> <li>• Single-family detached homes on small sized lots contiguous to a lake</li> <li>• Medium to high density</li> </ul> <p><b>Application of LR District</b></p> <ul style="list-style-type: none"> <li>• Existing residential development</li> <li>• Limited use for new development</li> </ul> <p><b>Development Standards</b></p> <ul style="list-style-type: none"> <li>• Flexible development standards to accommodate existing developments</li> <li>• Accessory structures should be ancillary to primary structures, and not used to extend living space</li> <li>• Primary structure's bulk, height, and size should be in proportion to the lot and neighborhood</li> </ul> <p><b>Appropriate Adjacent Zoning Districts</b></p> <ul style="list-style-type: none"> <li>• CO, PR, RE, SR, LR, LA, MR, and MA</li> </ul> <p><b>Plan Commission</b></p> <ul style="list-style-type: none"> <li>• Use the LR District for existing developments and limited use for new development</li> </ul> <p><b>Board of Zoning Appeals</b></p> <ul style="list-style-type: none"> <li>• Allow a special exception use only when it is compatible with the surrounding residential areas and will not negatively impact the lake</li> </ul>	<p><b>Accessory Permitted Uses</b></p> <ul style="list-style-type: none"> <li>• home business</li> <li>• recreation-based accessory structure</li> <li>• storage-based accessory structure</li> </ul> <p><b>Residential Permitted Uses</b></p> <ul style="list-style-type: none"> <li>• dwelling, single-family detached</li> <li>• fair housing facility (small)</li> </ul>	<p><b>Accessory Special Exception Uses</b></p> <ul style="list-style-type: none"> <li>• natural resources protection area</li> </ul>

## 2.14 LR District Development Standards



### Minimum Lot Area

- 4,000 square feet

### Minimum Lot Width

- 50 feet

### Sewer and Water

- Sanitary sewer required
- Water utility required where available

### Minimum Street Yard Setback

- 25 feet for primary structure
- 25 feet for accessory structure

### Minimum Side Yard Setback

- 20% of the lot width shall be the minimum aggregate for side yards. However, no single side yard shall be less than 5 feet for primary and accessory structures.

### Minimum Lake Yard Setback

- The established building setback line or 30 feet, whichever is greater for primary and accessory structures.

### Maximum Lot Coverage

- Lots up to 5,500 square feet, 56%; Lots greater than or equal ( $\geq$ ) 5,500 square feet and less than ( $<$ ) 9,000 square feet, 53%; and Lots 9,000 square feet or greater, 50%.

### Maximum Structure Coverage

- 35% of lot area

### Minimum Main Floor Area

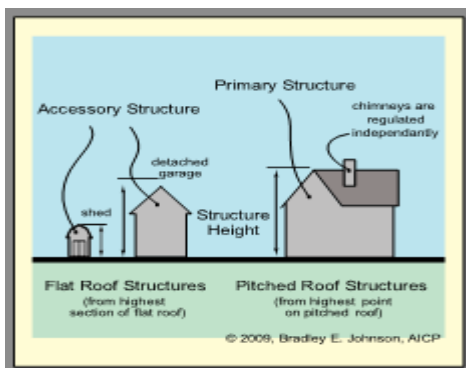
- 800 square feet

### Minimum Dwelling Unit Size

- 1,200 square feet

### Maximum Primary Structures

- 1 per lot



### Maximum Structure Height

- 35 feet for primary structure
- 18 feet for accessory structure
- 2 ½ stories for primary structure
- 1 story for accessory structure

## Additional Development Standards That Apply

### Accessory Structure (AS)

- AS-01 ..... 5-5
- AS-05 ..... 5-8

### Architectural (AR)

- AR-01 ..... 5-12

### Deck (DS)

- DS-02 ..... 5-14

### Density and Intensity (DI)

- DI-01 ..... 5-15

### Driveway (DW)

- DW-01 ..... 5-16
- DW-04 ..... 5-19

### Environmental (EN)

- EN-01 ..... 5-21

### Fence (FN)

- FN-01 ..... 5-22
- FN-04 ..... 5-24

### Floodplain (FP)

- FP-01 ..... 5-25

### Floor Area (FA)

- FA-01 ..... 5-26

### Height (HT)

- HT-01 ..... 5-27

### Home Business (HB)

- HB-01 ..... 5-28

### Landscaping (LA)

- LA-01 ..... 5-31
- LA-04 ..... 5-34
- LA-06 ..... 5-34
- LA-07 ..... 5-35

### Lighting (LT)

- LT-01 ..... 5-36

### Lot (LO)

- LO-01 ..... 5-38

### Mechanical Equipment (ME)

- ME-02 ..... 5-40

### Outdoor Storage (OS)

- OS-01 ..... 5-41

### Parking (PK)

- PK-01 ..... 5-42
- PK-03 ..... 5-43

### Performance (PF)

- PF-01 ..... 5-46

### Pond (PO)

- PO-01 ..... 5-48

### Public Improvement (PI)

- PI-01 ..... 5-49

### Recreational Vehicle (RV)

- RV-02 ..... 5-50

### Redevelopment (RD)

- RD-01 ..... 5-51

### Retaining Wall (RW)

- RW-01 ..... 5-52

### Setback (SB)

- SB-01 ..... 5-54
- SB-03 ..... 5-56

### Sewer and Water (SW)

- SW-01 ..... 5-58

### Sign (SI)

- SI-01 ..... 5-59
- SI-03 ..... 5-63

### Special Exception (SE)

- SE-01 ..... 5-70

### Structure (ST)

- ST-01 ..... 5-71

### Temp. Use and Structure (TU)

- TU-01 ..... 5-74
- TU-03 ..... 5-75

### Trash Receptacle (TR)

- TR-02 ..... 5-76

### Utility (UT)

- UT-01 ..... 5-77

### Vision Clearance (VC)

- VC-02 ..... 5-78

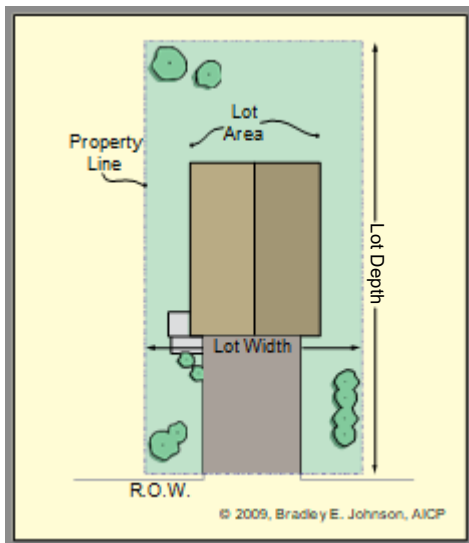


## 2.15 LA District Intent, Permitted Uses, and Special Exception Uses

District Intent	Permitted Uses	Special Exception Uses
<p><b>The LA (Lake Accessory) District is intended to be used as follows:</b></p> <p><b>Use Type and Intensity</b></p> <ul style="list-style-type: none"> <li>Residential accessory structures on non-lake lots</li> <li>Gardens</li> <li>Sport courts</li> </ul> <p><b>Application of LA District</b></p> <ul style="list-style-type: none"> <li>Existing and new development</li> <li>Small area zoning</li> </ul> <p><b>Development Standards</b></p> <ul style="list-style-type: none"> <li>Promote low impact development and discourage funneling</li> </ul> <p><b>Appropriate Adjacent Zoning Districts</b></p> <ul style="list-style-type: none"> <li>CO, PR, AG, RE, SR, LR, LA, MR, IS, NC, and MA</li> </ul> <p><b>Plan Commission</b></p> <ul style="list-style-type: none"> <li>Use the LA District for existing garage lots and undeveloped land across from the LR district</li> </ul> <p><b>Board of Zoning Appeals</b></p> <ul style="list-style-type: none"> <li>Allow a special exception use only when it is compatible with the surrounding residential areas and when it will not negatively impact the lake</li> </ul>	<p><b>Accessory Permitted Uses</b></p> <ul style="list-style-type: none"> <li>off-street parking</li> <li>outdoor storage</li> <li>occupiable accessory structure</li> <li>recreation-based accessory structure</li> <li>storage-based accessory structure</li> </ul>	<p><b>Accessory Special Exception Uses</b></p> <ul style="list-style-type: none"> <li>natural resources protection area</li> <li>sport court with lighting</li> </ul>



## 2.16 LA District Development Standards



### Minimum Lot Area

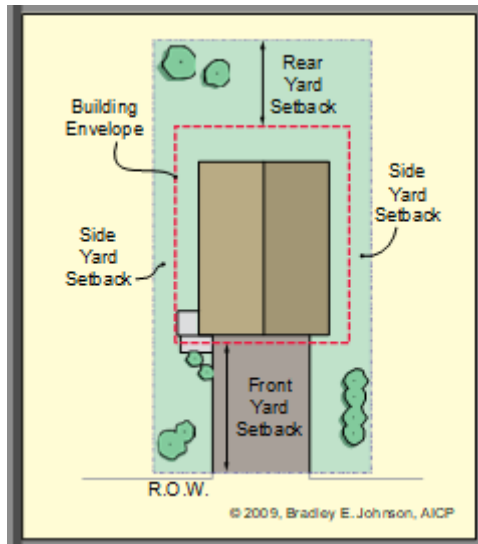
- 5,000 square feet

### Minimum Lot Width

- 50 feet

### Sewer and Water

- Sanitary sewer not permitted
- Water utility permitted for outdoor hydrants or spigots



### Minimum Front Yard Setback

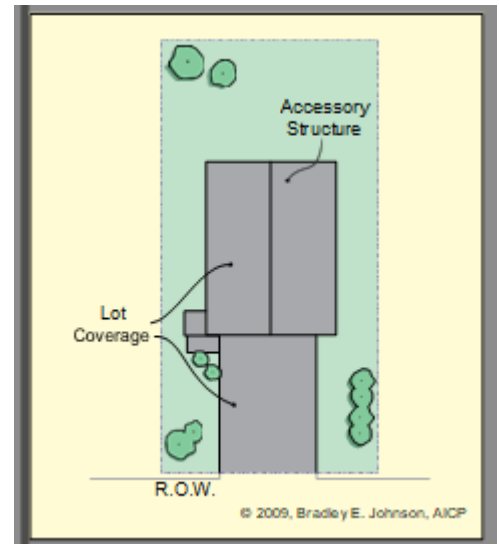
30 feet for primary and accessory structures

### Minimum Side Yard Setback

- 20% of the lot width shall be the minimum aggregate for side yards. However, no single side yard shall be less than 5 feet for primary and accessory structures

### Minimum Rear Yard Setback

- 20 feet for primary and accessory structures



### Maximum Lot Coverage

50% of lot area

### Maximum Structure Coverage

- 35% of lot area

### Minimum Floor Area

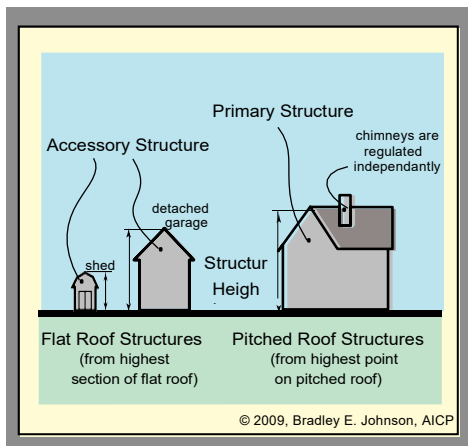
- not applicable

### Maximum Floor Area

- see accessory structure standards

### Maximum Primary Structures

- 1 per lot



### Maximum Structure Height

- 18 feet for primary and accessory structures
- 1 story for primary and accessory structures

## Additional Development Standards that Apply

### Accessory Structure (AS)

- AS-01 ..... 5-5
- AS-06 ..... 5-8

### Architectural (AR)

- AR-01 ..... 5-12

### Deck (DS)

- DS-01 ..... 5-13

### Density and Intensity (DI)

- DI-01 ..... 5-15

### Driveway (DW)

- DW-01 ..... 5-16
- DW-04 ..... 5-19

### Environmental (EN)

- EN-01 ..... 5-21

### Fence (FN)

- FN-01 ..... 5-22
- FN-04 ..... 5-24

### Floodplain (FP)

- FP-01 ..... 5-25

### Floor Area (FA)

- FA-01 ..... 5-26

### Height (HT)

- HT-01 ..... 5-27

### Home Business (HB)

- HB-01 ..... 5-28

### Landscaping (LA)

- LA-01 ..... 5-31
- LA-03 ..... 5-33
- LA-06 ..... 5-34
- LA-07 ..... 5-35

### Lighting (LT)

- LT-01 ..... 5-36

### Lot (LO)

- LO-01 ..... 5-38

### Mechanical Equipment (ME)

- ME-01 ..... 5-39

### Outdoor Storage (OS)

- OS-01 ..... 5-41

### Parking (PK)

- PK-01 ..... 5-42
- PK-03 ..... 5-43

### Performance (PF)

- PF-01 ..... 5-46

### Pond (PO)

- PO-01 ..... 5-48

### Public Improvement (PI)

- PI-01 ..... 5-49

### Recreational Vehicle (RV)

- RV-01 ..... 5-50

### Retaining Wall (RW)

- RW-01 ..... 5-52

### Setback (SB)

- SB-01 ..... 5-54
- SB-02 ..... 5-55

### Sewer and Water (SW)

- SW-01 ..... 5-58

### Sign (SI)

- SI-01 ..... 5-59
- SI-03 ..... 5-63

### Special Exception (SE)

- SE-01 ..... 5-70

### Structure (ST)

- ST-01 ..... 5-71

### Temp. Use and Structure (TU)

- TU-01 ..... 5-74

### Trash Receptacle (TR)

- TR-02 ..... 5-76

### Utility (UT)

- UT-01 ..... 5-77

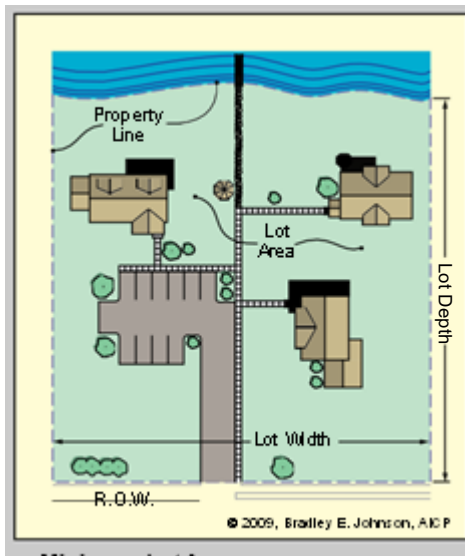
### Vision Clearance (VC)

- VC-01 ..... 5-78

## 2.17 MR District Intent, Permitted Uses, and Special Exception Uses

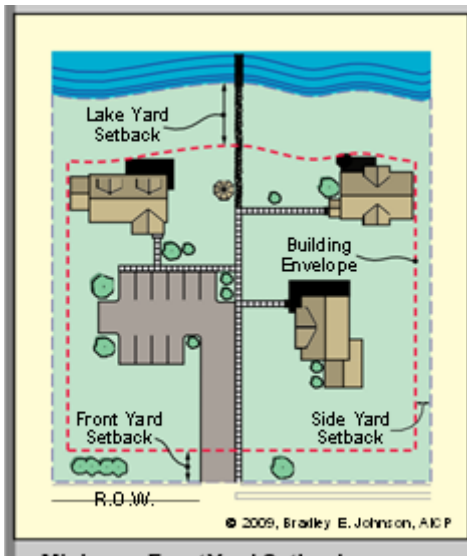
District Intent	Permitted Uses	Special Exception Uses
<p><b>The MR (Multiple-family Residential) District is intended to be used as follows:</b></p> <p><b>Use Type and Intensity</b></p> <ul style="list-style-type: none"> <li>• One to three single-family detached structures on a single site</li> <li>• Medium density</li> </ul> <p><b>Application of MR District</b></p> <ul style="list-style-type: none"> <li>• Existing and new development</li> <li>• Small area zoning</li> </ul> <p><b>Development Standards</b></p> <ul style="list-style-type: none"> <li>• Enact stringent development standards to protect the quality of life for tenants and surrounding zoning districts</li> </ul> <p><b>Appropriate Adjacent Zoning Districts</b></p> <ul style="list-style-type: none"> <li>• CO, PR, AG, RE, SR, LR, LA, MR, IS, NC, and MA</li> </ul> <p><b>Plan Commission</b></p> <ul style="list-style-type: none"> <li>• Use the MR district for existing developments and carefully for new multiple-family residential development</li> </ul> <p><b>Board of Zoning Appeals</b></p> <ul style="list-style-type: none"> <li>• Allow a special exception use only when it is compatible with the surrounding residential areas and will not negatively impact the lake</li> </ul>	<p><b>Accessory Permitted Uses</b></p> <ul style="list-style-type: none"> <li>• home business</li> <li>• recreation-based accessory structure</li> <li>• storage-based accessory structure</li> </ul> <p><b>Residential Permitted Uses</b></p> <ul style="list-style-type: none"> <li>• dwelling, single-family detached</li> </ul>	<p><b>Residential Special Exception Uses</b></p> <ul style="list-style-type: none"> <li>• fair housing facility (small)</li> </ul>

## 2.18 MR District Development Standards



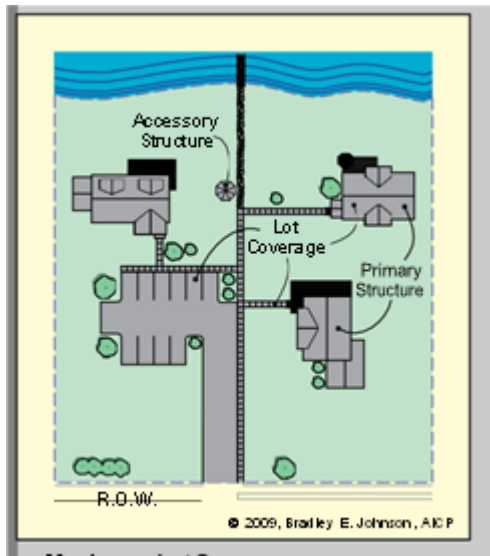
**Minimum Lot Area**

- 12,000 square feet
- Minimum Lot Width**
- 70 feet
- Sewer and Water**
- Sanitary sewer required
- Water utility required where available



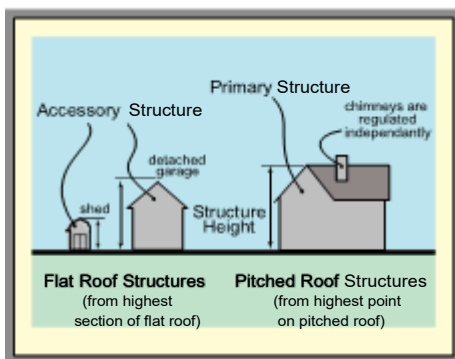
**Minimum Front Yard Setback**

- 20 feet for primary and accessory structures
- Minimum Side Yard Setback**
- 10 feet for primary structure
- 5 feet for accessory structure
- Minimum Rear Yard Setback**
- 20 feet for primary and accessory structures
- Minimum Lake Yard Setback**
- 40 feet for primary and accessory structures



**Maximum Lot Coverage**

- 40% of lot area
- Maximum Structure Coverage**
- 35% of lot area
- Minimum Main Floor Area**
- not applicable
- Minimum Dwelling Unit Size**
- 800 square feet
- Maximum Density**
- 3 units per acre
- Maximum Primary Structures**
- 3 per lot



- Maximum Structure Height**
- 40 feet for primary structure
- 20 feet for accessory structure
- 2 stories

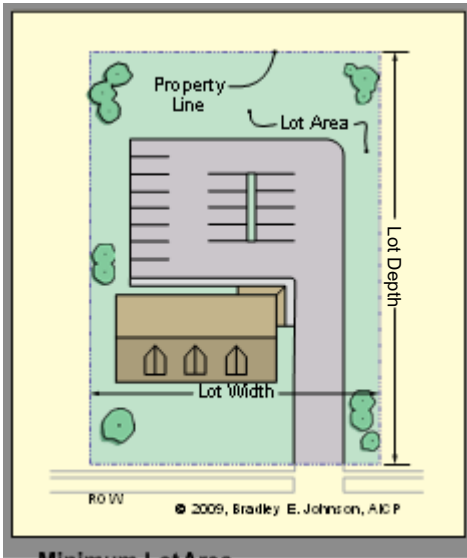
### Additional Development Standards that Apply

<b>Accessory Structure (AS)</b>	<b>Home Business (HB)</b>	<b>Retaining Wall (RW)</b>
• AS-01.....5-5	• HB-01.....5-28	• RW-01.....5-52
• AS-07.....5-9	<b>Landscaping (LA)</b>	<b>Rural Residential (RL)</b>
<b>Architectural (AR)</b>	• LA-01.....5-31	• RL-01.....5-53
• AR-01.....5-12	• LA-03.....5-33	<b>Setback (SB)</b>
<b>Deck (DS)</b>	• LA-05.....5-34	• SB-01.....5-54
• DS-03.....5-13	• LA-06.....5-34	• SB-02.....5-55
<b>Density and Intensity (DI)</b>	• LA-07.....5-35	<b>Sewer and Water (SW)</b>
• DI-01.....5-15	<b>Lighting (LT)</b>	• SW-01.....5-58
<b>Driveway (DW)</b>	• LT-01.....5-36	<b>Sign (SI)</b>
• DW-01.....5-16	<b>Lot (LO)</b>	• SI-01.....5-59
• DW-03.....5-18	• LO-01.....5-38	• SI-04.....5-64
<b>Environmental (EN)</b>	<b>Mechanical Equipment (ME)</b>	<b>Special Exception (SE)</b>
• EN-01.....5-21	• ME-02.....5-40	• SE-01.....5-70
<b>Fence (FN)</b>	<b>Outdoor Storage (OS)</b>	<b>Structure (ST)</b>
• FN-01.....5-22	• OS-01.....5-41	• ST-01.....5-71
• FN-04.....5-24	<b>Parking (PK)</b>	<b>Temp. Use and Structure (TU)</b>
<b>Floodplain (FP)</b>	• PK-01.....5-42	• TU-01.....5-74
• FP-01.....5-25	• PK-04.....5-42	• TU-03.....5-75
<b>Floor Area (FA)</b>	<b>Performance (PF)</b>	<b>Trash Receptacle (TR)</b>
• FA-01.....5-26	• PF-01.....5-46	• TR-01.....5-76
<b>Height (HT)</b>	<b>Pond (PO)</b>	<b>Utility (UT)</b>
• HT-01.....5-27	• PO-01.....5-48	• UT-01.....5-77
	<b>Public Improvement (PI)</b>	<b>Vision Clearance (VC)</b>
	• PI-01.....5-49	• VC-01.....5-78

## 2.19 IS District Intent, Permitted Uses, and Special Exception Uses

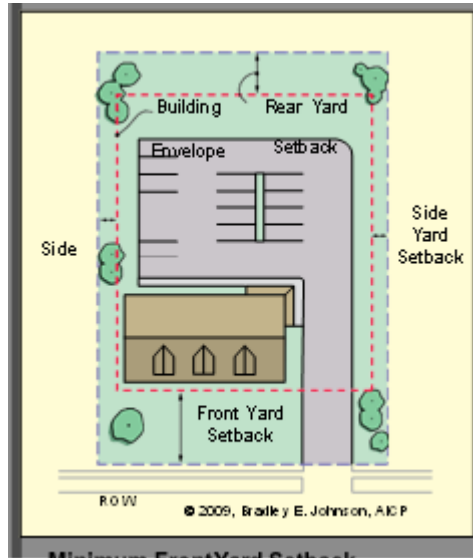
District Intent	Permitted Uses	Special Exception Uses
<p><b>The IS (Institutional) District is intended to be used as follows:</b></p> <p><b>Use Type and Intensity</b></p> <ul style="list-style-type: none"> <li>• Institutionally owned lands, including State, County, and Town facilities</li> <li>• Varying intensity</li> </ul> <p><b>Application of IS District</b></p> <ul style="list-style-type: none"> <li>• Existing and new development</li> <li>• Buffer and transitional zoning district</li> <li>• Small area zoning</li> </ul> <p><b>Development Standards</b></p> <ul style="list-style-type: none"> <li>• Require quality time, place, and manner development standards to minimize impacts on adjacent residential properties while serving the needs of the overall community</li> </ul> <p><b>Appropriate Adjacent Zoning Districts</b></p> <ul style="list-style-type: none"> <li>• CO, PR, AG, RE, SR, LA, MR, IS, NC, and MA</li> </ul> <p><b>Plan Commission</b></p> <ul style="list-style-type: none"> <li>• Use the IS District for existing developments and carefully for new institutional development</li> </ul> <p><b>Board of Zoning Appeals</b></p> <ul style="list-style-type: none"> <li>• Allow a special exception use only when it is compatible with the surrounding areas</li> </ul>	<p><b>Accessory Permitted Uses</b></p> <ul style="list-style-type: none"> <li>• recreation-based accessory structure</li> <li>• support-based accessory structure</li> </ul> <p><b>Commercial Permitted Uses</b></p> <ul style="list-style-type: none"> <li>• farmers market</li> </ul> <p><b>Institutional Permitted Uses</b></p> <ul style="list-style-type: none"> <li>• community center</li> <li>• government office</li> <li>• government operation (non-office)</li> <li>• library</li> <li>• municipal airport</li> <li>• municipal heliport</li> <li>• museum</li> <li>• place of worship</li> <li>• police, fire, or rescue station</li> <li>• post office</li> <li>• school (P-12)</li> <li>• sewage treatment plant</li> <li>• swimming pool (public)</li> <li>• water treatment plant</li> </ul>	<p><b>Commercial Special Exception Uses</b></p> <ul style="list-style-type: none"> <li>• telecommunication facility</li> </ul> <p><b>Residential Special Exception Uses</b></p> <ul style="list-style-type: none"> <li>• fair housing facility (large)</li> </ul>

## 2.20 IS District Development Standards



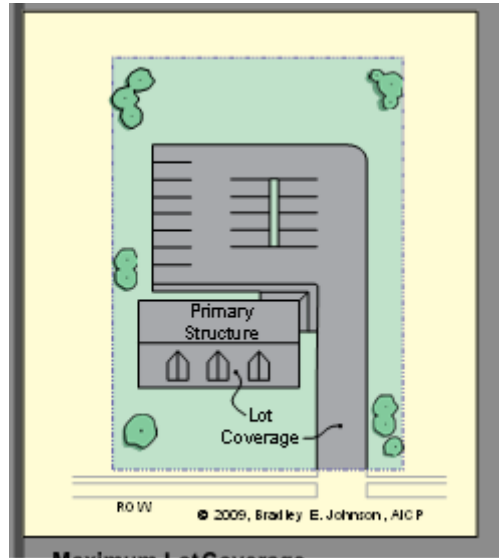
**Minimum Lot Area**

- 6,000 square feet
- **Minimum Lot Width**
- 60 feet
- **Sewer and Water**
- Sanitary sewer required
- Water utility required where available



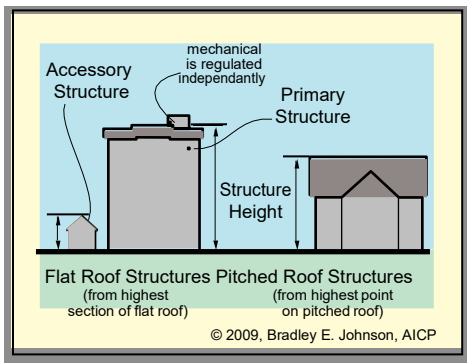
**Minimum Front Yard Setback**

- 30 feet for primary and accessory structures
- **Minimum Side Yard Setback**
- 20 feet for primary and accessory structures
- **Minimum Rear Yard Setback**
- 20 feet for primary and accessory structures
- **Minimum Lake Yard Setback**
- 30 feet for primary and accessory structures



**Maximum Lot Coverage**

- 50% of lot area
- 35% if a lake lot
- **Minimum Main Floor Area**
- 500 square feet
- **Maximum Primary Structures**
- 1 per lot



### Maximum Structure Height

- 40 feet for primary structure
- 30 feet for accessory structure
- 2 stories

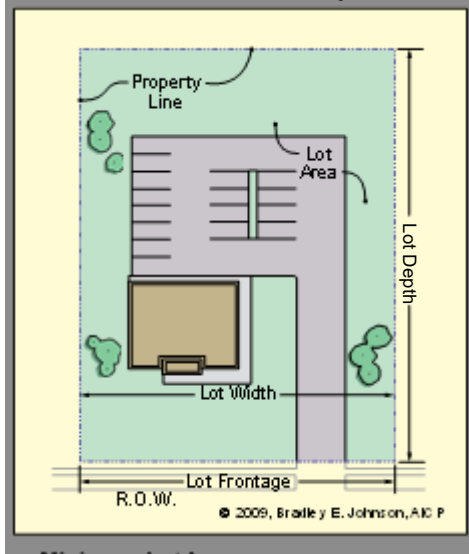
### Additional Development Standards that Apply

<b>Accessory Structure (AS)</b> <ul style="list-style-type: none"> <li>• AS-01.....5-5</li> <li>• AS-08.....5-9</li> </ul> <b>Deck (DS)</b> <ul style="list-style-type: none"> <li>• DS-01.....5-13</li> </ul> <b>Density and Intensity (DI)</b> <ul style="list-style-type: none"> <li>• DI-01.....5-15</li> </ul> <b>Driveway (DW)</b> <ul style="list-style-type: none"> <li>• DW-01.....5-16</li> <li>• DW-05.....5-20</li> </ul> <b>Environmental (EN)</b> <ul style="list-style-type: none"> <li>• EN-01.....5-21</li> </ul> <b>Fence (FN)</b> <ul style="list-style-type: none"> <li>• FN-01.....5-22</li> <li>• FN-05.....5-24</li> </ul> <b>Floodplain (FP)</b> <ul style="list-style-type: none"> <li>• FP-01.....5-25</li> </ul> <b>Floor Area (FA)</b> <ul style="list-style-type: none"> <li>• FA-01.....5-26</li> </ul> <b>Height (HT)</b> <ul style="list-style-type: none"> <li>• HT-01.....5-27</li> </ul>	<b>Landscaping (LA)</b> <ul style="list-style-type: none"> <li>• LA-01.....5-31</li> <li>• LA-03.....5-33</li> <li>• LA-05.....5-34</li> <li>• LA-06.....5-34</li> <li>• LA-07.....5-35</li> </ul> <b>Lighting (LT)</b> <ul style="list-style-type: none"> <li>• LT-01.....5-36</li> </ul> <b>Loading (LD)</b> <ul style="list-style-type: none"> <li>• LD-01.....5-37</li> </ul> <b>Lot (LO)</b> <ul style="list-style-type: none"> <li>• LO-01.....5-38</li> </ul> <b>Mechanical Equipment (ME)</b> <ul style="list-style-type: none"> <li>• ME-01.....5-39</li> </ul> <b>Outdoor Storage (OS)</b> <ul style="list-style-type: none"> <li>• OS-01.....5-41</li> </ul> <b>Parking (PK)</b> <ul style="list-style-type: none"> <li>• PK-01.....5-42</li> <li>• PK-05.....5-43</li> </ul> <b>Performance (PF)</b> <ul style="list-style-type: none"> <li>• PF-01.....5-46</li> </ul> <b>Perm. Outdoor Display (PT)</b> <ul style="list-style-type: none"> <li>• PT-01.....5-47</li> </ul> <b>Pond (PO)</b> <ul style="list-style-type: none"> <li>• PO-01.....5-48</li> </ul>	<b>Public Improvement (PI)</b> <ul style="list-style-type: none"> <li>• PI-01.....5-49</li> </ul> <b>Retaining Wall (RW)</b> <ul style="list-style-type: none"> <li>• RW-01.....5-52</li> </ul> <b>Setback (SB)</b> <ul style="list-style-type: none"> <li>• SB-01.....5-54</li> <li>• SB-02.....5-55</li> </ul> <b>Sewer and Water (SW)</b> <ul style="list-style-type: none"> <li>• SW-01.....5-58</li> </ul> <b>Sign (SI)</b> <ul style="list-style-type: none"> <li>• SI-01.....5-59</li> <li>• SI-05.....5-66</li> </ul> <b>Special Exception (SE)</b> <ul style="list-style-type: none"> <li>• SE-01.....5-70</li> </ul> <b>Structure (ST)</b> <ul style="list-style-type: none"> <li>• ST-01.....5-71</li> </ul> <b>Telecom. Facility (TC)</b> <ul style="list-style-type: none"> <li>• TU-01.....5-72</li> <li>• TU-02.....5-72</li> </ul> <b>Temp. Use and Structure (TU)</b> <ul style="list-style-type: none"> <li>• TU-01.....5-74</li> <li>• TU-04.....5-75</li> </ul> <b>Trash Receptacle (TR)</b> <ul style="list-style-type: none"> <li>• TR-01.....5-76</li> </ul> <b>Vision Clearance (VC)</b> <ul style="list-style-type: none"> <li>• VC-01.....5-78</li> </ul>
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## 2.21 NC District Intent, Permitted Uses, and Special Exception Uses

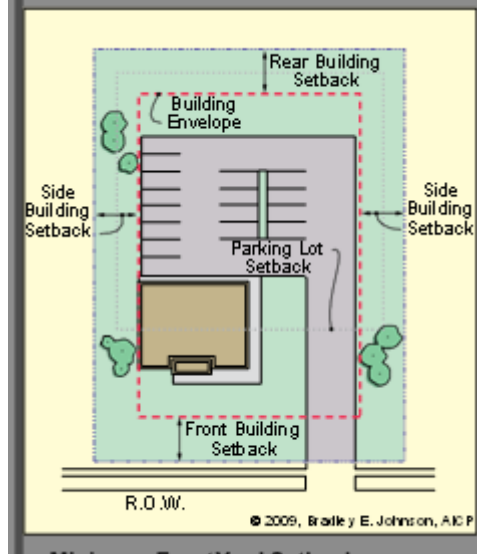
District Intent	Permitted Uses	Special Exception Uses
<p><b>The NC (Neighborhood Commercial) District is intended to be used as follows:</b></p> <p><b>Use Type and Intensity</b></p> <ul style="list-style-type: none"> <li>• Neighborhood commercial uses</li> <li>• Low intensity</li> </ul> <p><b>Application of NC District</b></p> <ul style="list-style-type: none"> <li>• Existing and new development</li> <li>• Buffer and transitional zoning district</li> <li>• Small area zoning</li> </ul> <p><b>Development Standards</b></p> <ul style="list-style-type: none"> <li>• Require quality time, place, and manner of development standards to minimize impacts on adjacent residential properties while encouraging economic vitality</li> <li>• Minimize light, noise, water, and air pollution</li> </ul> <p><b>Appropriate Adjacent Zoning Districts</b></p> <ul style="list-style-type: none"> <li>• PR, AG, RE, SR, LA, MR, IS, NC, and MA</li> </ul> <p><b>Plan Commission</b></p> <ul style="list-style-type: none"> <li>• Use the NC District for existing developments and carefully for new commercial development</li> </ul> <p><b>Board of Zoning Appeals</b></p> <ul style="list-style-type: none"> <li>• Allow a special exception use only when it is compatible with the surrounding areas</li> <li>• Be sensitive to aesthetics and the potential for light pollution, noise pollution, pedestrian safety, and vehicular safety</li> </ul>	<p><b>Accessory Permitted Uses</b></p> <ul style="list-style-type: none"> <li>• recreation-based accessory structure</li> <li>• support-based accessory structure</li> </ul> <p><b>Commercial Permitted Uses</b></p> <ul style="list-style-type: none"> <li>• bank machine/atm</li> <li>• club or lodge</li> <li>• coffee shop</li> <li>• ice cream shop</li> <li>• indoor storage</li> <li>• liquor store</li> <li>• office, general</li> <li>• pub</li> <li>• restaurant</li> <li>• retail (type 1), very low intensity</li> <li>• yacht club (with up to 40 rack and launch or mooring of boats)</li> </ul>	<p><b>Commercial Special Exception Uses</b></p> <ul style="list-style-type: none"> <li>• retail (type 2), low intensity</li> </ul>

## 2.22 NC District Development Standards



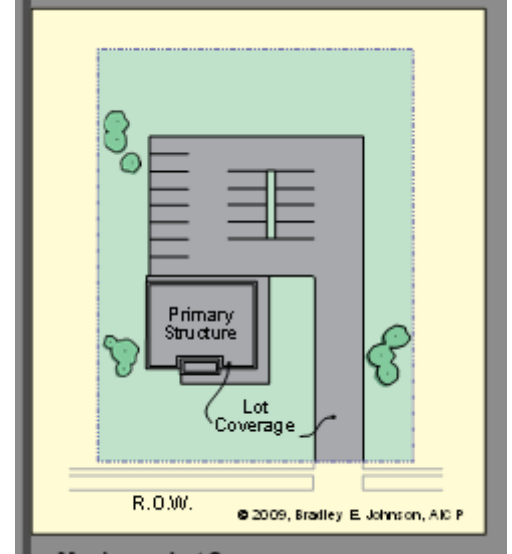
**Minimum Lot Area**

- 15,000 square feet
- Minimum Lot Width**
- 100 feet
- Sewer and Water**
- Sanitary sewer required
- Water utility required where available



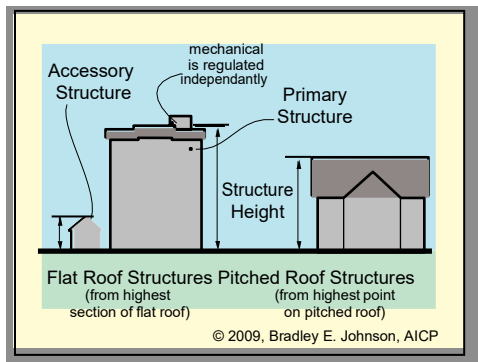
**Minimum Front Yard Setback**

- 20 feet for primary structure
- 30 feet for accessory structure
- Minimum Side Yard Setback**
- 15 feet for primary and accessory structures
- Minimum Rear Yard Setback**
- 20 feet for primary and accessory structures
- Minimum Lake Yard Setback**
- 50 feet for primary and accessory structures



**Maximum Lot Coverage**

- 35% of lot area
- Minimum Main Floor Area**
- 1,000 square feet
- Maximum Main Floor Area**
- 4,000 square feet
- Maximum Primary Structures**
- 1 per lot



### Maximum Structure Height

- 30 feet for primary structure
- 18 feet for accessory structure
- 2 stories

### Additional Development Standards that Apply

Accessory Structure (AS)	Landscaping (LA)	Public Improvement (PI)
• AS-01 ..... 5-5	• LA-01 ..... 5-31	• PI-01 ..... 5-49
• AS-09 ..... 5-11	• LA-03 ..... 5-33	<b>Retaining Wall (RW)</b>
<b>Architectural (AR)</b>	• LA-05 ..... 5-34	• RW-01 ..... 5-52
• AR-01 ..... 5-12	• LA-06 ..... 5-34	<b>Setback (SB)</b>
<b>Deck (DS)</b>	• LA-07 ..... 5-35	• SB-01 ..... 5-54
• DS-01 ..... 5-13	<b>Lighting (LT)</b>	• SB-02 ..... 5-55
<b>Density and Intensity (DI)</b>	• LT-01 ..... 5-36	<b>Sewer and Water (SW)</b>
• DI-01 ..... 5-15	<b>Loading (LD)</b>	• SW-01 ..... 5-58
<b>Driveway (DW)</b>	• LD-01 ..... 5-37	<b>Sign (SI)</b>
• DW-01 ..... 5-16	<b>Lot (LO)</b>	• SI-01 ..... 5-59
• DW-05 ..... 5-20	• LO-01 ..... 5-38	• SI-05 ..... 5-66
<b>Environmental (EN)</b>	<b>Mechanical Equipment (ME)</b>	<b>Special Exception (SE)</b>
• EN-01 ..... 5-21	• ME-01 ..... 5-39	• SE-01 ..... 5-70
<b>Fence (FN)</b>	<b>Outdoor Storage (OS)</b>	<b>Structure (ST)</b>
• FN-01 ..... 5-22	• OS-01 ..... 5-41	• ST-01 ..... 5-71
• FN-05 ..... 5-24	<b>Parking (PK)</b>	<b>Temp. Use and Structure (TU)</b>
<b>Floodplain (FP)</b>	• PK-01 ..... 5-42	• TU-01 ..... 5-74
• FP-01 ..... 5-25	• PK-05 ..... 5-43	• TU-04 ..... 5-75
<b>Floor Area (FA)</b>	<b>Performance (PF)</b>	<b>Trash Receptacle (TR)</b>
• FA-01 ..... 5-26	• PF-01 ..... 5-46	• TR-01 ..... 5-76
<b>Height (HT)</b>	<b>Perm. Outdoor Display (PT)</b>	<b>Vision Clearance (VC)</b>
• HT-01 ..... 5-27	• PT-01 ..... 5-47	• VC-01 ..... 5-78
	<b>Pond (PO)</b>	
	• PO-01 ..... 5-48	

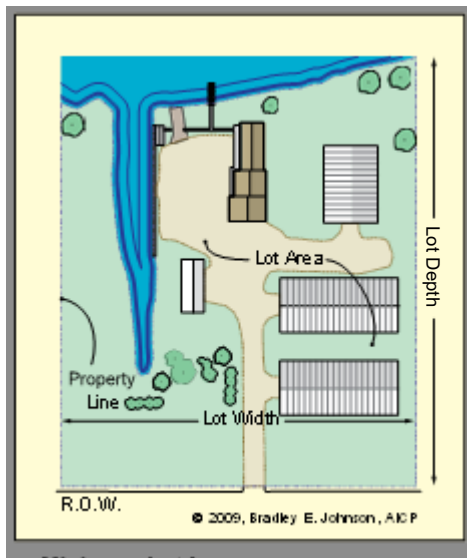


## 2.23 MA District Intent, Permitted Uses, and Special Exception Uses

District Intent	Permitted Uses	Special Exception Uses
<p><b>The MA (Marina) District is intended to be used as follows:</b></p> <p><b>Use Type and Intensity</b></p> <ul style="list-style-type: none"> <li>• Docks and services for watercrafts that serve the immediate lake and community</li> <li>• Low intensity</li> </ul> <p><b>Application of MA District</b></p> <ul style="list-style-type: none"> <li>• Existing and new development</li> </ul> <p><b>Development Standards</b></p> <ul style="list-style-type: none"> <li>• Enact quality time, place, and manner development standards to minimize impacts on adjacent properties while encouraging economic vitality</li> <li>• Minimize light, noise, water, and air pollution</li> </ul> <p><b>Appropriate Adjacent Zoning Districts</b></p> <ul style="list-style-type: none"> <li>• PR, LR, LA, MR, IS, NC, and MA</li> </ul> <p><b>Plan Commission</b></p> <ul style="list-style-type: none"> <li>• Use the MA District for existing low impact developments and carefully for new low impact developments</li> <li>• Be sensitive to environmental protection</li> </ul> <p><b>Board of Zoning Appeals</b></p> <ul style="list-style-type: none"> <li>• Allow a special exception use only when it is compatible with the surrounding areas</li> <li>• Be sensitive to the potential for light pollution, noise pollution, loading berth placement, pedestrian safety, and vehicular safety</li> </ul>	<p><b>Accessory Permitted Uses</b></p> <ul style="list-style-type: none"> <li>• recreation-based accessory structure</li> <li>• support-based accessory structure</li> </ul> <p><b>Commercial Permitted Uses</b></p> <ul style="list-style-type: none"> <li>• commercial storage facility</li> <li>• marina (with up to 40 rack and launch boats)</li> <li>• outdoor storage</li> <li>• watercraft fuel sales</li> <li>• watercraft maintenance facility</li> </ul>	

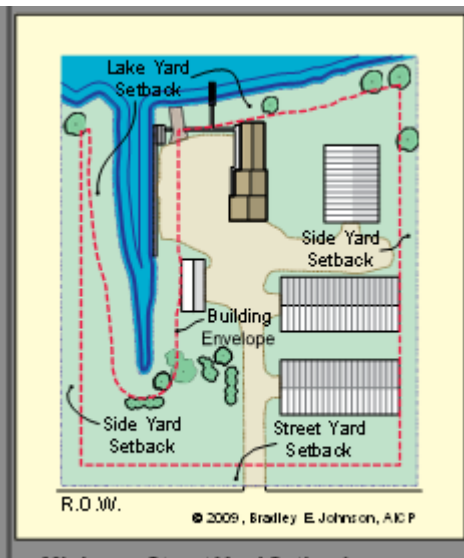


## 2.24 MA District Development Standards



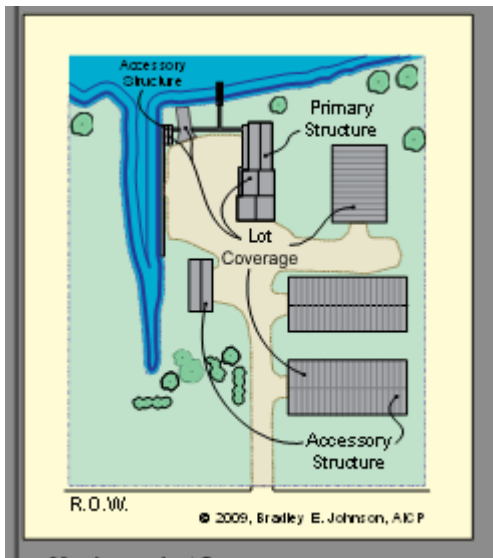
**Minimum Lot Area**

- 12,000 square feet
- Minimum Lot Width**
- 70 feet
- Sewer and Water**
- Sanitary sewer required
- Water utility required where available



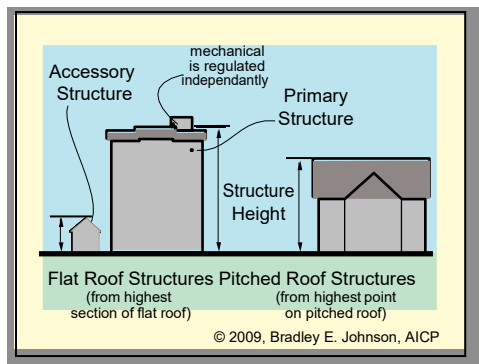
**Minimum Street Yard Setback**

- 30 feet for primary and accessory structures
- Minimum Side Yard Setback**
- 30 feet for primary and accessory structures
- Minimum Rear Yard Setback**
- 30 feet for primary and accessory structures
- Minimum Lake Yard Setback**
- 50 feet for primary and accessory structures



**Maximum Lot Coverage**

- 35% of lot area
- Minimum Main Floor Area**
- n/a
- Maximum Primary Structures**
- 2 per lot



- Maximum Structure Height**
- 35 feet for primary structure
  - 40 feet for accessory structure

### Additional Development Standards that Apply

Accessory Structure (AS)	Landscaping (LA)	Public Improvement (PI)
• AS-01 ..... 5-5	• LA-01 ..... 5-31	• PI-01 ..... 5-49
• AS-08 ..... 5-9	• LA-03 ..... 5-33	<b>Retaining Wall (RW)</b>
<b>Deck (DS)</b>	• LA-05 ..... 5-34	• RW-01 ..... 5-52
• DS-01 ..... 5-13	• LA-06 ..... 5-34	<b>Setback (SB)</b>
<b>Density and Intensity (DI)</b>	• LA-07 ..... 5-35	• SB-01 ..... 5-54
• DI-01 ..... 5-15	<b>Lighting (LT)</b>	• SB-02 ..... 5-55
<b>Driveway (DW)</b>	• LT-01 ..... 5-36	<b>Sewer and Water (SW)</b>
• DW-01 ..... 5-16	<b>Loading (LD)</b>	• SW-01 ..... 5-58
• DW-05 ..... 5-20	• LD-01 ..... 5-37	<b>Sign (SI)</b>
<b>Environmental (EN)</b>	• LO-01 ..... 5-38	• SI-01 ..... 5-59
• EN-01 ..... 5-21	<b>Lot (LO)</b>	• SI-05 ..... 5-66
<b>Fence (FN)</b>	<b>Mechanical Equipment (ME)</b>	<b>Structure (ST)</b>
• FN-01 ..... 5-22	• ME-02 ..... 5-40	• ST-01 ..... 5-71
• FN-05 ..... 5-24	<b>Outdoor Storage (OS)</b>	<b>Temp. Use and Structure (TU)</b>
<b>Floodplain (FP)</b>	• OS-02 ..... 5-41	• TU-01 ..... 5-74
• FP-01 ..... 5-25	<b>Parking (PK)</b>	<b>Trash Receptacle (TR)</b>
<b>Floor Area (FA)</b>	• PK-01 ..... 5-42	• TR-01 ..... 5-76
• FA-01 ..... 5-26	• PK-05 ..... 5-43	<b>Vision Clearance (VC)</b>
<b>Height (HT)</b>	<b>Performance (PF)</b>	• VC-01 ..... 5-78
• HT-01 ..... 5-27	• PF-01 ..... 5-46	
	<b>Perm. Outdoor Display (PT)</b>	
	• PT-01 ..... 5-47	
	<b>Pond (PO)</b>	
	• PO-01 ..... 5-48	



# Article

# 03

## Overlay Districts

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### Town of Clear Lake Unified Development Ordinance

## 3.01 Placeholder for Future Overlay Districts

For a definition of Overlay District, please go to page 11-23.

# Article

# 04

## Planned Development District

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## Town of Clear Lake Unified Development Ordinance

## 4.01 PD District Intent, Regulations, and Prerequisites

District Intent	Regulations	Prerequisites
<p><b>The Planned Development (PD) District is intended to provide flexible development standards in order for the development to result in a more unique design than what would have been the result under the standard zoning regulations. The request for a PD District shall be necessary due to one of the following:</b></p> <ul style="list-style-type: none"> <li>• A development with a complex mix of land uses, or mixes of land uses within buildings;</li> <li>• A development on a unique geological feature, or on a site with a notable quality natural feature, or on a site with a notable quantity of natural features; or</li> <li>• A development with a notably unique or innovative design.</li> </ul> <p><b>Plan Commission</b></p> <ul style="list-style-type: none"> <li>• Any parcel that meets the prerequisites specified herein may be considered for a PD District</li> <li>• The necessity for variances shall not by itself justify a developers pursuit of a PD District</li> <li>• The base zoning district and the Clear Lake Comprehensive Plan shall be used to determine the appropriateness of the dominant land use in the PD District</li> <li>• The proposed development shall be a clear benefit to the community</li> </ul> <p><b>Town Council</b></p> <ul style="list-style-type: none"> <li>• Under no circumstance is the Town Council required to rezone a property as a PD District</li> <li>• Rezone a property to a PD District only after the Plan Commission provides a favorable recommendation</li> <li>• Require commitments that will improve the quality of the development</li> <li>• Restrict particular land uses that would not be appropriate for the district</li> <li>• Assure the development is consistent with the Clear Lake Comprehensive Plan</li> </ul>	<p><b>Permitted and Special Exception Uses</b></p> <ul style="list-style-type: none"> <li>• Predominantly in line with the permitted uses and special exception uses in the base zoning district</li> <li>• Predominantly in line with the Clear Lake Comprehensive Plan</li> <li>• Compatible with surrounding land uses (if developed) or adjacent zoning districts (if not developed)</li> <li>• Flexible only to the extent permitted in <i>Article 04: Planned Development District</i></li> </ul> <p><b>Development Standards</b></p> <ul style="list-style-type: none"> <li>• Generally consistent with the intent of the base zoning district</li> <li>• Predominantly in line with the Clear Lake Comprehensive Plan</li> <li>• Compatible with surrounding land uses and adjacent zoning districts</li> <li>• Flexible only to the extent permitted in <i>Article 04: Planned Development District</i></li> </ul> <p><b>Design Standards</b></p> <ul style="list-style-type: none"> <li>• Predominantly in compliance with the design standards in <i>Article 07: Design Standards</i></li> <li>• Flexible only to the extent permitted in <i>Article 04: Planned Development District</i></li> </ul> <p><b>Construction Standards</b></p> <ul style="list-style-type: none"> <li>• Fully in compliance with the Town of Clear Lake's construction standards</li> </ul>	<p><b>Ownership</b></p> <ul style="list-style-type: none"> <li>• The entire property proposed for a PD District shall be under single ownership, or if multiple owners exist, a legal document shall be provided (e.g. contract, legal partnership, or corporation) indicating that all owners of the property give consent to develop the land as a planned development. The legal document or a letter signed by each owner shall indicate who the owners appoint as their representative through the process</li> </ul> <p><b>Base Zoning District</b></p> <ul style="list-style-type: none"> <li>• AG, RE, or SR</li> </ul> <p><b>Site Area</b></p> <ul style="list-style-type: none"> <li>• The minimum land area required for a PD District is five (5) acres</li> </ul> <p><b>Regulating Ordinance</b></p> <ul style="list-style-type: none"> <li>• Concurrent to the process of rezoning a property to PD District, the developer shall prepare a Regulating Ordinance for review and approval by the Plan Commission. The Regulating Ordinance shall be in a format provided by the Zoning Administrator</li> </ul> <p><b>Timing of Rezoning</b></p> <ul style="list-style-type: none"> <li>• The adoption of the Regulating Ordinance shall occur concurrently to the rezoning of the property to a PD District</li> </ul>

# Planned Development (PD) District

## 4.02 General

- A. Description: A Planned Development (PD) District is a special zoning district that can be petitioned for by a property owner allowing for a stand alone ordinance to be adopted which becomes the regulations for a proposed development.
- B. Creation: The procedure for the creation of a PD District shall be consistent with the process set forth in *Article 09: Processes* of this Unified Development Ordinance.
- C. Official Zoning Map: Once a planned development is approved, it shall be identified as a PD District on the Official Zoning Map, and shall include the ordinance number for the Regulating Ordinance.
- D. Planned Development (PD) District Regulations:
  - 1. *Development Standards*: The development standards from the base zoning district shall apply to a PD District unless an alternate base zoning district is assigned by the Plan Commission; or unless the Regulating Ordinance's standards supersedes the base zoning district's development standards.
  - 2. *Design Standards*: The set of design standards applicable to the most similar type of subdivision shall apply to a PD District, unless:
    - a. An alternate set of design standards are assigned by the Plan Commission; or
    - b. The Regulating Ordinance's standards supersedes the design standards.
  - 3. *Permitted Land Uses*: The land uses within a PD District shall be determined by the Regulating Ordinance. Any land use not specifically permitted in the Regulating Ordinance shall not be permitted. Vague land uses or land use categories shall not be permitted in a Regulating Ordinance.
  - 4. *Land Use Consistency*: The dominant land use for a PD District shall be incorporated in the Regulating Ordinance as follows:
    - a. If the original zoning district was AG, then the development shall be a minimum of eighty percent (80%) single-family residential.
    - b. If the original zoning district was RE or SR, then the development shall be a minimum of seventy-five percent (75%) single-family residential.
    - c. No industrial land uses shall be permitted.
  - 5. *Applicability of this Unified Development Ordinance*: If the PD District or Regulating Ordinance is silent or does not address a particular development standard, design standard, or other specification that is regulated by this Unified Development Ordinance, then the standard of the closest relating zoning district shall apply.

## 4.03 Procedure

All proceedings brought under *Article 04: Planned Development District* are subject to the Rules of Procedure of the Plan Commission. All applications that involve subdivision of a land shall also be subject to the subdivision procedures established by *Article 09: Processes* of this Unified Development Ordinance.

## 4.04 Limitation of Revisions to this Unified Development Ordinance

- A. Public Health and Safety: Additions or modifications to this Unified Development Ordinance that directly effect public health and safety shall apply to any PD District whether prior to or during development.
- B. Deviation from this Unified Development Ordinance: A PD District and its Regulating Ordinance shall not modify or supersede the applicability of Articles 1, 3, 4, 8, 9, 10, or 11 from this Unified Development Ordinance.
- C. Failure to Comply: If a PD District is no longer proceeding in accordance with its Regulating Ordinance, commitments, conditions, covenants, or time related requirements imposed by its Regulating Ordinance, the fullest extent of *Article 10: Enforcement and Penalties* may be used by the Enforcement Official to cause remedy.
- D. Rezoning to Standard District: A PD District, including phases or subdistricts, once seventy percent (70%) built-out in area, are subject to being rezoned into an appropriate standard zoning district if the Plan Commission deems it necessary to better administer the development.

## 4.05 Required Permanent Open Space

- A. Open Space: No PD District shall be approved, unless the design provides for the prescribed percentage of permanent landscaped or natural open space. Open space may be designated through the use of common area or other legal mechanisms such as conservation easements to the satisfaction of the Plan Commission and Town Council. The minimum required permanent open space shall be as follows:
  - 1. *AG*: Thirty percent (30%).
  - 2. *RE or SR*: Twenty-five percent (25%).
- B. Mixed Uses: In the case of a mixed-use development, single-family areas shall generally have twenty-five percent (25%) permanent open space and non-single-family areas shall generally have twenty percent (20%) permanent open space. The distribution of permanent open space shall strive to preserve existing natural features (e.g. woodlots or wetlands).
- C. Development in Stages: If the planned development is to be constructed in phases, permanent open space shall be provided for each phase of the development.



# Article

# 05

## Development Standards

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### Town of Clear Lake Unified Development Ordinance

## 5.01 How to Use this Article

*Article 05: Development Standards* contains development standards that are arranged by category. There are two ways to determine which development standards apply to a specific zoning district. They are:

- A. **Blue Boxes:** Refer to the two-page layouts in *Article 02: Zoning Districts* for a specific zoning district. In the “Additional Development Standards that Apply” box for that specific zoning district are listed four-digit codes that determine which development standards apply. Only the four-digit codes noted in the “Additional Development Standards that Apply” section apply to that zoning district.













[Example: On page 2-13, the four digit code “AS-04” can be found under the “Additional Development Standards that Apply” section for the SR District. Therefore, the development standards in the section labeled “AS-04” (on page 5-7) would apply to the SR District.]

- B. **District Icons:** Refer to the icons used at the top of each development standard section in *Article 05: Development Standards*. Each development standard section begins with a four-digit code and introductory sentence followed by icons with zoning district abbreviations (e.g. **SR** for the Single-family Residential District). These zoning district icons note that the development standards written in that section apply to that zoning district.

[Example: On page 5-7, the SR icon (**SR**) can be found under the AS-04 development standard section. Therefore, the language in the AS-04 section would apply to the SR District.]

Section Name	Page Number	Section Name	Page Number
Accessory Dwelling Standards (AD)	5-4	Parking Standards (PK)	5-42
Accessory Structure Standards (AS)	5-5	Performance Standards (PF)	5-46
Architectural Standards (AR)	5-12	Permanent Outdoor Display Standards (PT)	5-47
Deck Standards (DS)	5-13	Pond Standards (PO)	5-48
Density and Intensity Standards (DI)	5-15	Public Improvement Standards (PI)	5-49
Driveway Standards (DW)	5-16	Recreational Vehicle Standards (RV)	5-50
Environmental Standards (EN)	5-21	Redevelopment Standards (RD)	5-51
Fence Standards (FN)	5-22	Retaining Wall Standards (RW)	5-52
Floodplain Standards (FP)	5-25	Rural Residential Standards (RL)	5-53
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## 5.02 Icon Key

-  - Conservation District
-  - Parks and Recreation District
-  - Agricultural District
-  - Intense Agricultural District
-  - Rural Estate District
-  - Single-family Residential District
-  - Lake Residential District
-  - Lake Accessory District
-  - Multiple-family Residential District
-  - Institutional District
-  - Neighborhood Commercial District
-  - Marina District

## 5.03 AD-01: Accessory Dwelling Standards

This Accessory Dwelling Standards section applies to the following zoning district:

### RE

The intent of the Accessory Dwelling Standards is to provide an opportunity for accessory dwellings while protecting the health, safety, and welfare of the residents. The following standards apply:

#### A. Applicability:

1. *Minimum Front Yard Setback:* The minimum front yard setback shall be as indicated on the applicable two-page layout in *Article 02: Zoning Districts*.
2. *Minimum Side Yard Setback:* The minimum side yard setback shall be as indicated on the applicable two-page layout in *Article 02: Zoning Districts*.
3. *Minimum Rear Yard Setback:* The minimum rear yard setback shall be as indicated on the applicable two-page layout in *Article 02: Zoning Districts*.
4. *Minimum Lake Yard Setback:* The minimum lake yard setback shall be as indicated on the applicable two-page layout in *Article 02: Zoning Districts*.
5. *Maximum Structure Height:* The maximum structure height shall be as indicated on the applicable two-page layout in *Article 02: Zoning Districts*.

#### B. Permits: An Improvement Location Permit shall be required prior to the construction of an accessory dwelling or the conversion of an accessory structure to an accessory dwelling.

#### C. Types: A mobile home, manufactured home, recreational vehicle, semi-tractor trailer, boat, motor vehicle, or trailer; in part, in whole, or of the like, shall not be permitted as an accessory dwelling.

#### D. Relationship:

1. *Ownership:* An accessory dwelling may be permitted on a lot only if the primary structure is owner-occupied.
2. *Use:* An accessory dwelling shall be accessory to the primary structure.
3. *Timing:* An accessory dwelling shall not be built prior to the construction of the primary structure.

#### E. Quantity and Size:

1. *Maximum Number:* No more than one (1) accessory dwelling shall be permitted on a lot, and it shall consist of only one (1) unit.
2. *Maximum Size:* An accessory dwelling shall be a minimum of 800 square feet, but shall not exceed the square footage of the primary structure.

#### F. Design:

1. *Attachment:* The accessory dwelling may be attached to or detached from the primary structure.
2. *Minimum Components:* The accessory dwelling shall contain bathroom, kitchen, and sleeping facilities.
3. *Driveway:* An accessory dwelling shall utilize the driveway of the primary structure.
4. *Parking:* Two (2) additional off-street parking spaces shall be provided for an accessory dwelling unit.
5. *Utilities:* An accessory dwelling shall utilize the utility connections that serve the primary structure.
6. *Exemptions:* An accessory dwelling shall be exempt from complying with the *Section 5.13: Residential and Neighborhood Commercial Architectural Standards* and *Section 5.35: General Landscaping Standards* and *Section 5.37: Lot Planting Standards*.
7. *Physical Appearance:* The exterior finish and facade of any accessory dwelling shall match, closely resemble, or significantly complement the materials and colors used on the primary structure.
8. *Accessory Structures:*
  - a. The accessory dwelling shall not be permitted to have its own accessory structures.
  - b. Accessory dwellings shall count towards the maximum number and maximum size standards for accessory structures included in *Section 5.04: General Accessory Structure Standards* and *Section 5.06: Rural Estate Residential Accessory Structure Standards*.

## 5.04 AS-01: General Accessory Structure Standards

This Accessory Structure Standards section applies to the following zoning districts:

**CO** **PR** **AG** **IA** **RE** **SR** **LR** **LA** **MR** **IS** **NC** **MA**

The intent of the Accessory Structure Standards is to provide an opportunity for accessory structures while protecting the health, safety, and welfare of the residents. The following standards apply:

- A. Cross Reference: Some structures are regulated independent of the Accessory Structure Standards. The following types of structures are regulated in other sections.
  1. *Accessory Dwellings*: See *Section 5.03: Accessory Dwelling Standards*.
  2. *Decks*: See *Section 5.14: Deck Standards* and *Section 5.15: Lake Residential Deck Standards*.
  3. *Fences*: See *Section 5.23: General Fence Standards* through *Section 5.27: Institutional and Commercial Fence Standards*.
  4. *Signs*: See *Section 5.67: General Sign Standards* through *Section 5.71: Institutional, Neighborhood Commercial, and Marina Sign Standards*.
  5. *Swimming Pools*: Swimming pools shall meet the regulations within these accessory structure standards sections and the Indiana Administrative Code (675 IAC 20: *Swimming Pool Code* as amended).
  6. *Telecommunication Facilities*: See *Section 5.74: Telecommunication Antenna Standards* and *Section 5.75: Telecommunication Facility Standards*.
  7. *Trash Receptacles*: See *Section 5.80: General Trash Receptacle Standards* and *Section 5.81: Lake Area Trash Receptacle Standards*.
  8. *Parking Recreational Vehicles*: See *Section 5.58: Recreational Vehicle Standards* and *Section 5.59 Lake Residential Recreational Vehicle Standards*.
- B. Exempt Accessory Structures: Docks and sea walls are not regulated by this Unified Development Ordinance, but shall meet all Indiana Department of Natural Resources standards. However, any structure placed on a sea wall or dock shall be regulated by this Unified Development Ordinance.
- C. Applicability of Setback Standards: Accessory structures shall be limited to specific locations (e.g. side yard envelope) as indicated in the district-specific sections on the following pages. Those "envelopes" are established by utilizing the applicable setback standards in *Article 02: Zoning Districts*.
- D. Applicability of Height Standards:
  1. *Maximum Accessory Structure Height*: The maximum accessory structure height shall be as indicated under the heading Maximum Structure Height on the applicable two-page layout in *Article 02: Zoning Districts*.
- E. Permits: An Improvement Location Permit shall be required prior to the installation or construction of an accessory structure.
- F. Types:
  1. *Prohibited Accessory Structures*:
    - a. A mobile home, manufactured home, recreational vehicle, semi-tractor trailer, boat, motor vehicle (except as permitted in Outdoor Storage), or trailer; in part, in whole, or of the like, shall not be permitted as an accessory structure.
    - b. Portable Storage Units (e.g. PODS) units shall not be permitted as an accessory structure. See *Section 5.76: General Temporary Use and Structure Standards* through *Section 5.79: Nonresidential Temporary Use and Structure Standards*.
    - c. *Above Ground Swimming Pools*: Above ground swimming pools shall not be permitted as an accessory structure.
- G. Prohibited Locations: Accessory structures shall not be located in a lake yard extended.
- H. Utilities: Sewer or water service shall not be provided into an accessory building.
- I. Maintenance: All accessory structures shall be properly maintained and kept in good condition.

## 5.05 AS-02: Conservation, Parks and Recreation, and Agricultural Accessory Structure Standards

This Accessory Structure Standards section applies to the following zoning districts:

**CO PR AG IA**

The following standards apply:

- A. Types: The following type of accessory structures shall be permitted.
  - 1. *Storage-based*: Storage-based accessory structures shall include barns, boat houses, carports, detached garages, greenhouses, mini-barns, pole structures, pool houses, sheds, and other structures used primarily for storage purposes.
  - 2. *Recreation-based*: Recreation-based accessory structures shall include gazebos, hot tubs, sport courts, swimming pools, outdoor kitchens, outdoor fireplaces, and other structures used primarily for recreation purposes.
- B. Relationship:
  - 1. *Use*: An accessory structure shall relate to the primary use of the lot or the zoning district's permitted uses.
  - 2. *Timing*: An accessory structure may be installed or built on a lot prior to the construction of the primary structure or without the existence of a primary structure.
- C. Quantity: No more than ten (10) storage-based accessory structures shall be permitted on a lot. There is no limit on recreation-based accessory structures.
- D. Location: Storage-based and recreation-based accessory structures shall only be permitted in the side yard envelope and rear yard envelope with the following exceptions:
  - 1. *Basketball Goals*: A basketball goal along a driveway or mounted on the garage shall not be considered a sport court.
  - 2. *Detached Garage*: A detached garage may be placed forward of a primary structure, but only if it is side loading and is not directly in front of the primary structure.

## 5.06 AS-03: Rural Estate Residential Accessory Structure Standards

This Accessory Structure Standards section applies to the following zoning district:

**RE**

The following standards apply:

- A. Types: The following type of accessory structures shall be permitted.
  - 1. *Storage-based*: Storage-based accessory structures shall include barns, boat houses, carports, detached garages, greenhouses, mini-barns, pole structures, pool houses, sheds, and other structures used primarily for storage purposes.
  - 2. *Recreation-based*: Recreation-based accessory structures shall include gazebos, hot tubs, sport courts, in-ground swimming pools, outdoor kitchens, outdoor fireplaces, and other structures used primarily for recreation purposes.
- B. Relationship:
  - 1. *Use*: An accessory structure shall relate to the primary use of the lot.
  - 2. *Timing*: An accessory structure may be installed or built on a lot prior to the construction of the primary structure.
- C. Quantity and Size:
  - 1. *Maximum Number*: No more than three (3) storage-based accessory structures shall be permitted on a lot. There is no limit on recreation-based accessory structures.
  - 2. *Maximum Size*: The cumulative floor area of all storage-based accessory structures shall not exceed two times (2X) the footprint of the primary structure. If no primary structure exists, the cumulative floor area of all storage-based structures shall not exceed 2,400 square feet.
- D. Materials: The exterior finish and facade of all storage-based accessory structures greater than 200 square feet in area shall match, closely resemble, or significantly complement the materials and colors used on the primary structure. Under no circumstances shall the exterior wall finish be metal siding.

- E. Location: Storage-based and recreation-based accessory structures shall only be permitted in the side yard envelope and rear yard envelope with the following exceptions:
  - 1. *Basketball Goals*: A basketball goal along a driveway or mounted on the garage shall not be considered a sport court.
  - 2. *Detached Garage*: A detached garage may be placed forward of a primary structure, but only if it is side loading and is not directly in front of the primary structure.

## 5.07 AS-04: Single-family Residential Accessory Structure Standards

This Accessory Structure Standards section applies to the following zoning district:

**SR**

The following standards apply:

- A. Types: The following type of accessory structures shall be permitted.
  - 1. *Storage-based*: Storage-based accessory structures shall include carports, detached garages, greenhouses, mini-barns, pool houses, and sheds.
  - 2. *Recreation-based*: Recreation-based accessory structures shall include gazebos, hot tubs, tree houses, play sets, pergolas, sport courts, in-ground swimming pools, outdoor kitchens, and outdoor fireplaces.
- B. Relationship:
  - 1. *Use*: An accessory structure shall relate to the primary use of the lot.
  - 2. *Timing*: An accessory structure shall not be installed or built on a lot prior to the construction of the primary structure.
- C. Quantity and Size:
  - 1. *Maximum Number*: No more than two (2) storage-based accessory structures shall be permitted on a lot. There is no limit on recreation-based accessory structures.
  - 2. *Maximum Size*: The floor area of all storage-based accessory structures shall not exceed one hundred percent (100%) of the footprint of the primary structure or 1,200 square feet, whichever is less.
- D. Materials: The exterior finish and facade of all storage-based accessory structures greater than 200 square feet in area shall match, closely resemble, or significantly complement the materials and colors used on the primary structure. Under no circumstances shall the exterior wall finish be metal siding.
- E. Location: Storage-based and recreation-based accessory structures shall only be permitted in the side yard envelope and rear yard envelope with the following exceptions:
  - 1. *Basketball Goals*: A basketball goal along a driveway or mounted on the garage shall not be considered a sport court.
  - 2. *Detached Garage*: A detached garage may be placed forward of a primary structure, but only if it is side loading and is not directly in front of the primary structure.



## 5.08 AS-05: Lake Residential Accessory Structure Standards

This Accessory Structure Standards section applies to the Lake Residential zoning district:

**LR**

The following standards apply:

- A. Types: The following type of accessory structures shall be permitted.
  - 1. *Storage-based*: Storage-based accessory structures shall include carports, detached garages, greenhouses, mini-barns, pool houses, and sheds.
  - 2. *Recreation-based*: Recreation-based accessory structures shall include a gazebo, hot tub, tree house, play set, pergola, sport court (without lights), in-ground swimming pool, outdoor kitchen, and outdoor fireplace.
- B. Relationship:
  - 1. *Use*: An accessory structure shall relate to the primary use of the lot.
  - 2. *Timing*: An accessory structure shall not be installed or built on a lot prior to the construction of the primary structure.
- C. Quantity and Size:
  - 1. *Maximum Number*: No more than two (2) storage-based accessory structures shall be permitted on a lot. There is no limit on recreation-based accessory structures.
  - 2. *Maximum Size*: The cumulative floor area of all storage-based accessory structures shall not exceed one hundred percent (100%) of the footprint of the primary structure or 1,200 square feet, whichever is less.
- D. Materials: The exterior finish and facade of all storage-based accessory structures greater than 200 square feet in area shall match, closely resemble, or significantly complement the materials and colors used on the primary structure. Under no circumstances shall the exterior wall finish be metal siding.
- E. Location: Storage-based accessory structures shall only be permitted in the street yard envelope and side yard envelope. Recreation-based accessory structures shall be permitted in the lake yard envelope, street yard envelope, and side yard envelope. However, sport courts shall not be permitted in the lake yard envelope.

## 5.09 AS-06: Lake Accessory Accessory Structure Standards

This Accessory Structure Standards section applies to the following zoning district:

**LA**

The following standards apply:

- A. Types: The following type of accessory structures shall be permitted.
  - 1. *Storage-based*: Storage-based accessory structures shall include barns, carports, greenhouses, detached garages, mini-barns, post-frame structures, and sheds.
  - 2. *Occupiable Accessory Structure*: Occupiable accessory structures may include a garage converted to an art studio, woodworking shop, guest quarters, or recreation room. Residential units, studio apartments, businesses, and the like shall not be permitted as an occupiable accessory structure. Occupiable accessory structures may have a full bathroom and/or utility sink if the owner is granted a variance allowing on-site sewer and interior water, but under no circumstances shall a kitchen be permitted.
  - 3. *Recreation-based*: Recreation-based accessory structures shall include a gazebo, hot tub, tree house, play set, pergola, sport court (without lights), in-ground swimming pool, and outdoor fireplace.
- B. Relationship:
  - 1. *Use*: An accessory structure shall be clearly complementary to and customarily incidental to adjacent and surrounding residential districts.
  - 2. *Timing*: An accessory structure may be installed or built without the existence of a primary structure.
- C. Quantity and Size:
  - 1. *Maximum Number*: Any single configuration listed below shall be permitted:
    - a. For lots that do not have an occupiable accessory structure, two (2) storage-based accessory structures and unlimited recreation-based accessory structures shall be permitted.
    - b. For lots that have an occupiable accessory structure, one (1) storage-based accessory structure and unlimited recreation-based accessory structures shall be permitted.



2. *Maximum Size:*

- a. For lots with one accessory structure, the floor area shall not exceed 1344 Square feet.
- b. For lots with up to two accessory structures, the cumulative floor area of all accessory structures shall not exceed 1,344 square feet with the floor area of the first accessory structure not exceeding 1,200 square feet and the floor area of the second accessory structure not exceeding 144 square feet.

D. Materials: The exterior finish and facade of all storage-based accessory structures and occupiable accessory structures greater than 200 square feet in area shall match, closely resemble, or significantly complement the character of the surrounding area. Under no circumstances shall the exterior wall finish be metalsiding.

E. Location: Storage-based accessory structures, occupiable accessory structures, and recreation-based accessory structures are restricted to the building envelope.

## 5.10 AS-07: Multiple-family Accessory Structure Standards

This Accessory Structure Standards section applies to the following zoning district:

**MR**

The following standards apply:

A. Types: The following type of accessory structures shall be permitted.

1. *Storage-based:* Except for garages and carports, storage-based accessory structures specific to each dwelling unit shall not be permitted.
2. *Recreation-based:* Recreation-based accessory structures shall include a gazebo, hot tub, tree house, play set, pergola, sport court (without lights), in-ground swimming pool, outdoor kitchen, and outdoor fireplace.

B. Relationship:

1. *Use:* An accessory structure shall relate to the primary use of the land and be solely used in connection with the primary use.
2. *Subordinate:* All accessory structures shall be subordinate to the residential component of the development; and shall be located and designed to serve only the needs of the development and its residents.
3. *Timing:* An accessory structure shall not be installed or built on a lot prior to the construction of the primary structure.

C. Quantity and Size:

1. *Maximum Number:* Each primary structure shall be permitted to have one (1) storage-based accessory structure; and there may be one (1) additional storage-based accessory structure for the overall development.
2. *Maximum Size:* The floor area of any single storage-based accessory structures shall not exceed the footprint of the smallest primary structure on the lot, or 800 square feet, whichever is less.

D. Materials: The exterior finish and facade of all support-based accessory structures greater than 200 square feet in area shall match, closely resemble, or significantly complement the materials and colors used on the primary structure. Under no circumstances shall the exterior wall finish be metal siding.

E. Location: Storage-based accessory structures are restricted to the building envelope. However, under no circumstances shall a storage-based accessory structure be located in a lake yard.

## 5.11 AS-08: Institutional and Marina Accessory Structure Standards

This Accessory Structure Standards section applies to the following zoning districts:

**IS** **MA**

The following standards apply:

- A. Types: The following type of accessory structures shall be permitted.
  - 1. *Support-based*: A support-based accessory structure shall include a maintenance facility, mechanical structure, freestanding canopy, stand-alone restroom facilities, storage building, enclosed vending, kiosk, or structures used in support of the primary structure.
  - 2. *Recreation-based*: A recreation-based accessory structure shall include a fountain, pavilion, picnic shelter, public art display, sport court, terrace, playground equipment, or other structures that add a recreation element to the primary use of the land.
- B. Relationship:
  - 1. *Use*: An accessory structure shall relate to the primary use of the land and be solely used in connection with the primary use.
  - 2. *Timing*: An accessory structure shall not be installed or built on a lot prior to the construction of a primary structure.
- C. Quantity and Size: Up to six (6) support-based accessory structures shall be permitted on a lot. There is no limit on recreation-based accessory structures. There is no size limitation other than lot coverage limitations.
- D. Materials: The exterior finish and facade of all support-based accessory structures greater than 200 square feet in area shall match, closely resemble, or significantly complement the character of the district.
- E. Location: Support-based and recreation-based accessory structures shall be permitted in the building envelope.

## 5.12 AS-09: Neighborhood Commercial Accessory Structure Standards

This Accessory Structure Standards section applies to the following zoning district:

**NC**

The following standards apply:

- A. Types: The following type of accessory structures shall be permitted.
  - 1. *Support-based*: Support-based accessory structures shall include a storage building, refrigeration/freezer unit, freestanding canopy, mechanical structure, or other structure used in support of the primary structure.
  - 2. *Recreation-based*: A recreation-based accessory structure shall include a terrace, play equipment, or other structures that add a recreation element to the primary structure that is consistent with the intent of the district.
- B. Relationship:
  - 1. *Use*: An accessory structure shall relate to the primary use of the land and be solely used in connection with the primary use.
  - 2. *Timing*: An accessory structure shall not be installed or built on a lot prior to the construction of the primary structure.
- C. Quantity and Size:
  - 1. *Maximum Number*: No more than two (2) support-based accessory structure shall be permitted on a lot. There is no limit on recreation-based accessory structures.
  - 2. *Maximum Size*: The cumulative floor area of all storage-based accessory structures shall not exceed 800 square feet or ten percent (10%) of the footprint of the primary structure, whichever is less.
- D. Materials: The exterior finish and facade of all support-based accessory structures greater than 200 square feet in area shall match, closely resemble, or significantly complement the materials and colors used on the primary structure. Under no circumstances shall the exterior wall finish be metal siding.
- E. Location: Support-based and recreation-based accessory structures shall only be permitted in the side yard envelope and rear yard envelope.

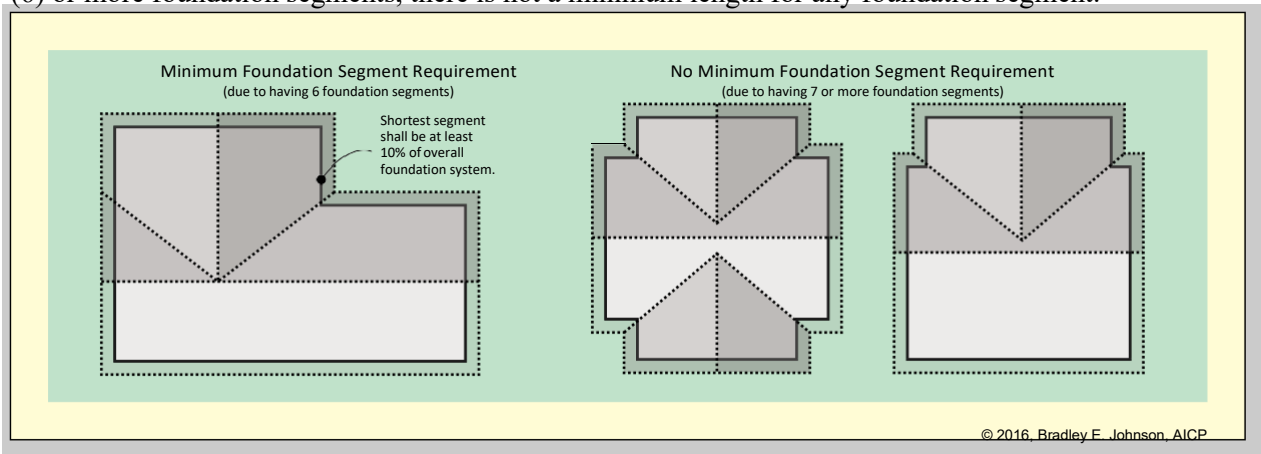
## 5.13 AR-01: Residential and Neighborhood Commercial Architectural Standards

This Architectural Standards section applies to the following districts:



The intent of the Architectural Standards is to protect the health, safety, and welfare of the residents by maintaining the Town's character and improving the quality of life of the residents. The following standards apply:

- A. **Project Applicability:** Architectural details consistent with the requirements of this Unified Development Ordinance shall be required for new primary structures, new accessory buildings, and rehabilitation of a roof where the roof pitch is modified.
- B. **Roof Requirements:** The following applies to primary and accessory buildings.
  1. **Minimum and Maximum Roof Pitch:** The minimum pitch of at least eighty percent (80%) of a building's roof shall be five vertical units to twelve horizontal units (5:12 pitch). The maximum pitch of at least eighty percent (80%) of a building's roof shall be twelve vertical units to twelve horizontal units (12:12 pitch).
  2. **Minimum Eave Overhang:** The roof structure shall have eaves or overhangs a minimum of nine (9) inches from the facade's siding material on at least eighty percent (80%) of the roof line. The eave or overhang shall be measured after the installation of masonry.
  3. **Roof Design:**
    - a. **Type:** At least sixty-five percent (65%) of the building's roof shall be either a gable, hip, mansard, shed, or gambrel design.
    - b. **Planes:** The roof system of the primary structure shall have at least four (4) planes. If there are six (6) or less roof planes, the minimum of any single plane shall be ten percent (10%) of the entire roof system. If there are seven (7) or greater roof planes, there is not a minimum size for the roof planes. For this provision, the roof over a bay or box window shall not be considered a unique roof plane.
- C. **Footprint of Primary Structure:** The footprint of the primary structure's foundation shall not be a simple rectangle or square. An open-sided porch, screen porch, patio or stoop's foundation shall not be considered part of the home's foundation in regard to this provision. If there are six (6) foundation segments, the shortest segment shall be at least ten percent (10%) of the entire foundation's perimeter. If there are seven (6) or more foundation segments, there is not a minimum length for any foundation segment.



- D. **Front Facade Orientation:** The front facade of a primary structure shall either face a street yard, lake yard, or front yard. Under no circumstances shall a front facade face a side yard. If the front facade is not obvious, the Zoning Administrator shall determine which side of the home shall be considered the front. The location of the main entrance shall not be the predominant determining factor due to unique lake-related architecture. Rather, the structure's architectural features shall be used with main entrance only a contributing factor.

## 5.14 DS-01: Deck Standards

This Deck Standards section applies to the following districts:



The following standards apply:

- A. Project Applicability: Any new or modified standard deck or elevated deck shall meet the Deck Standards.
- B. Types: The following type of structures shall be permitted.
  1. *Standard Deck*: Standard Deck (i.e. between 6" and 29" off the ground, as defined).
  2. *Elevated Deck*: Elevated Deck (i.e. over 29" off the ground, as defined).
- C. Relationship:
  1. *Use*: The use of a deck shall relate to the primary use of the lot.
  2. *Timing*: A deck shall not be installed or built on a lot prior to the construction of a primary structure.
- D. Quantity and Size:
  1. *Maximum Number*: There is no limit on the number of decks.
  2. *Maximum Size*:
    - a. *Front Yard Envelope*: Seventy-five (75) square feet when in the front yard envelope.
    - b. *Rear and Side Yard Envelope*: There is no limit on deck sizes in rear yard envelopes and side yard envelopes; except as restricted by other sections of the Unified Development Ordinance (e.g. setbacks and maximum lot coverage).
- E. Screening and Enclosure:
  1. *Standard Deck*: The area under a standard deck may be screened with lattice or the like.
  2. *Elevated Deck*: The area under an elevated deck may be screened with durable and complementary material (e.g. privacy fence material).
- F. Location:
  1. *Front Yard Envelope*: Standard decks shall be permitted in the front yard envelope. Elevated decks shall not be permitted in the front yard envelope.
  2. *Rear and Side Yard Envelope*: Standard decks and elevated decks shall be permitted in the side yard envelope and rear yard envelope.
- G. Setback Exceptions:
  1. *Standard Deck*: A standard deck and stairs to said standard deck shall be permitted to extend into a required side yard setback or rear yard setback by up to ten (10) feet. However, a standard deck shall not be closer than ten (10) feet to a side property line or rear property line.
  2. *Elevated Deck*:
    - a. *Side Yard*: An elevated deck and stairs to said elevated deck shall be permitted to extend into a required side yard setback by up to five (5) feet. However, an elevated deck shall not be closer than ten (10) feet to a side property line.
    - b. *Rear Yard*: An elevated deck and stairs to said elevated deck shall be permitted to extend into a required rear yard setback by up to ten (10) feet. However, an elevated deck shall not be closer than ten (10) feet to a rear property line.

## 5.15 DS-02: Lake Residential Deck Standards

This Deck Standards section applies to the following districts:

**LR**

The following standards apply:

- A. Project Applicability: Any new or modified standard deck or elevated deck shall meet the Deck Standards.
- B. Types: The following type of structures shall be permitted.
  - 1. *Standard Deck*: Standard Deck (i.e. between 6" and 29" off the ground, as defined)
  - 2. *Elevated Deck*: Elevated Deck (i.e. over 29" off the ground, as defined)
- C. Relationship:
  - 1. *Use*: The use of a deck shall relate to the primary use of the lot.
  - 2. *Timing*: A deck shall not be installed or built on a lot prior to the construction of a primary structure.
- D. Quantity and Size:
  - 1. *Maximum Number*: There is no limit on the number of decks.
  - 2. *Maximum Size*:
    - a. *Street Yard Envelope*: Seventy-five (75) square feet when in the street yard envelope.
    - b. *Rear and Side Yard Envelope*: There is no limit on deck sizes in lake yard envelopes and side yard envelopes; except as restricted by other sections of the Unified Development Ordinance (e.g. setbacks and maximum lot coverage).
- E. Screening and Enclosure:
  - 1. *Standard Deck*: The area under a standard deck may be screened with lattice or the like.
  - 2. *Elevated Deck*: The area under an elevated deck shall not be screened or enclosed outside of the building envelope.
- F. Location:
  - 1. *Standard Deck*: Standard decks shall be permitted in the street yard envelope, lake yard envelope, and side yard envelope, however shall also be subject to *Section 5.15(G) Setback Exceptions*.
  - 2. *Elevated Deck*: Elevated decks shall be permitted in the lake yard envelope and side yard envelope, however shall also be subject to *Section 5.15(G) Setback Exceptions*. Elevated decks shall not be permitted in street yards.
- G. Setback Exceptions:
  - 1. *Standard Deck*: A standard deck and stairs to said standard deck shall be permitted to extend into a required side yard setback or lake yard setback by up to ten (10) feet. However, a standard deck shall not be closer than three (3) feet to a side property line or rear property line.
  - 2. *Elevated Deck*:
    - a. *Side Yard*: An elevated deck and stairs to said elevated deck shall be permitted to extend into a required side yard setback by up to four (4) feet. However, an elevated deck shall not be closer than three (3) feet to a side property line.
    - b. *Lake Yard*: An elevated deck and stairs to said elevated deck shall be permitted to extend into a required lake yard setback by up to four (4) feet, or up to an "established elevated deck setback" as defined and illustrated in *Article 11: Definitions*; whichever allows the elevated deck to be closer to the lake.
    - c. *Lake Yard Setback Limitation*: Under no circumstances shall an elevated deck, stairs to said elevated deck, or related part of an elevated deck structure be closer than twenty-six (26) feet to the lake edge.

## 5.16 DI-01: Density and Intensity Standards

This Density and Intensity Standards section applies to the following districts:

**CO** **PR** **AG** **IA** **RE** **SR** **LR** **LA** **MR** **IS** **NC** **MA**

The intent of the Density and Intensity Standards is to protect the health, safety, and welfare of residents through the establishment of maximum density and intensity requirements. The following standards apply:

- A. **General:** If a density or intensity standard does not appear on the two-page layout in *Article 02: Zoning Districts* for a zoning district, then a density or intensity standard shall not apply to that particular zoning district.
  1. **Maximum Density:** The maximum density shall be as indicated on the applicable two-page layout in *Article 02: Zoning Districts*.
  2. **Maximum Lot Coverage:** The maximum lot coverage shall be as indicated on the applicable two-page layout in *Article 02: Zoning Districts*.
  3. **Maximum Structure Coverage:** The maximum structure coverage shall be as indicated on the applicable two-page layout in *Article 02: Zoning Districts*.
  4. **Minimum Main Floor Area:** The minimum main floor area shall be as indicated on the applicable two-page layout in *Article 02: Zoning Districts*.
  5. **Maximum Main Floor Area:** The maximum main floor area shall be as indicated on the applicable two-page layout in *Article 02: Zoning Districts*.
  6. **Minimum Dwelling Unit Size:** The minimum dwelling unit size shall be as indicated on the applicable two-page layout in *Article 02: Zoning Districts*.
- B. **Lot Coverage Rules:** The cumulative area on a lot covered by structures, buildings, and surfaces that are impervious or semi-pervious.
  1. **100% Coverage:** The following shall count as 100% coverage on a lot: building footprints, structure coverage, non-porous concrete, non-porous asphalt, landscaping beds with plastic liners, and any other entirely impervious surface. Also, any interior space or impervious surface that projects away (e.g. cantilevered space) from a foundation shall count toward lot coverage.
  2. **90% Coverage:** The following shall count as 90% coverage on a lot: brick pavers and crushed limestone.
  3. **75% Coverage:** The following shall count as 75% coverage on a lot: stepping stones, stone (except crushed limestone) porous concrete, and porous asphalt.
  4. **50% Coverage:** The following shall count as 50% coverage on a lot: grass pavers.
  5. **0% Coverage:** The following shall not be considered impervious surfaces:
    - a. Retaining walls or sea walls that are within five degrees (5°) of vertical shall not be considered impervious surfaces as long as the retaining wall is not greater than eighteen (18) inches in width.
    - b. Retaining walls used to create three (3) or more tiers (i.e. two retaining walls).
    - c. Landscaping beds with mulch, stone, pumice, or similar material, whether with or without landscape fabric.
    - d. Surfaces constructed using wood or composite planks for decking (e.g. wood plank decks or private sidewalks).
  6. **Coverage Credits:** Downspouts, linear drains, yard drains, trench drains or similar surface water collectors that drain into dry-wells may increase the allowable impervious surface area by the percentage which the total runoff from the lot is decreased by the use of dry-wells. In no case shall the impervious surface area increase by more than 500 square feet above what is permitted. Stamped and sealed professional engineer prepared calculations of the total site runoff before installing dry-wells and after installing dry-wells shall be required.
- C. **Structure Coverage Rule:** The cumulative area on a lot covered by buildings, attached and detached, with a permanent foundation. Also, any interior space of said buildings that projects away (e.g. cantilevered space) from a foundation shall count toward structural coverage.
- D. **Main Floor Area Rules:** In residential districts, attached non-livable space (e.g. attached garages) shall not exceed 1,200 square feet in floor area.



## 5.17 DW-01: General Driveway Standards

This Driveway Standards section applies to the following zoning districts:

**CO** **PR** **AG** **IA** **RE** **SR** **LR** **LA** **MR** **IS** **NC** **MA**

The intent of the Driveway Standards is to ensure the placement of driveways protects the health, safety, and welfare of the residents. The following standards apply:

- A. **Project Applicability:** Any new or expanded access to a right-of-way intended for vehicular or farm equipment use shall be considered a driveway and shall meet the Driveway Standards.
  1. *Residential Limits:* Access to four (4) or more single-family lots shall be established as a public or private street and shall meet the applicable construction standards.
  2. *Non-residential Limits:* Access to four (4) or more non-residential lots that conveys over 2,000 vehicles on average per day shall be established as a public or private street and meet the applicable standards established by the Zoning Administrator.
- B. **Cross Reference:**
  1. *Street Classification:* The classification of streets shall be based on the Town of Clear Lake Thoroughfare Plan contained within the Clear Lake Comprehensive Plan, as may be amended. In addition, all State and federal highways shall be designated arterial streets.
  2. *Construction Standards:* Driveways constructed within the zoning jurisdiction of the Town shall meet the standards established by the Zoning Administrator.
- C. **Measurement Rules:**
  1. *Between Driveway and Street Intersection:* The distance between a driveway and a street intersection shall be determined by measuring from the edge of pavement of the driveway to the nearest right-of-way line of the street that is parallel or mostly parallel to the driveway. This measurement shall be taken at the right-of-way line of the street to which the driveway gains access.
  2. *Between Driveways:* The distance between driveways shall be determined by measuring from the edge of pavement of one (1) driveway to the nearest edge of pavement of the other driveway at the right-of-way line of the street to which the driveways gain access.
  3. *Driveway Width:* The width of a driveway shall be measured from one (1) edge of the pavement to the other edge of the pavement at the right-of-way line of the street to which the driveway gains access.
- D. **Positioning:**
  1. *Alignment:* The centerline of two (2) driveways accessing an arterial or collector street from opposite sides of the street shall align with each another, or shall meet the separation requirements.
  2. *Clear Vision:* All driveways shall be located to reasonably prevent collisions with intersecting traffic.
    - a. Driveways gaining access to streets with a posted speed limit of thirty miles per hour (30 mph) or less shall be located such that they are visible by a driver for at least sixty (60) feet after cresting a hill, rounding a curve, or passing any other physical barriers that prevent clear vision.
    - b. Driveways gaining access to streets with a posted speed limit of thirty-five miles per hour (35 mph) to forty-five miles per hour (45 mph) shall be located such that they are visible by a driver for at least 120 feet after cresting a hill, rounding a curve, or passing any other physical barriers that prevent clear vision.
    - c. Driveways gaining access to streets with a posted speed limit of fifty miles per hour (50 mph) or higher shall be located such that they are visible by a driver for at least 200 feet after cresting a hill, rounding a curve, or passing any other physical barriers that prevent clear vision.
  3. *Additional Separation:* The Zoning Administrator may deny a proposed driveway location or require additional separation due to safety concerns, including but not limited to width of the right-of-way, width of the public street, condition of the public street, condition of the shoulder, natural or man-made hazards, adverse shadowing from natural or man-made features, and adverse drainage on or around the public street.
- E. **Discretion:** The Zoning Administrator may determine if public improvements such as acceleration lanes, deceleration lanes, passing blisters, wider shoulders or approaches, frontage streets, or other improvements are necessary. See *Section 5.57: Public Improvement Standards*.



## 5.18 DW-02: Agricultural Driveway Standards

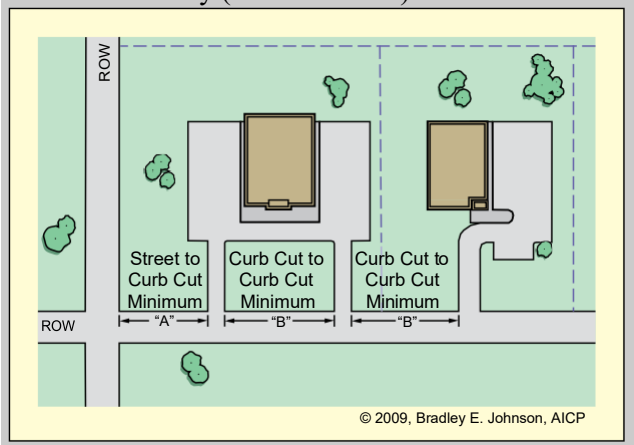
This Driveway Standards section applies to the following zoning districts:

**AG IA**

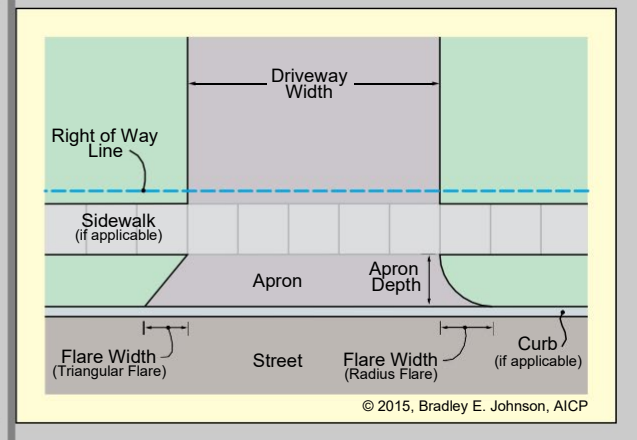
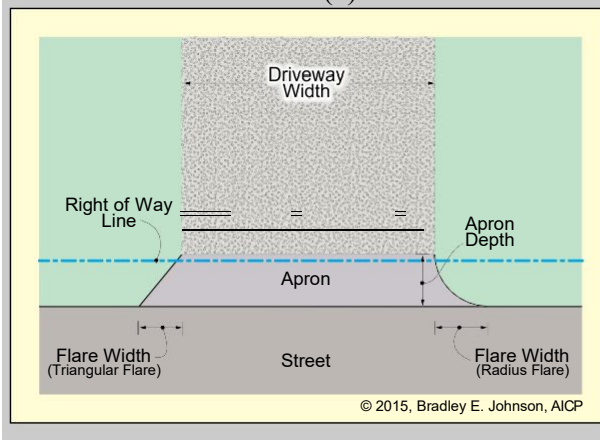
The following standards apply:

### A. Separation:

1. *From and Intersecting Street*: A driveway shall not be permitted to be installed within 100 feet of any intersecting street (see "A" below).
2. *From Another Driveway*: A driveway shall not be permitted to be installed within sixty (60) feet of another driveway (see "B" below).



- Width: A driveway shall not exceed thirty (30) feet in width.
- Materials: A driveway shall consist of asphalt, concrete, stone, or other non-porous materials approved by the Zoning Administrator.
- Setback: All driveways shall be setback at least ten (10) feet from side property lines.
- Apron: All driveway street cuts shall have a concrete or asphalt apron. Said apron shall be a minimum of four (4) feet in depth, and have a minimum four (4) foot flare (radius or triangular) on each side. An apron shall be a minimum of six (6) inches in thickness.



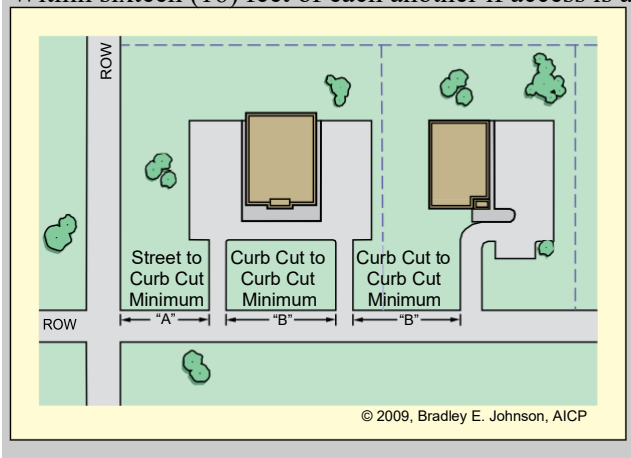
## 5.19 DW-03: Residential Driveway Standards

This Driveway Standards section applies to the following zoning districts:

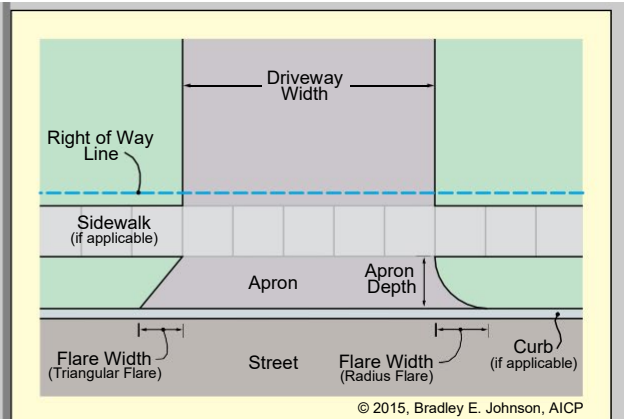
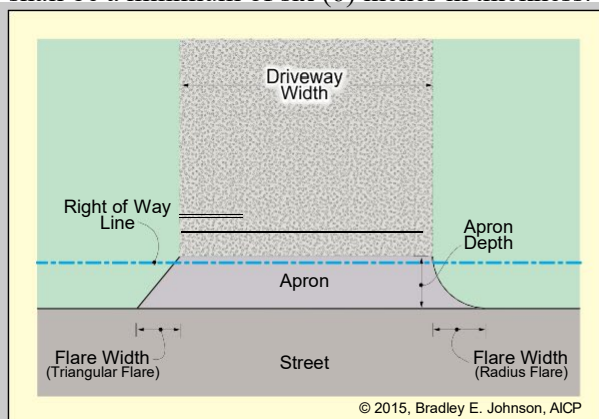
**RE SR MR**

The following standards apply:

- A. Cross Reference: See Section 5.49: General Parking Standards, Section 5.50: Residential Parking Standards, and Section 5.52: Multiple-family Residential Parking Standards.
- B. Separation:
  1. *From a Street Intersection*: A driveway shall not be permitted to be installed:
    - a. Within 150 feet of any intersecting street if access is along an arterial or collector street (see “A” below).
    - b. Within 100 feet of any intersecting street if access is along a local street (see “A” below).
    - c. If the lot is not large enough to achieve the required separation, then the driveway shall be installed at the location farthest from the intersection.
    - d. Under no circumstances shall a driveway be permitted within fifty (50) feet of any street intersection.
  2. *Between Driveways*: Unless a shared driveway is established, two (2) or more driveways shall not be permitted to be installed:
    - a. Within 100 feet of each another if access is along an arterial or collector street (see “B” below).
    - b. Within sixteen (16) feet of each another if access is along a local street (see “B” below).



- C. Width: A driveway shall be at least nine (9) feet wide, but shall not exceed twelve (12) feet per lane and twenty (20) feet overall.
- D. Materials: A driveway shall consist of asphalt, concrete, brick pavers, grass pavers, stone or other similar material approved by the Zoning Administrator. However, stone shall not be an approved surface in the MR zoning district.
- E. Setback: Driveways shall be setback at least five (5) feet from side property lines unless a shared driveway is established.
- F. Apron: All driveway street cuts shall have a concrete or asphalt apron. Said apron shall be a minimum of two (2) feet in depth, and have a minimum two (2) foot flare (radius or triangular) on each side. An apron shall be a minimum of six (6) inches in thickness.



G. Shared Driveway:

1. *Easement Required*: Shared driveways shall be permitted, but they shall be placed in a shared driveway easement per *Section 7.06: Easement Standards*.
2. *Width*: Shared driveways shall not exceed twenty (20) feet in width.

H. Drainage:

1. *Driveway Runoff*: Runoff from a driveway shall not be directed to the Town's streets, but shall be directed to a new or existing catch basin; to the subject property's yard; or other means approved by the Zoning Administrator.
2. *Culvert*: Culverts shall be required under the driveway to promote drainage of water through existing ditches along the street. The Zoning Administrator may waive this requirement when clearly deemed unnecessary.

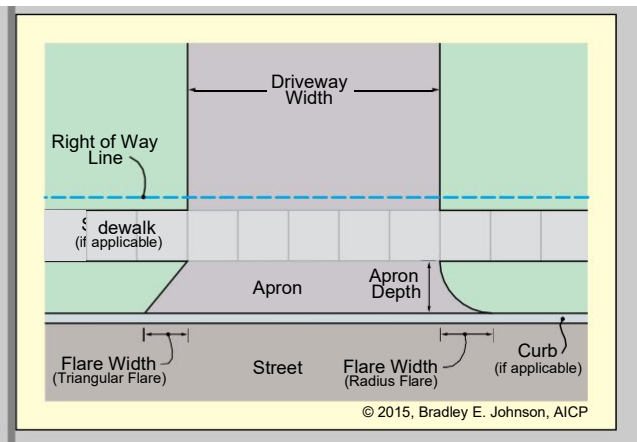
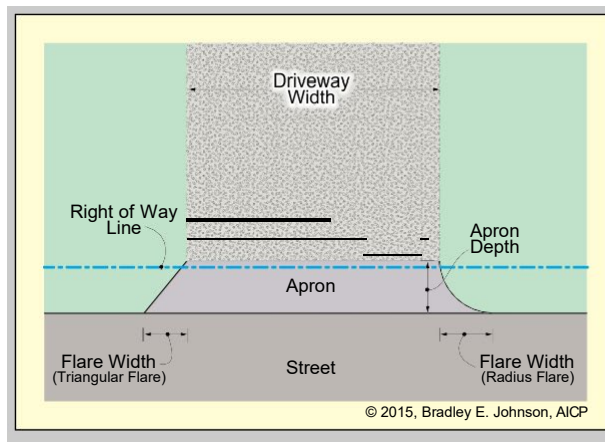
## 5.20 DW-04: Lake Residential and Lake Accessory Driveway Standards

This Driveway Standards section applies to the following zoning districts:



The following standards apply:

- A. Cross Reference: See *Section 5.49: General Parking Standards* and *Section 5.51: Lake Residential Parking Standards*.
- B. General: A driveway shall not be required, but when a driveway is included, the following standards shall apply.
- C. Width: A driveway shall be a minimum of nine (9) feet wide but shall not exceed twelve (12) feet in width per lane. In the LA District, a driveway shall not exceed ten (10) feet in width per lane or the width of the structure to which it provides access.
- D. Materials: A driveway shall consist of asphalt, concrete, brick pavers, grass pavers, or stone.
- E. Setback: Driveways shall be setback at least three (3) feet from side property lines.
- F. Apron: All driveway street cuts shall have a concrete or asphalt apron. Said apron shall be a minimum of two (2) feet in depth, and have a minimum two (2) foot flare (radius or triangular) on each side. An apron shall be a minimum of six (6) inches in depth (i.e. mostly below grade). No curb is required. Rather, a continuation of the street surface, in asphalt or concrete, is required.



G. Shared Driveway: Shared driveways shall not be permitted.

H. Drainage:

1. *Driveway Runoff*: Runoff from a driveway shall not be directed to the Town's streets, but shall be directed to a new or existing catch basin; to the subject property's yard; or other means approved by the Zoning Administrator.
2. *Culvert*: Culverts shall be required under the driveway to promote drainage of water through existing ditches along the street. The Zoning Administrator may waive this requirement when clearly deemed unnecessary.

## 5.21 DW-05: Nonresidential Driveway Standards

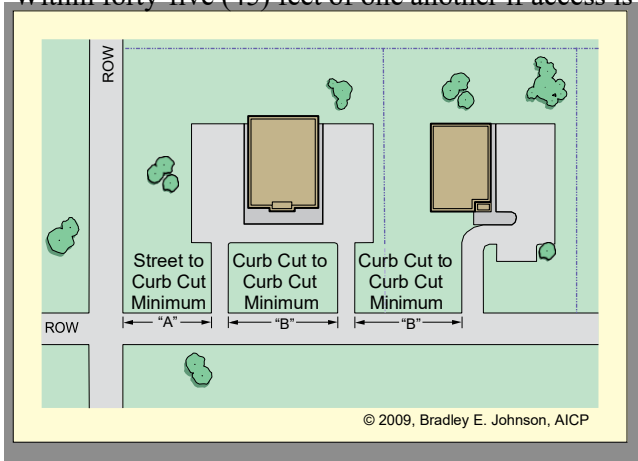
This Driveway Standards section applies to the following zoning districts:

**IS** **NC** **MA**

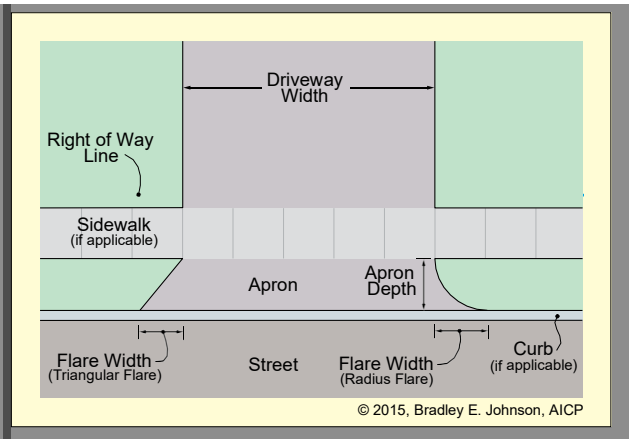
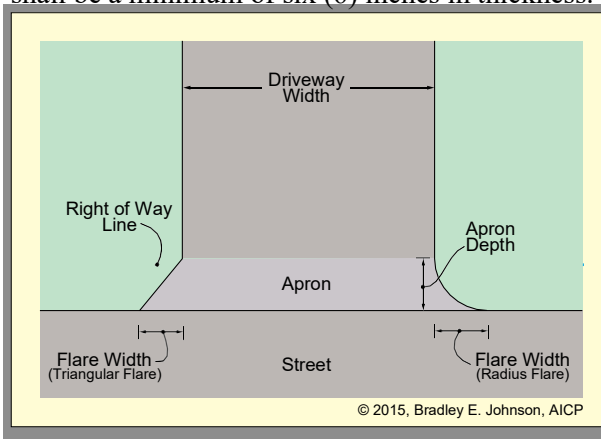
The following standards apply:

### A. Separation:

1. *From a Street Intersection:* A driveway shall not be permitted to be installed:
  - a. Within 150 feet of any intersecting street if access is along an arterial or collector street (see “A” below).
  - b. Within 100 feet of any intersecting street if access is along a local street (see “A” below).
  - c. If the lot is not large enough to achieve the required separation, then the driveway shall be installed at the location farthest from the intersection.
  - d. Under no circumstances shall a driveway be permitted within sixty (60) feet of any street intersection.
2. *Between Driveways:* Two (2) or more driveways shall not be permitted to be installed:
  - a. Within 100 feet of one another if access is along an arterial or collector street (see “B” below).
  - b. Within forty-five (45) feet of one another if access is along a local street (see “B” below).



- B. Width: A driveway shall be at least nine (9) feet wide, but shall not exceed ten (10) feet per lane and thirty (30) feet in overall width.
- C. Materials: Driveways shall consist of asphalt, concrete, or other similar material approved by the Zoning Administrator. Grass pavers, stone, dirt, sand, and grass shall not be used for driveway surfaces.
- D. Setback: Driveways shall be setback at least ten (10) feet from side property lines.
- E. Apron: All driveway street cuts shall have a concrete or asphalt apron. Said apron shall be a minimum of four (4) feet in depth, and have a minimum four (4) foot flare (radius or triangular) on each side. An apron shall be a minimum of six (6) inches in thickness.



## 5.22 EN-01: Environmental Standards

This Environmental Standards section applies to the following zoning districts:

**CO** **PR** **AG** **IA** **RE** **SR** **LR** **LA** **MR** **IS** **NC** **MA**

The intent of the Environmental Standards is to protect the health, safety, and welfare of residents by providing for the protection of air, soil, and water quality. The following standards apply:

- A. Prohibitive Geology: A lot or portions of a lot shall be unsuitable for structures when it contains any of the characteristics listed below. Structures may be permitted if an engineered site plan is submitted and approved by the Zoning Administrator. The engineered site plan shall show and commit to adequate measures for erosion control; minimum site disturbance; soil stability for structural load; storm water management; aesthetic treatment of engineered structures; and final landscaping.
  1. *Rock*: Adverse rock formations.
- B. Air Quality:
  1. *Generally*: A use shall not discharge fly ash, dust, smoke, vapors, noxious toxic or corrosive matter, or other air pollutants in such concentration as to conflict with public air quality standards or be detrimental to humans, animals, vegetation, or property.
  2. *Outdoor Burners*: Outdoor wood, coal, corn or similar burners used to heat a building in any zoning district other than AG, IA, or RE shall not discharge ash, smoke, or fine particulate matter that is detectable beyond the lot lines of the lot. Outdoor wood, coal, corn or similar burners in AG, IA, or RE zoning district shall have at least a one (1) acre lot to be permitted to have such a burner. Fire pits and outdoor fireplaces are not regulated by this standard.
- C. Soil and Water Quality:
  1. *Erosion Control*:
    - a. Developments shall be in compliance with the filing requirements for erosion control on construction sites as in *Indiana Administrative Code 327-15 (Rule 5)*(see also *327 IAC 15-5*), when applicable.
    - b. Discharge from gutters and downspouts shall be directed in a direction and manner to prevent water and/or sedimentation (including mud, dirt and/or debris) from flowing onto adjacent lots, adjacent lots, adjacent surfaces, and streets (example storm water management practices include French drains, underground Drainage tile routed to catch basins and then water courses, rain gardens, etc.).
  2. *Fill*: All fill materials shall be free of environmentally hazardous materials. The Zoning Administrator may request representative samples of the fill for testing purposes at the cost of the property owner.
  3. *Production*: No use shall produce pollutants in such a quantity as to pollute soils, water bodies, adjacent properties, or conflict with public health, safety, and welfare standards.
  4. *Storage*: No use shall accumulate within the lot or discharge beyond the lot lines any waste, debris, refuse, trash, discarded construction materials, discarded appliances, scrap metals, or rotting wood that are in conflict with applicable public health, safety, and welfare standards unless expressly permitted by this Unified Development Ordinance.
  5. *Disposal*: No waste materials such as garbage, rubbish, trash, construction material, gasoline, oil, flammables, soils, tars, chemicals, greases, industrial or agricultural waste, or any other material of such nature, quantity, obnoxiousness, toxicity, or temperature that it may contaminate, pollute, or harm the waters or soils shall be deposited, located, stored, or discharged on any lot unless expressly permitted by this Unified Development Ordinance.
- D. Environmental Feature Protective Setback: Primary structures, accessory dwellings, storage-based accessory structures, occupiable accessory structures, and support based-accessory structures shall be at least thirty (30) feet from the delineated boundary of a wetland or the edge of the water at normal elevation of a lake, channel, pond, creek, or stream.
- E. Stormwater Management: Every site and development shall be designed, constructed, and maintained to control runoff, prevent flooding, and protect water quality. The particular facilities and measures on-site shall reflect the natural features of the site, the potential for on-site and off-site flooding, water pollution, and erosion; and the size of the site.

## 5.23 FN-01: General Fence Standards

This Fence Standards section applies to the following zoning districts:



The intent of the Fence Standards is to ensure neighborliness, visibility, and aesthetic quality; and to protect the health, safety, and welfare of the residents. The following standards apply:

### A. Cross Reference:

1. *Vision Clearance*: Fences shall meet all vision clearance standards in *Section 5.83: Vision Clearance Standards*.
2. *Covenants*: Property owners within subdivisions should review the Declaration of Covenants applicable to their property which may impose greater restrictions than found in this section.
3. *Retaining Walls*: Retaining walls, and safety railings or other safety barriers for retaining walls are regulated independently in *Section 5.61: Retaining Wall Standards*.

### B. Permits: An Improvement Location Permit shall be required prior to the installation of a fence unless the fence meets one (1) of the exemptions below.

1. *Decorative Fence Permit Exemption*: Any fence that is three (3) feet or less in height, primarily used for a backdrop for landscaping or screening of something unsightly (e.g. mechanical or utility equipment), that is located in the front yard or street yard, and that meets either of the below descriptions shall be exempt from obtaining an Improvement Location Permit, but shall still meet all the applicable Fence Standards. Decorative fences between sixty-six percent (66%) and eighty-nine percent (89%) opacity shall not be exempted. Additionally, a mixture of Non-Opaque and Opaque Decorative Fences shall not be exempted.
  - a. *Non-Opaque Decorative Fences*: A fence with narrow or small frames, posts, rails, caps, pickets, finials, and/or bracing such that the fence does NOT block views through it; specifically, sixty-five percent (65%) or more of the overall fence being voids shall be permitted. Clear materials shall not constitute a void. However, a non-opaque fence length shall not exceed sixty (60%) of the subject lot's width, including the cumulative length of all non-opaque decorative fences.
  - b. *Opaque Decorative Fences*: A fence with wide frames, posts, rails, caps, pickets, finials, and/or bracing such that the fence blocks views through it; specifically, a fence that has ten percent (10%) or less of the overall fence being voids shall be permitted. However, an opaque fence shall not exceed twenty percent (20%) of the subject lot's width or twenty (20) feet, whichever is less, including the cumulative length of all opaque decorative fences.
2. *Privacy Partition Permit Exemption*: Privacy partitions located around hot tubs, decks and patios which do not exceed twenty-four (24) linear feet, are greater than ten (10) feet from all property lines, are six (6) feet or less in height, and are not in the lake yard or lake yard envelope, shall be exempt from obtaining an Improvement Location Permit, but shall still meet all the applicable Fence Standards.
3. *Construction Fence Permit Exemption*: Construction fences used to secure a construction site that are any type of plastic or chain link and are installed for the duration of the construction project shall be exempt from obtaining an Improvement Location Permit.

### C. Positioning:

1. *Presentation*: Fences shall present the non-structural face outward.
2. *Easement*: No fence shall be located within an easement unless written permission from the easement holder has been granted.

### D. Exemptions: The following are exempt or partially exempt from the fence standards.

1. *Sport Courts*: Fences that surround sport courts shall be exempt from the maximum height standards.
2. *Deer Fence*: A wire fence installed around trees and vegetation that are attractive to deer is permitted and shall not be regulated as a fence.
3. *Snow Fence*: Fence material designed specifically as snow fence installed for such purpose is permitted and shall not be regulated as a fence.

### E. Maintenance: All fences shall be properly maintained and kept in good condition.



## 5.24 FN-02: Conservation and Parks and Recreation Fence Standards

This Fence Standards section applies to the following zoning districts:

**CO** **PR**

The following standards apply:

### A. Types:

1. *Permitted Materials*: Wood, composite wood, stone, masonry, wrought iron, decorative metal, PVC, and vinyl-coated or powder-coated chain link shall be permitted materials for fences.
2. *Prohibited Materials*: Fences shall not incorporate barbed wire, above ground electrified wires, razor wire, glass, sharpened top spikes, or similarly hazardous materials.

### B. Height:

1. *In the Setback (outside the building envelope)*: Fences shall not exceed four (4) feet in height when located between the property line and the applicable setback.
2. *Out of the Setback (within the building envelope)*: Fences shall not exceed six (6) feet in height and shall be used for screening purposes.

### C. Location:

1. *Side Yard and Rear Yard Fences*: Fences within a side yard or rear yard shall be permitted on the property line, or if not on the property line the fence shall be at least two (2) feet from the property line so both sides of the fence can be maintained by the owner of the fence.
2. *Front Yard and Street Yard Fences*: Fences within a street yard or front yard shall be setback at least ten (10) feet from the property line or edge of pavement, whichever results in a greater setback.

## 5.25 FN-03: Agricultural Fence Standards

This Fence Standards section applies to the following zoning districts:

**AG** **IA**

The following standards apply:

### A. Types:

1. *Permitted Materials*: Wood, composite wood, stone, masonry, wrought iron, decorative metal, PVC, vinyl-coated, or powder-coated chain link, and galvanized chain link shall be permitted materials for fences. Chicken wire, wire mesh, agricultural wire, and fences that incorporate barbed wire or above ground electrified wires shall only be permitted materials for fences that are used for the containment of livestock or to surround fields.
2. *Prohibited Materials*: Fences shall not incorporate razor wire, glass, sharpened top spikes, or other similarly hazardous materials.

### B. Height:

1. *Front Yard*: Fences shall not exceed four (4) feet in height; except containment fences and fences around fields which shall not exceed (6) feet in height.
2. *Side Yard or Rear Yard*: Fences shall not exceed six (6) feet in height.

### C. Location:

1. *Side Yard and Rear Yard Fences*: Fences within a side yard or rear yard shall be permitted on the property line, or if not on the property line the fence shall be at least two (2) feet from the property line so both sides of the fence can be maintained by the owner of the fence.
2. *Front Yard and Street Yard Fences*: Fences within a street yard or front yard shall be setback at least ten (10) feet from the property line or edge of pavement, whichever results in a greater setback.

## 5.26 FN-04: Residential Fence Standards

This Fence Standards section applies to the following zoning districts:

**RE** **SR** **LR** **LA** **MR**

The following standards apply:

### A. Types:

1. *Permitted Materials*: Wood, composite wood, stone, masonry, wrought iron, decorative metal, and PVC shall be permitted materials for fences.
2. *Prohibited Materials*: Fences shall not incorporate vinyl-coated, or powder-coated chain link, galvanized chain link, chicken wire, mesh wire, agricultural wire, metal or plastic slats within chain links, barbed wire, above ground electrified wires, razor wire, glass, sharpened top spikes, or similarly hazardous materials.

### B. Exclusion: Dog runs may utilize chain link fence material if the dog run enclosure is six (6) feet in height or less, the area of the enclosure is fifty (50) square feet or less, and the enclosure is within the rear yard envelope or side yard envelope.

### C. Location:

1. *Side Yard and Rear Yard Fences*: Fences within a side yard or rear yard shall be permitted on the property line, or if not on the property line, shall be at least two (2) feet from the property line so both sides of the fence can be maintained by the owner of the fence. Under all circumstances, in the LR District, at least one (1) side yard shall meet the Clear Side Yard standards established in *Section 5.65: Lake Residential Setback Standards*.
2. *Front Yard and Street Yard Fences*: Fences located in the street yard (for lake lots) or front yard are permitted, but they shall be decorative in nature. Fences within a street yard (for lake lots) or front yard shall be setback at least ten (10) feet from the property line or edge of pavement, whichever results in a greater setback.
3. *Lake Yard Fences*: Fences shall not be permitted in the lake yard or lake yard envelope, except as permitted in *Section 5.46(D): Location* and *Section 5.23(D): Exemptions*.

### D. Height:

1. *Height*: Fences in the front yard, street yard, side yard, or rear yard shall not exceed four (4) feet in height.
2. *Height Exception*: Front yard and street yard fences may have a gateway feature (e.g. arch or columns), but the gateway feature shall not exceed nine (9) feet in height, three (3) feet in depth, and five (5) feet in width.

## 5.27 FN-05: Institutional and Commercial Fence Standards

This Fence Standards section applies to the following zoning districts:

**IS** **NC** **MA**

The following standards apply:

### A. Types:

1. *Permitted Materials*: Wood, composite wood, stone, masonry, wrought iron, decorative metal, and PVC shall be permitted materials for fences.
2. *Prohibited Materials*: Fences shall not incorporate vinyl-coated, or powder-coated chain link, galvanized chain link, chicken wire, mesh wire, agricultural wire, metal or plastic slats within chain links, barbed wire, above ground electrified wires, razor wire, glass, sharpened top spikes, or similarly hazardous materials.

### B. Location:

1. *Side Yard and Rear Yard Fences*: Fences within a side yard or rear yard shall be permitted on the property line, or if not on the property line, shall be at least two (2) feet from the property line so both sides of the fence can be maintained by the owner of the fence.
2. *Front Yard and Street Yard Fences*: Fences shall not be permitted in a street yard or front yard.
3. *Lake Yard Fences*: Fences shall not be permitted in a lake yard.

### C. Height: Fences shall not exceed eight (8) feet in height.



## 5.28 FP-01: Floodplain Standards

This Floodplain Standards section applies to the following zoning districts:

CO PR AG IA RE SR LR LA MR IS NC MA

See the Town of Clear Lake Flood Hazard Areas Ordinance in Appendix C.

## 5.29 FA-01: Floor Area Standards

This Floor Area Standards section applies to the following zoning districts:

**CO** **PR** **AG** **IA** **RE** **SR** **LR** **LA** **MR** **IS** **NC** **MA**

The intent of the Floor Area Standards is to protect the health, safety, and welfare of residents through the establishment of minimum floor area requirements. The following standards apply:

- A. General: If a floor area standard does not appear on the two-page layout in *Article 02: Zoning Districts* for a zoning district, then a standard does not apply to that particular zoning district.
  - 1. *Minimum Main Floor Area*: The minimum main floor area shall be per each two-page layout in *Article 02: Zoning Districts*.
  - 2. *Maximum Main Floor Area*: The maximum main floor area shall be per each two-page layout in *Article 02: Zoning Districts*.
  - 3. *Minimum Floor Area*: The minimum floor area shall be per each two-page layout in *Article 02: Zoning Districts*.
  - 4. *Maximum Floor Area*: The maximum floor area shall be per each two-page layout in *Article 02: Zoning Districts*.
  - 5. *Minimum Dwelling Unit Size*: The minimum dwelling unit size shall be per each two-page layout in *Article 02: Zoning Districts*.
- B. Main Floor Area Rules: In residential zoning districts, attached non-livable space (e.g. attached garages) shall not exceed 1,200 square feet in floor area.

## 5.30 HT-01: General Height Standards

This Height Standards section applies to the following zoning districts:

**CO** **PR** **AG** **IA** **RE** **SR** **LR** **LA** **MR** **IS** **NC** **MA**

The intent of the Height Standards is to ensure adequate fire and life safety protection and to protect the health, safety, and welfare of the residents. The following standards apply:

- A. Cross Reference: See *Section 5.74: Telecommunication Antenna Standards* and *Section 5.75: Telecommunication Facility Standards*.
- B. General: If a height standard does not appear on the two-page layout for a zoning district, then a standard does not apply to that particular zoning district.
  1. *Primary Structure*: The maximum height for primary structures shall be per each two-page layout in *Article 02: Zoning Districts*.
  2. *Accessory Structure*: The maximum height for accessory structures shall be per each two-page layout in *Article 02: Zoning Districts*.
  3. *Stories*: The maximum number of stories within a structure shall be per each two-page layout in *Article 02: Zoning Districts*. Basements and walk-out floors are excluded from the maximum number of stories.
- C. Exceptions: The following types of structures or features shall be exempt or partially exempt from the maximum structure height standards, assuming they are permitted uses or structural features, as stated:
  1. Grain elevators and grain silos used for agricultural purposes may exceed the maximum structure height but shall not exceed 150 feet in height.
  2. Place of worship steeples, bell towers, and religious symbols may exceed the maximum structure height but shall not exceed two hundred percent (200%) of the height of the primary structure.
  3. Functional chimneys may exceed the maximum structure height but shall not extend more than ten (10) feet above the roof's highest point.
  4. Awnings shall be constructed to allow clear passage beneath the awning. Specifically, no fabric, structure component, decorative element, or the like shall be less than seven (7) feet above the surface beneath the awning.
  5. Public utility structures and private water towers may exceed the maximum structure height, but shall not exceed 150 feet.
  6. Roof-mounted antennas that are not located on the front roof plane may exceed the maximum structure height, but shall not exceed five (5) feet over the maximum primary structure height or ten (10) feet above the primary structure's height, whichever is less.
  7. Pole-mounted antennas located in a rear yard or side yard may exceed the maximum structure height but shall not exceed twenty (20) feet over the maximum primary structure height or thirty (30) feet above the primary structure's height, whichever is less. Pole-mounted antennas shall only be permitted in side yards in the LR District.
  8. Roof-mounted mechanical equipment, including elevator bulkheads, may exceed the maximum structure height but shall not extend any more than fifteen (15) feet above the roof's highest point; provided that it is architecturally integrated into the building's features or is generally screened from view by an architectural enclosure, parapet, or similar feature. Industrial uses shall be exempt from the integration and screening requirement.
  9. Flagpoles may exceed the maximum structure height, but shall not exceed thirty-five (35) feet or the height of the primary structure, whichever is greater.
  10. Ham radio towers shall be exempt from the maximum structure height if the ham radio tower is located on a lot owned by a ham radio operator that has a valid and active license from the Federal Communication Commission (FCC).
  11. Decorative cupolas shall be exempt from the maximum structure height, but shall be designed such that they are proportional and complementary to the structures upon which they are installed. A decorative cupola shall not exceed 1.25-inches in length per foot of ridge line upon which it is located. The length of a decorative cupola shall not exceed 1.25 times the width. The decorative cupola shall not exceed thirty percent (30%) of the height of the structure upon which it is placed, and a decorative cupola shall not be accessible for use as a look out.

## 5.31 Home Business Standards

This Home Business Standards section applies to the following zoning districts:

**SR** **LR** **LA** **MR**

Home Business/Occupation

Any occupation or business use, full- or part-time, conducted within a dwelling or an accessory structure, or both, by a resident of the property.

1. *Concept of Standard:* This standard establishes the criteria for home businesses and occupations based on the impact of the business on the integrity of and character of the neighborhood, without creating a nuisance.
2. *General home business/occupation standards:* All home business/occupations shall comply with the following:
  - a. *Appearance.* There shall be no exterior evidence that the property is being used for any purpose other than a dwelling or an accessory structure.
  - b. *Activity.* The home occupation shall not cause any odor, dust, smoke, vibration, noise, heat glare or electromagnetic interference, which can be detected at, or beyond, the property line.
  - c. *Parking.* Off-street parking will be provided by the homeowner, where necessary, to handle all vehicle visits authorized under specific traffic classifications. If there is a question whether off-street parking is necessary, the zoning administrator shall make the determination.
  - d. *Storage.* There will be no outdoor storage of equipment inconsistent with personal use.
  - e. *Operator.* The business must be conducted by the property resident.

**5.32** *This page was intentionally left blank*

## 5.33 KA-01 Agricultural Keeping of Animals Standards

This Keeping of Animals Standards section applies to the following zoning districts:

**AG IA**

The intent of the Keeping of Animals Standards is to ensure the protection of the health, safety, and welfare of the residents by regulating the number and type of animals permitted on a lot. The following standards apply:

- A. Household Pets (Indoor): Any number of household pets are permitted as defined.
- B. Outdoor Pets: Outdoor pets are permitted as defined.
  - 1. *Minimum Lot Area*: 1/4 acre per outdoor pet.
  - 2. *Maximum Number*: Four (4) outdoor pets.
- C. Exotic Animals: One (1) exotic animal is permitted per twenty-five (25) acres.
- D. Pastured Farm Animals: Farm Animals are permitted as follows:
  - 1. *Minimum Lot Area*: Two (2) acres.
  - 2. *Minimum Pasturage Area*: Two (2) acres.
  - 3. *Maximum Animal Units*: One (1) animal unit per fenced acre.
  - 4. *Determination of Animal Units*: See table below.

Animal Type	Animals Per Animal Unit
Cattle, Buffalo, and similar	2
Horse, Mule, Donkey, Camel, and similar	1
Horse (34 inches or less at withers)	5
Swine, Ostrich, Emu, and similar	5
Goat, Sheep, Llama, Alpaca, and similar	5
Chicken, Turkey, Pheasant, and similar	25
Mink and other similar fur-bearing animals	25

## 5.34 KA-02 Rural Keeping of Farm Animals Standards

This Keeping of Animals Standards section applies to the following zoning districts:

**RE**

The following standards apply:

- A. Pastured Farm Animals: Farm Animals are permitted as follows:
  - 1. *Minimum Lot Area*: Six (6) acres.
  - 2. *Minimum Pasturage Area*: Three (3) acres.
  - 3. *Maximum Animal Units*: One (1) animal unit per two (2) acres that are fenced.
  - 4. *Determination of Animal Units*: See table below.

Animal Type	Animals Per Animal Unit
Cattle, Buffalo, and similar	2
Horse, Mule, Donkey, Camel, and similar	1
Horse (34 inches or less at withers)	5
Swine, Ostrich, Emu, and similar	5
Goat, Sheep, Llama, Alpaca, and similar	5
Chicken, Turkey, Pheasant, and similar	25
Mink and other similar fur-bearing animals	25

## 5.35 LA-01: General Landscaping Standards

This Landscaping Standards section applies to the following zoning districts:

**CO** **PR** **AG** **IA** **RE** **SR** **LR** **LA** **MR** **IS** **NC** **MA**

The intent of Landscaping Standards is to maintain character, enhance the visual quality of developments, screen land uses, and better integrate the built and natural environment. The following standards apply:

### A. Cross Reference:

1. *Vision Clearance Standards:* All landscape materials shall be located to avoid interference with visibility per the *Section 5.83: Vision Clearance Standards*.
2. *Clear Side Yard:* See Section 5.65(B): Clear Side Yard for further limitations on placement of landscaping.
3. *Town Ordinance:* See Title V: Public Works, Chapter 51: Sewers, 51.59(H) Grinder Pump Station Accessibility for further limitations on placement of landscaping.

### B. Project Applicability: Landscape materials consistent with the requirements of this Unified Development Ordinance shall be required when one (1) of the following conditions is met:

1. *New Primary Structure:* An Improvement Location Permit for a new primary structure is obtained.
2. *Addition to Primary Structure:* An Improvement Location Permit for an addition to the primary structure that adds twenty percent (20%) or more total square footage is obtained.
3. *New Accessory Structure:* An Improvement Location Permit is obtained for a new storage-based accessory structure greater than 144 square feet in area.
4. *Additions to Accessory Structure:* An Improvement Location Permit for an addition to the accessory structure that adds twenty percent (20%) or more total square footage is obtained.

### C. Placement:

1. *Easements:* Landscape materials shall not be planted in rights-of-way or easements without permission from the Town and/or the easement holder unless otherwise required by this Unified Development Ordinance. A tree canopy, however, may project over a right-of-way or an easement.
2. *Infrastructure Interference:*
  - a. Landscape materials shall be located to avoid interference with overhead and underground utilities. The following horizontal separations shall be maintained: canopy trees, fifteen (15) feet; evergreen trees, ten (10) feet; and ornamental trees, five (5) feet. Horizontal separation shall be measured from the centerline of the tree to the nearest point on the surface of the ground that is directly below a utility line or directly above buried utilities.
  - b. Landscape materials shall maintain five (5) feet of horizontal clearance from public sewer and water lines, curbs, pavement edges, and the like.
  - c. Landscape materials shall not project into public sidewalks, pedestrian paths, and the like below a height of seven (7) feet.
  - d. Landscape materials shall not project over street curbs or pavement below a height of eight (8) feet.
3. *Flexibility:* The Zoning Administrator may approve alternative landscaping plans when they clearly meet or exceed the intent of the applicable regulation and when the lot and structures thereon does not allow logical, healthful, and aesthetically pleasing placement of plant material.

### D. Size:

1. *Deciduous:* Each deciduous tree shall have a caliper measurement of at least two (2) inches at the time of installation.
2. *Evergreen:* Each evergreen tree shall have a minimum height of five (5) feet at the time of installation.
3. *Shrub:* Each shrub shall be a minimum one and one-half (1 ½) gallon.

### E. Maintenance: Trees, vegetation, irrigation systems, fences, and other landscape materials are essential elements of a project. Owners and their successors in title are responsible for the regular maintenance of all landscaping materials such that they are kept in good condition. All landscape materials shall be maintained alive, healthy, and free from disease and pests, or be removed if unrecoverable and replaced with a similar species elsewhere on the property. Failure to maintain or replace required minimum landscaping is a violation of this Unified Development Ordinance subject to the provisions of *Article 10: Enforcement and Penalties*.

- F. **Tree Preservation Credits:** The preservation of an existing healthy tree shall constitute an in-kind credit toward meeting the landscape standards in this Unified Development Ordinance. A credit shall be granted per tree that contributes to and satisfies similarly to the intent of a particular section of the landscape standards (street trees, lot plantings, pond plantings, or buffer yards) within this Unified Development Ordinance.
1. *Preservation Plan:* If tree preservation credits are desired, a Tree Preservation Plan shall be submitted prior to any construction activity. The Tree Preservation Plan shall identify the trees intended to be saved and a strategy for retaining and protecting the trees and their existing root systems.
  2. *Credits:*
    - a. For each preserved deciduous tree with the caliper measurement of eight (8) inches or greater, credit for two (2) deciduous trees shall be granted.
    - b. For each preserved evergreen tree eight (8) feet tall or greater, credit for two (2) evergreen trees shall be granted.
  3. *Unplanned Damage:* Any tree intended to be saved that is removed or damaged shall be replaced in the same proportion as the credits that were originally granted.

## 5.36 LA-02: Street Tree Planting Standards

This Landscaping Standards section applies to the following zoning district:

**SR**

- A. **Quantity:**
1. *Requirement:* The quantities listed below are in addition to landscape materials that may be required by lot planting and buffer yard planting specified in other parts of this Landscaping Standards section.
  2. *Minimum Number:* Properties that abut a street shall install one (1) canopy tree for every fifty (50) feet of street frontage.
- B. **Placement:**
1. *Right-of-way:* If the adjacent street right-of-way permits, the tree shall be planted within the right-of-way, but not within three (3) feet of any hard surface (e.g. driveway, sidewalk, or street). If space within the right-of-way does not exist, or if due to utility conflict, follow the placement standard in *Section 5.36 (B)(2): Other Location*.
  2. *Other Location:* When the required tree cannot be located in the right-of-way, it shall be planted anywhere on the lot, but no closer than five (5) feet from a foundation or three (3) feet from any hard surface (e.g. driveway, sidewalk, or street).



## 5.37 LA-03: Lot Planting Standards

This Landscaping Standards section applies to the following zoning districts:



- A. **Quantity:** The quantities listed below are in addition to landscape materials that may be required by street tree planting, parking lot planting, pond planting, and buffer yard planting specified in other parts of this Landscaping Standards section.

1. *Foundation Plantings:*

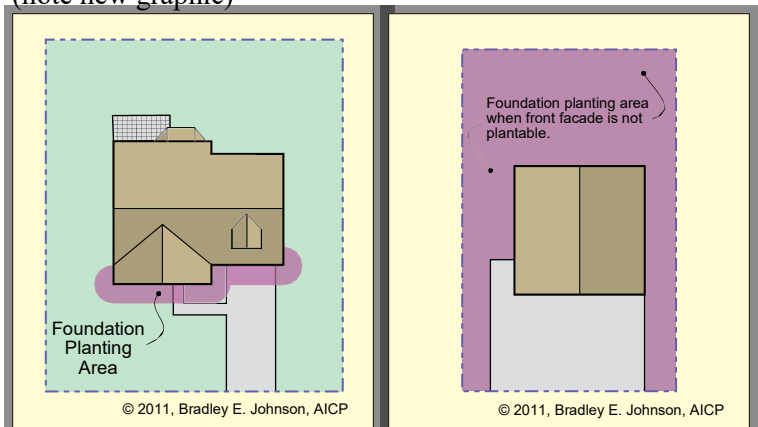
- Building facades that face a street and that are sixty (60) linear feet in length or less, shall plant a minimum of three (3) shrubs.
- Building facades that face a street and are over sixty (60) linear feet in length, shall plant one (1) shrub or ornamental tree for every twenty (20) linear feet of street facing facade.

2. *Yard Plantings:*

- Lots 15,000 square feet or less shall plant two (2) canopy trees.
- Lots over 15,000 square feet, but less than 30,000 square feet, shall plant three (3) canopy trees.
- Lots 30,000 square feet or more shall plant four (4) canopy trees, and then one (1) canopy tree for every additional 15,000 square feet of lot size.

B. **Placement:**

1. *Foundation Plantings:* Foundation plantings shall be planted within ten (10) feet of the building foundation facing the street. In the Lake Accessory District, when the building facade facing the street is not plantable, then foundation plantings shall be permitted where they are most appropriate for the site. (note new graphic)



2. *Yard Plantings:* Yard plantings shall be planted anywhere on the lot.

## 5.38 LA-04: Lake Residential Lot Planting Standards

This Landscaping Standards section applies to the following zoning district:

**LR**

- A. Quantity: The quantities listed below are in addition to landscape materials that may be required by pond planting and buffer yard planting specified in other parts of this Landscaping Standards section.
  - 1. *Yard Plantings*:
    - a. Lots with forty (40) linear feet or less of lake frontage shall plant one (1) canopy trees.
    - b. Lots with over forty (40) linear feet, but less than sixty (60) linear feet of lake frontage shall plant three (3) canopy trees.
    - c. Lots with sixty (60) linear feet or more shall plant four (4) canopy trees, plus one (1) canopy tree for every additional thirty (30) linear feet over sixty (60) feet.
- B. Placement:
  - 1. *Yard Plantings*: If two (2) or three (3) trees are required, at least one (1) shall be planted in the lake yard. If four (4) or more trees are required, at least one-half (½) of them shall be planted in the lake yard. Trees not required to be planted in the lake yard may be planted anywhere on the lot.

## 5.39 LA-05: Parking Lot Planting Standards

This Landscaping Standards section applies to the following zoning districts:

**MR** **IS** **NC** **MA**

- A. Quantity: The quantities listed below are in addition to landscape materials that may be required by street tree planting, lot planting, pond planting, and buffer yard planting specified in other parts of this Landscaping Standards section.
  - 1. *Perimeter Plantings*: Parking lots with ten (10) or more spaces shall have one (1) deciduous tree per forty (40) feet of parking lot perimeter and one (1) shrub per twenty (20) feet of parking lot perimeter.
  - 2. *Interior Plantings*: Parking lots with thirty (30) or more parking spaces shall have one (1) landscape island or bump-out for every thirty (30) spaces. Each landscape island or bump-out shall be at least 180 square feet in area or at least as large as the drip line area of the tree(s), which ever is greater. Each landscape island or bump-out shall contain at least one (1) tree per 180 square feet in area. Parking lot landscape islands shall be maintained with plant materials and/or mulch. Gravel shall not be permitted.
- B. Placement:
  - 1. *Perimeter Plantings*: Perimeter plantings shall be planted within ten (10) feet of the parking lot edge. Grouping of perimeter plantings is encouraged.
  - 2. *Interior Plantings*: Landscape islands shall be distributed equally throughout the parking lot.

## 5.40 LA-06: Pond Planting Standards

This Landscaping Standards section applies to the following zoning districts:

**PR** **RE** **SR** **LR** **LA** **MR** **IS** **NC** **MA**

- A. Project Applicability: Pond plantings shall be installed around detention ponds and recreation ponds that exceed 20,000 square feet in area.
- B. Quantity: The quantities listed below are in addition to landscape materials that may be required by street tree planting, lot planting, parking lot planting, and buffer yard planting specified in other parts of this Landscaping Standards section.
  - 1. *Perimeter Planting*: One (1) tree per 5,000 square feet of pond area and two (2) shrubs per 8,000 square feet of pond area shall be required.
- C. Placement: Landscape materials shall be installed within fifteen (15) feet from the top of the bank. Grouping of landscape materials is encouraged.

## 5.41 LA-07: Buffer Yard Planting Standards

This Landscaping Standards section applies to the following zoning districts:

**PR** **AG** **IA** **RE** **SR** **LR** **LA** **MR** **IS** **NC** **MA**

- A. **Quantity:** The quantities listed below are in addition to landscape materials that may be required by street tree planting, lot planting, parking lot planting, and pond planting specified in other parts of this Landscaping Standards section.
  1. *Evergreen:* One (1) evergreen tree per ten (10) feet of contiguous boundary with the conflicting zoning district shall be planted.
  2. *Shrub:* One (1) shrub per five (5) feet of contiguous boundary with the conflicting zoning district shall be planted.
- B. **General:**
  1. *Conflicting Districts:* Buffer yards shall be installed along side and rear property lines where conflicting zoning districts meet, as indicated on Table LA-A. An "R" on Table LA-A indicates a buffer yard shall be required.
  2. *Responsibility:* The owner of a property that is more intense shall be responsible for installing the buffer yard at the time the property is rezoned, developed, and/or improved. In the event a property is rezoned, resulting in a conflict with an existing and more intense use or zoning district, then the buffer yard shall be the responsibility of the owner of the newly rezoned property.
- C. **Placement:**
  1. *Depth:* Buffer yards shall be a minimum of twenty (20) feet deep.
  2. *Layout:* Landscape materials shall be installed within the buffer yard such that visual breaks from adjacent properties are no greater than ten (10) feet as measured perpendicular to adjacent property lines.

**Table LA-A: Buffer Yards Required**

	CO	PR	AG	IA	RE	SR	LR	LA	MR	IS	NC	MA
CO				R						R	R	R
PR				R							R	R
AG				R								
IA	R	R	R		R	R	R	R	R	R		
RE				R					R	R	R	R
SR				R					R	R	R	R
LR				R					R	R	R	R
LA				R								R
MR				R	R	R	R			R	R	R
IS	R			R	R	R	R		R			R
NC	R	R			R	R	R		R			
MA	R	R			R	R	R	R	R	R		

## 5.42 LT-01: Lighting Standards

This Lighting Standards section applies to the following zoning districts:

**PR AG IA RE SR LR LA MR IS NC MA**

The intent of the Lighting Standards is to protect the health, safety, and welfare of the residents by permitting site and facade lighting that has minimal impact on adjacent property. The following standards apply:

### A. Cross Reference:

1. *Parking Lot Lighting*: See *Section 5.49: General Parking Standards* through *Section 5.53: Nonresidential Parking Standards* for parking lot lighting requirements.
2. *Illumination of Signs*: See *Section 5.67: General Sign Standards* through *Section 5.71: Institutional, Neighborhood Commercial, and Marina Sign Standards* for standards regarding the illumination of signs.

### B. Permits: An Improvement Location Permit is required for all outdoor lighting, except in residential districts (i.e. RE, SR, and LR) and the Lake Accessory (LA) District.

### C. Measurement Rules: Measurements of light readings shall be taken at any point along the property line of the subject property with a light meter facing the center of the property at any height from the ground level to thirty-five (35) feet above the ground.

### D. Types: All lighting fixtures and poles within a single development shall be consistent in style, color, size, height, and design.

#### 1. *Permitted*:

##### a. Site Lighting: The following types of light fixtures and structures are permitted:

- i. Pole mounted fixtures (e.g. dusk-to-dawn lights),
- ii. Wall mounted fixtures (e.g. sconce lights),
- iii. Ground mounted fixtures (e.g. landscape lighting),
- iv. Ceiling mounted fixtures (e.g. porch ceilings),
- v. Eave mounted fixtures (e.g. can lights mounted in the soffits).

##### b. Facade Highlighting: Modest intensity up-lighting of structure facades and landscaping from ground-mounted fixtures shall be permitted.

#### 2. *Light Control*: Generally, exterior light fixtures should allow only minimal light to spill upward or off the property on which it is located. This standard should be accomplished by choosing appropriate fixtures (e.g. cutoff fixtures), utilizing shielding (e.g. housings around spot lights), directing light at objects that do not allow light to pass beyond them, or placing them in locations that prevent light spillage (e.g. can lights in eaves or porch ceilings).

#### 3. *Prohibited*: No rotating beacons or strobe lights shall be permitted.

#### 4. *Exemptions*:

- a. Sport field and sport court lights shall be semi-cutoff or cutoff fixtures, shall not exceed sixty (60) feet in height, and shall be shut-off by 10:00 pm Sunday through Thursday and 11:00 pm Friday through Saturday.
- b. Holiday lights shall not be regulated.
- c. Low voltage landscape lighting shall not be regulated.

### E. Glare: Light fixtures shall be fully shielded to prevent direct lighting on streets, alleys, and adjacent properties. Any structural part of the light fixture providing this shielding shall be permanently affixed.

## 5.43 LD-01: Loading Standards

This Loading Standards section applies to the following zoning districts:

**IS** **NC** **MA**

The intent of Loading Standards is to protect the health, safety, and welfare of the residents by requiring loading docks to meet certain traffic safety standards. The following standards apply:

A. Project Applicability: The following loading standards only apply when a project utilizes a loading dock.

B. Design:

1. *Location*:

- a. A loading docks visible from a public street shall be screened by solid structure walls and/or landscape buffers.
- b. Loading docks shall provide adequate area for trucks to maneuver in and out of the facility. Trucks shall not block rights-of-way, streets, alleys, aisles, or other internal circulation when maneuvering into or docked at loading docks.

2. *Surface Materials*: Loading docks shall be paved with asphalt or concrete.

3. *Drainage*: Loading docks shall be constructed to allow proper drainage away from the structure.

## 5.44 LO-01: Lot Standards

This Lot Standards section applies to the following zoning districts:

**CO** **PR** **AG** **IA** **RE** **SR** **LR** **LA** **MR** **IS** **NC** **MA**

The intent of the Lot Standards is to protect the health, safety, and welfare of the residents by establishing minimum area, width, and frontage requirements for lots. The following standards apply:

- A. General: If a lot standard does not appear on the two-page layout for a zoning district, then the standard does not apply to that particular zoning district.
  1. *Minimum Lot Area*: The minimum lot area shall be per each two-page layout in *Article 02: Zoning Districts*.
  2. *Maximum Lot Area*: The maximum lot area shall be per each two-page layout in *Article 02: Zoning Districts*.
  3. *Minimum Lot Width*: The minimum lot width shall be per each two-page layout in *Article 02: Zoning Districts*.
- B. Minimum Lot Frontage:
  1. *Cul-de-sac Lots*: The minimum lot frontage for lots established along a cul-de-sac bulb shall be at least twenty percent (20%) of the Minimum Lot Width for the applicable district. However, under no circumstances shall the lot frontage be less than twenty-five (25) feet in residential districts or thirty-five (35) feet in all other districts.
  2. *All Other Lots*: The minimum lot frontage shall be at least sixty percent (60%) of the Minimum Lot Width.

## 5.45 ME-01: Agricultural and Commercial Mechanical Equipment Standards

This Mechanical Equipment Standards section applies to the following zoning districts:

**CO** **PR** **AG** **IA** **RE** **SR** **LA** **IS** **NC**

The intent of the Mechanical Equipment Standards is to protect life safety and minimize property loss during a building fire on a narrow lot, to maintain community character, and to mitigate conflict with neighboring property owners. The following standards apply:

- A. **Project Applicability:** Installation of mechanical equipment shall be consistent with the requirements of this Unified Development Ordinance when any of the following conditions are met.
  - 1. *New Primary Structure:* An Improvement Location Permit for a new primary structure is obtained.
  - 2. *Addition to a Primary Structure:* An Improvement Location Permit is obtained for an addition that adds twenty percent (20%) or more total square footage to the primary structure.
  - 3. *New Accessory Structure:* An Improvement Location Permit is obtained for a new storage-based accessory structure or for an accessory structure greater than 120 square feet on a lot without a primary structure (e.g. a garage on a Lake Accessory District lot).
  - 4. *New Mechanical Equipment:* A new mechanical equipment system is installed (e.g. adding a generator or central air conditioning condenser unit where one does not currently exist).
  - 5. *Upgraded Mechanical Equipment:* An existing mechanical equipment system is upgraded resulting in a change in placement or a footprint that is greater by fifty percent (50%) or more.
- B. **Cross Reference:**
  - 1. *Setback Standards:* Mechanical equipment shall comply with the setbacks in *Section 5.63: General Setback Standards* through *Section 5.65: Lake Residential Setback Standards*.
- C. **Permits:** An Improvement Location Permit shall be required prior to installation or construction of applicable mechanical equipment.
- D. **Location:** Mechanical equipment shall be located in the side yard envelope or rear yard envelope, or on a roof screened by architectural elements and sound absorbing materials of the building. Mechanical equipment shall not be located in the front yard or a lake yard.
- E. **Prohibited Types:**
  - 1. LP tanks over thirty (30) pounds shall not be permitted mechanical equipment, except in locations where natural gas is not available. In those cases where LP tanks are used, they shall be located underground and comply with industry standards contained in the *National Fire Protection Association code (NFPA 58)*.
  - 2. *Underground Tanks:* Underground fuel storage tanks shall not be permitted.
  - 3. *Above Ground Tanks:* Above ground fuel storage tanks shall not be permitted in CO, PR, SR, LA, and NC Districts. Above ground fuel storage tanks shall be permitted in AG, IA, RE, and IS Districts but shall meet all of the following criteria:
    - a. Above ground fuel tanks shall be double-walled tanks to provide secondary containment.
    - b. Above ground fuel tanks shall be located a minimum of 50-feet from all habitable buildings, streets, property lines, and the delineated boundary of a wetland or the edge of water at normal elevation of a lake, channel, pond, creek, or stream.
    - c. Above ground fuel storage tanks shall be installed on a secure base with the tank resting at least 6-inches off the ground.
    - d. Above ground fuel storage tanks shall not be located under overhead power lines or over underground utilities.

## 5.46 ME-02: Residential Mechanical Equipment Standards

This Mechanical Equipment Standards section applies to the following zoning districts:



The intent of the Mechanical Equipment Standards is to protect life safety and minimize property loss during a building fire on a narrow lot, to maintain community character, and to mitigate conflict with neighboring property owners. The following standards apply:

- A. **Project Applicability:** Installation of mechanical equipment shall be consistent with the requirements of this Unified Development Ordinance when any of the following conditions are met.
  1. *New Primary Structure:* An Improvement Location Permit for a new primary structure is obtained.
  2. *Addition to a Primary Structure:* An Improvement Location Permit is obtained for an addition that adds twenty percent (20%) or more total square footage to the primary structure.
  3. *New Mechanical Equipment:* A new mechanical equipment system is installed (e.g. adding a generator or central air conditioning condenser unit where one does not currently exist).
  4. *Upgraded Mechanical Equipment:* An existing mechanical equipment system is upgraded resulting in a change in placement or a footprint that is greater by fifty percent (50%) or more.
- B. **Cross Reference:** The below cross reference applies to the LR District only.
  1. *Clear Side Yard:* See *Section 5.65(B): Clear Side Yard* for further limitations on placement of mechanical equipment.
- C. **Permits:** An Improvement Location Permit shall be required prior to installation or construction of applicable mechanical equipment.
- D. **Location:**
  1. *Any Mechanical Equipment:* Mechanical equipment (as defined) shall be located in the side yard envelope or rear yard envelope, or on a roof screened by architectural elements and sound absorbing and/or deflecting materials. Mechanical equipment shall not be located in the front yard, street yard, or a lake yard, except as permitted in Section 5.46(D)(1)(a): Lake Yard Exception.
    - a. *Street Yard Exception:* Air conditioning condenser units and residential-scale generators may be located in a street yard envelope if screened with vegetation, decorative fence, decorative wall or similar materials or elements.
    - b. *Lake Yard Exception:* Air conditioning condenser units may be located in a lake yard envelope if screened with vegetation, decorative fence, decorative wall or similar materials or elements.
  2. *Residential-Scale Generator in Side Yard Setback:*
    - a. In a Side Yard: A residential-scale generator may be located in a side yard setback if fully within ten (10) feet of a pre-existing and legally-established air conditioning condenser unit in that same side yard setback. The residential-scale generator shall not be closer to the property line than the air conditioning condenser.
- E. **Prohibited Types:**
  1. LP tanks over thirty (30) pounds shall not be permitted mechanical equipment, except in locations where natural gas is not available. In those cases where LP tanks are used, they shall be located underground and comply with industry standards contained in the *National Fire Protection Association code (NFPA 58)*.
  2. **Underground Tanks:** Underground fuel storage tanks shall not be permitted.
  3. **Above Ground Tanks:** Above ground fuel storage tanks shall not be permitted in LR or MR Districts. Above ground fuel storage tanks shall be permitted in the MA District but shall meet all of the following criteria:
    - a. Above ground fuel tanks shall be double-walled tanks to provide secondary containment.
    - b. Above ground fuel tanks shall be located a minimum of 50-feet from all habitable buildings, streets, property lines, and the delineated boundary of a wetland or the edge of water at normal elevation of a lake, channel, pond, creek, or stream.
    - c. Above ground fuel storage tanks shall be installed on a secure base with the tank resting at least 6-inches off the ground.
    - d. Above ground fuel storage tanks shall not be located under overhead power lines or over underground utilities.



## 5.47 OS-01: General Outdoor Storage Standards

This Outdoor Storage Standards section applies to the following zoning districts:

**CO** **PR** **AG** **IA** **RE** **SR** **LR** **LA** **MR** **IS** **NC**

The intent of Outdoor Storage Standards is to protect the health, safety, and welfare and ensuring neighborliness and aesthetic quality for the residents. The following standards apply:

- A. **Prohibited:** The outdoor storage of equipment, product, supplies, materials, machinery, building materials, waste or scrap, pallets, and similar materials shall not be permitted. Operable and used gas grills, docks, boats, lifts, and patio furniture shall not be considered outdoor storage. Building material stored on site during a permitted construction project (e.g. after a building permit has been issued and prior to the completion of the construction project) shall not be considered outdoor storage.
- B. **Placement:** Vehicles shall not encroach into a right-of-way or block or impede an access easement, public sidewalk, or driving aisle.

## 5.48 OS-02: Marina Outdoor Storage Standards

This Outdoor Storage Standards section applies to the following zoning district:

**MA**

The following standards apply:

- A. **Marina Outdoor Storage:** Outdoor storage of vehicles, equipment, product, supplies, materials, waste or scrap, pallets, and the like shall be permitted if all of the following conditions are met.
  - 1. **Location:** Outdoor storage areas shall be located in a side yard or rear yard and shall be setback fifteen (15) feet from the property line.
  - 2. **Screening:** Outdoor storage areas shall be screened on all sides with a solid decorative fence that is six (6) feet to eight (8) feet in height and meets the standards established in *Section 5.23: General Fence Standards* through *Section 5.27: Institutional and Commercial Fence Standards*; or instead landscaping is used to achieve a similar effect.

## 5.49 PK-01: General Parking Standards

This Parking Standards section applies to the following zoning districts:

**CO** **PR** **AG** **IA** **RE** **SR** **LR** **LA** **MR** **IS** **NC** **MA**

The intent of Parking Standards is to require minimal parking standards in order to assure public health, safety and welfare; minimize risks to the natural environment; and minimize conflict and promote vehicular and pedestrian safety along streets by minimizing on-street parking. The following standards apply:

- A. **Project Applicability:** Parking consistent with the requirements of this Unified Development Ordinance shall be required when any of the following conditions are met.
  1. *New Primary Structure:* An Improvement Location Permit for a new primary structure is obtained.
  2. *Parking Expansion:* An Improvement Location Permit for an existing parking lot or driveway to be expanded by ten percent (10%) or more of its existing size is obtained.
  3. *Second Expansion:* A legally nonconforming parking area has already been expanded one (1) time, up to ten percent (10%) of its existing size, with a valid Improvement Location Permit, and a second expansion is proposed for the same legal nonconforming parking area.
- B. **Cross Reference:**
  1. *Setback Standards:* Parking lots shall comply with the setbacks in the *Section 5.63: General Setback Standards* through *Section 5.65: Lake Residential Setback Standards*.
  2. *Driveways:* For standards regarding driveways or access to parking lots, see *Section 5.17: General Driveway Standards* through *Section 5.21: Nonresidential Driveway Standards*.
  3. *Temporary Sales in Parking Lots:* For standards regarding temporary structures and temporary uses located in existing parking lots or parking areas, see *Section 5.76: General Temporary Use and Structure Standards* through *Section 5.79: Nonresidential Temporary Use and Structure Standards*.
- C. **Permits:** An Improvement Location Permit shall be required for new parking lots or the expansion of an existing parking lot.
- D. **Design:**
  1. *Size of Spaces:* Each off-street parking space shall be a minimum of nine (9) feet wide and eighteen (18) feet in length.
  2. *Right-of-way:* Off-street parking spaces shall not be fully or partially in a right-of-way or access easement.

## 5.50 PK-02: Residential Parking Standards

This Parking Standards section applies to the following zoning districts:

**RE** **SR**

The following standards apply:

- A. **Quantity:** A minimum of four (4) off-street parking spaces shall be required per dwelling unit.
- B. **Location:**
  1. *Same Lot:* The required parking spaces shall be located on the same lot as the dwelling unit.
  2. *Garages:* The required parking spaces may include spaces within garages and/or carports.
- C. **Materials:** The required parking spaces shall be concrete, asphalt, brick pavers, stone, or grass pavers. Dirt, sand, or grass (that is not reinforced with grass pavers) shall not be a permitted surface material for parking spaces.

## 5.51 PK-03: Lake Residential Parking Standards

This Parking Standards section applies to the following zoning districts:

**LR** **LA**

The following standards apply:

- A. Quantity: A minimum of four (4) off-street parking spaces shall be required per dwelling unit.
- B. Location:
  - 1. *Same Lot*: The required parking spaces may be located on the same lot as the dwelling unit or on a lot zoned Lake Accessory (LA) within 500 feet of the dwelling unit.
  - 2. *Garages*: Two (2) of the required parking spaces may include spaces within garages and/or carports.
- C. Materials: The required parking spaces shall be concrete, asphalt, brick pavers, stone, or grass pavers. Dirt, sand, or grass (that is not reinforced with grass pavers) shall not be a permitted surface material for parking spaces.

## 5.52 PK-04: Multiple-family Residential Parking Standards

This Parking Standards section applies to the following zoning district:

**MR**

The following standards apply:

- A. Quantity:
  - 1. *Tenants*: A minimum of two (2) parking spaces shall be required per dwelling unit.
  - 2. *Visitors*: One (1) parking space per every two (2) dwelling units shall be required for visitors.
- B. Location:
  - 1. *Tenants*: Tenant parking spaces shall be located on the same site as the dwelling unit. Tenant parking spaces may include spaces within garages and/or carports.
  - 2. *Visitors*: Visitor parking spaces shall be located in a common parking area or as angled parking along internal private streets, but shall be proportionately assigned to an area within 200 feet of each multiple-family structure.
- C. Materials: The required parking spaces shall be concrete, asphalt, brick pavers, or grass pavers. Stone, dirt, sand, or grass shall not be a permitted surface material for parking spaces.

## 5.53 PK-05: Nonresidential Parking Standards

This Parking Standards section applies to the following zoning districts:

**IS** **NC** **MA**

The following standards apply:

- A. Quantity:
  - 1. *Minimum Number*:
    - a. Off-street parking shall be required for all uses as shown in *Table PK-A: Minimum Number Of Parking Spaces Per Use*. The land use is listed in the left column. The minimum number of parking spaces for employees or tenants is in the middle column, and the minimum number of parking spaces for visitors, clients, and customers is in the right column. The minimum number of parking spaces shall be the sum of all three (3) columns. The numbers do not guarantee the quantity needed per use, only minimums are expressed.
    - b. A development that combines two (2) or more uses or a group of adjacent developments may provide a shared parking area if the shared lot provides a minimum of seventy-five percent (75%) of the required spaces for each use and the Zoning Administrator approves the shared parking area.
    - c. If a use is not clearly noted in *Table PK-A: Minimum Number Of Parking Spaces Per Use*, the Zoning Administrator shall determine a use with similar employment and customer characteristics, therefore determining the minimum number of parking spaces required.
    - d. All required parking shall be located either on-site (off-street), or off-site (off-street) on a lot where parking spaces are available by common ownership or agreement in perpetuity, and when those spaces are within 600 feet of the subject property.

2. *Maximum Number*: Developments that wish to have more than one hundred twenty percent (120%) of the minimum required number of spaces shall be required to increase the required perimeter parking lot landscaping (see *Section 5.39: Parking Lot Planting Standards*) by fifty percent (50%), increase the size of the required parking lot landscape islands by fifty percent (50%), and increase the planting requirements in those islands by fifty percent (50%). Developments that wish to have more than one hundred sixty percent (160%) of the minimum required number of spaces shall be required to double the required perimeter parking lot landscaping, double the size of the required parking lot landscape islands and double the required plantings in those parking lot landscape islands.
  3. *Bicycle Parking*: Developments are encouraged to provide bicycle parking areas when appropriate. If provided, bicycle parking areas shall be within sixty (60) feet of the main entryway into the primary structure or be located inside the primary structure. Additionally, a secured bike rack shall be installed to provide the opportunity for secure parking of bicycles.
  4. *Stacking Lanes*: The following uses shall provide minimum stacking lane space as indicated below to accommodate drop-off and pick-up.
    - a. ATM: Two (2) per ATM lane.
    - b. Day care center: Four (4).
    - c. Place of worship or school: Six (6).
- B. Design: Parking lots and parking areas shall meet the following criteria:
1. *Aisle Widths*: Minimum parking aisle widths shall be as follows:
    - a. Sixty-one degree (61°) to ninety degree (90°) angle spaces shall have a minimum eighteen (18) feet wide parking aisle for one-way traffic or minimum twenty-four (24) feet wide parking aisle for one-way or two-way traffic.
    - b. Forty-six degree (46°) to sixty degree (60°) angle spaces shall have a minimum of eighteen (18) feet wide parking aisle for one-way traffic.
    - c. Up to forty-five degree (45°) angle spaces shall have a minimum twelve (12) feet wide parking aisle for one-way traffic.
  2. *Aisle Exits*: All parking aisles shall have an outlet or turn around. Dead-end parking aisles shall not be permitted.
  3. *Driving Lanes*: Driving lanes in parking lots that provide access to parking aisles shall be defined by striping, curbs, pavement markings, arrows, or parking spaces.
  4. *Maneuvering*: Parking areas shall be designed to prevent vehicles from maneuvering in the right-of-way.
  5. *Drainage*: Parking areas shall be constructed to prevent ninety-five percent (95%) of a parking lots area from ponding.
- C. Materials: The required parking spaces shall be concrete, asphalt, or brick pavers. Grass pavers, stone, dirt, sand, or grass shall not be a permitted surface material for parking spaces.

**Table PK-A: Minimum Number of Parking Spaces Per Use**

Land Use	Parking Types	
	Employee/Tenant Parking	Visitor/Client/Customer Parking
<b>Commercial Uses</b>		
bank machine/atm	-	2 spaces per atm
club or lodge	-	1 space per 3 persons of maximum occupancy
coffee shop	-	1 space per 3 seats
commercial storage facility	1 space per employee on the largest shift	1 space per 10 employees, 1 space per 10 storage spaces, or 5 spaces; whichever is greater
farmers market	1 space per booth/vendor	1 space per booth/vendor
golf course	-	20 spaces per 9 holes
ice cream shop	-	1 space per 3 seats
indoor storage	-	1 space per 10 indoor storage spaces
liquor store	-	1 space per 300 square feet of floor area
marina	-	1 space per 300 square feet of floor area
outdoor storage	-	1 space per 10 employees, 1 space per 10 storage spaces, or 5 spaces; whichever is greater
pub	-	1 space per 3 persons of maximum occupancy
restaurant	-	1 space per 3 persons of maximum occupancy
retail (type 1), very low intensity	-	1 space per 300 square feet of floor area
retail (type 2), low intensity	-	1 space per 300 square feet of floor area
telecommunication facility	2 spaces per facility	-
watercraft fuel sales	1 space per employee on the largest shift	-
watercraft maintenance facility	1 space per employee on the largest shift	-
yacht club	1 space per facility	-

Land Use	Parking Types	
	Employee/Tenant Parking	Visitor/Client/Customer Parking
<b>Institutional Uses</b>		
community center	-	1 space per 3 persons at maximum occupancy
government office	-	1 space per 500 square feet of floor area
government operation (non-office)	1 space per employee on the largest shift	-
library	-	1 space per 3 persons at maximum occupancy
municipal airport	-	as per FAA Advisory Circular
municipal heliport	-	as per FAA Advisory Circular
museum	-	1 space per 3 persons at maximum occupancy
nature center	-	1 space per 3 persons at maximum occupancy
nature preserve	1 space	-
park	-	1 space per acre; 20 spaces per sport court or field
place of worship	-	3 space per 7 seats
police, fire, or rescue station	1 space per employee	-
post office	1 space per employee on the largest shift	1 space per 150 square feet accessible to the public
school (P-12)	1 space per teacher, staff, administrator	3 spaces per elementary or junior high classroom; 1 space per 10 high school students enrollment capacity; and 1 space per 4 seats in the largest assembly space in the school (based on maximum occupancy)
sewage treatment plant	1 space per employee on the largest shift	1 visitor space per 10 employees
swimming pool (public)	-	1 space per 75 square feet of water surface
water treatment plant	1 space per employee on the largest shift	1 visitor space per 10 employees

## 5.54 PF-01: Performance Standards

This Performance Standards section applies to the following zoning districts:

**CO PR AG IA RE SR LR LA MR IS NC MA**

The intent of the Performance Standards section is to protect the health, safety, and welfare of residents by establishing requirements for nuisance characteristics. The following standards apply:

- A. Cross Reference: See *Section 5.22: Environmental Standards* for standards relating to air, water, and soil quality.
- B. Nuisance Characteristics: No use shall exhibit obnoxious characteristics to the extent that it constitutes a public nuisance. No use in existence on the effective date of this Unified Development Ordinance shall be so altered or modified to conflict with these standards.
  1. *Electrical Disturbance*: No use shall cause electrical disturbance adversely affecting radio, television, or other equipment in the vicinity.
  2. *Noise*:
    - a. No use shall produce unreasonable noise between the hours of 11:00 pm and 6:00 am.
    - b. Sirens on public safety vehicles, watercraft on the lake, and vehicles in the public right-of-way shall be exempt from this standard.
  3. *Vibration*: No use shall cause vibrations or concussions detectable beyond the lot lines without the aid of instruments. Construction activities shall be exempt from this standard between the hours of 7:00 am and 8:00 pm.
  4. *Odor*: No use shall emit across the lot lines malodorous gas or odor in such quantity as to be detectable at any point along the lot lines. Agriculture districts are exempt from this standard.
  5. *Heat and Glare*: No use shall produce heat or glare in such a manner as to be a nuisance or create a hazard noticeable from any point beyond the lot lines.
- C. Fire Protection: Fire fighting equipment and prevention measures acceptable to the Fire Department and any federal, State, County, Town, and/or local authorities that may also have jurisdiction shall be readily available and apparent when any activity involving the handling or storage of flammable or explosive materials is conducted.
- D. Exemptions: Any A/C unit or horizontally vented appliance (e.g. furnace or water heater) operating at any time or any generator used during a power outage or during a testing cycle shall not be subject to the noise standards in this section.

## 5.55 PT-01: Permanent Outdoor Display Standards

This Permanent Outdoor Display Standards section applies to the following zoning districts:

**IS** **NC** **MA**

The intent of the Permanent Outdoor Display Standards is to ensure the areas for display and sale of merchandise are sensitive to the character of the district and do not jeopardize the health, safety, and welfare of the residents.

The following standards apply:

- A. **Project Applicability:** All outdoor areas a business or institution wants to use for outdoor displays shall meet the Permanent Outdoor Display Standards section.
- B. **Permits:** An Improvement Location Permit shall be required when a new permanent outdoor display area is proposed. Once a permit is issued for a permanent outdoor display area, a new permit is not required each time the merchandise changes. However, a new permit shall be required if the permanent outdoor display location changes.
- C. **Location:**
  1. **Accessibility:** A permanent outdoor display shall not block any public sidewalk, accessibility ramp, or driveway.
  2. **Setbacks:**
    - a. **Front Yard or Street Yard:** A permanent outdoor display shall meet the front yard (or street yard) setback identified in the applicable zoning district in *Article 02: Zoning Districts*.
    - b. **Side Yard or Rear Yard:** A permanent outdoor display shall meet the side yard and rear yard setbacks for accessory structures as identified in the applicable zoning district in *Article 02: Zoning Districts*.
    - c. **Lake Yard:** Permanent outdoor displays are not permitted in a lake yard.
  3. **Proximity to Primary Structure:** A permanent outdoor display shall meet at least one (1) of the following proximity standards:
    - a. Every portion of a permanent outdoor display area shall be ten (10) feet or less from the front facade of the primary structure.
    - b. Every portion of a permanent outdoor display shall be twenty (20) feet or less from a side facade of the primary structure.
    - c. A permanent outdoor display shall meet the screen requirements in *Section 5.55(E): Screening*.
  4. **Canopies:** All vending machines, ice machines, propane tank displays, and other permanent fixtures that are part of a permanent outdoor display area shall be located under a permanent canopy or awning that is attached to the primary structure.
- D. **Size:**
  1. **Maximum Area:** The cumulative area of all permanent outdoor display areas shall not exceed five percent (5%) of the footprint of the primary structure or tenant space to which the permanent outdoor display area is associated.
  2. **Maximum Height:**
    - a. When products are displayed within an enclosed temporary structure, the enclosed temporary structure shall not exceed fifteen (15) feet in height.
    - b. Products displayed outside shall not exceed six (6) feet in height.
- E. **Screening:** When a permanent outdoor display area is more than ten (10) feet from the front facade of the primary structure or more than twenty (20) feet from a side facade of the primary structure, at least one (1) of the following screening mechanisms shall be installed.
  1. **Fence:** A fence thirty (30) to forty (40) inches in height shall be constructed of the same material as the primary structure and integrated into the design of the primary structure.
  2. **Landscaping:** A five-foot (5') wide landscape buffer that consists of one (1) tree and one (1) shrub for every ten (10) feet of perimeter around the outdoor display area. The trees and shrubs shall be permanently planted and may be arranged creatively for aesthetic purposes, but shall reasonably screen the permanent outdoor display area.



## 5.56 PO-01: Pond Standards

This Pond Standards section applies to the following zoning districts:

**CO PR AG IA RE SR LR LA MR IS NC MA**

The intent of Pond Standards is to protect the health, safety, welfare and aesthetic quality for the residents. The following standards apply:

- A. Applicability: Any man-made pond or water body not regulated as a retention or detention pond shall conform to the standards in this section, except if the pond is less than 200 square feet in surface area.
- B. General Location: If possible, a pond should be constructed where drainage tiles or swales will not have to be cut, modified or relocated. However, in the event a pond is located such that it interferes with drainage tiles or swales, those tiles or swales shall be rerouted or repaired if damaged or affected by the construction of the pond.
- C. Setbacks: The top of bank for all ponds shall be at least forty (40) feet from all property lines.
- D. Pond Safety:
  1. *Maximum Side Slope*: The side slope from the pre-existing average natural elevation of the property to the water's edge shall not exceed three horizontal units to one vertical unit (3:1 ratio). This maximum slope shall also apply to the side slope to two (2) feet below the average water mark.
  2. *Safety Shelf*: The depth of the pond shall not exceed two (2) feet below the average water mark anywhere within ten (10) feet of the pond edge.
- E. Dam Safety: If the vertical distance between the high water mark and the downstream flow elevation exceeds ten (10) feet or the pond impounds more than fifty (50) acrefeet of water, then the property owner shall provide plans prepared by an engineer for review by the Zoning Administrator. If professional engineering services are determined to be necessary for the Zoning Administrator to review the plans, the property owner shall bear the cost of those services.
- F. Maximum Outflow Rate: As per the Zoning Administrator.
- G. Outlets: All outlets shall include trash racks and anti-vortex devices. All pipe joints are to be watertight and installed according to the Zoning Administrator.
- H. Discharge:
  1. *Adequate Discharge*: The Zoning Administrator shall determine if an adequate discharge facility (e.g. tile or natural drain) exists, or will determine where and how the discharge will be directed.
  2. *Off-site Discharge*: Water discharge shall not flow onto or across a neighboring property, unless a drainage easement is established by all property owners and approved by the Zoning Administrator; or unless said drainage already existed prior to building the pond as long as the volume and velocity of the water does not increase.



## 5.57 PI-01: Public Improvement Standards

This Public Improvement Standards section applies to the following zoning districts:

**CO** **PR** **IA** **RE** **SR** **LR** **LA** **MR** **IS** **NC** **MA**

The intent of the Public Improvement Standards Section is to protect the health, safety, and welfare of the residents by ensuring public facilities are adequate to serve development. The following standards apply:

- A. Project Applicability: Public improvements consistent with the requirements of this Unified Development Ordinance shall be required when one (1) of the following conditions is met:
  1. *New Primary Structure*: An Improvement Location Permit for a new primary structure is obtained.
  2. *Addition to Primary Structure*: An Improvement Location Permit for an addition to the primary structure that adds fifty percent (50%) or more square footage is obtained.
- B. Adequate Public Facilities: Development is permitted only if public streets, public sidewalks, drainage facilities, and public utilities are adequate to serve the proposed development.
  1. *Public Streets*:
    - a. The Zoning Administrator or the Plan Commission may require a traffic and street impact study to determine a proposed development's impact on public streets. If required, the Town shall conduct or procure services for a traffic and street impact study at the expense of the developer.
    - b. Based on the results of the study, the Zoning Administrator or the Plan Commission shall make a determination as to whether the public street(s) will sufficiently accommodate the increased traffic generated by the development.
      - i. If the public street(s) is (are) determined to be insufficient, the Plan Commission may deny the development; or
      - ii. The Plan Commission may approve the development with mitigating conditions. The Zoning Administrator or the Plan Commission may recommend off-site improvements such as acceleration lanes, deceleration lanes, passing blisters, wider shoulders or approaches, frontage streets, shared driveways or other improvements that will provide sufficient facilities for the increased traffic from the proposed development.
  2. *Public Sidewalks*: Public sidewalks shall be required along the edge of the right-of-way, except when the Zoning Administrator determines the development is agricultural in nature or it is unlikely the public sidewalk will provide connectivity to future trails or sidewalks. New public sidewalks shall closely align with existing public sidewalks, be installed approximately one (1) foot inside the right-of-way, and meet or exceed the *Town of Clear Lake's Construction Standards*.
  3. *Drainage Facilities*:
    - a. Storm drainage collection, detention, and retention facilities shall have sufficient capacity to serve the development.
    - b. If existing storm drainage facilities are not sufficient to serve the development, the Plan Commission may deny the development or approve the development with mitigating conditions. The Plan Commission may recommend off-site improvements that will provide sufficient facilities for the increased runoff from the proposed development.
- C. Guarantees: When mitigating conditions are required, the developer may be required to post performance and maintenance guarantees for such improvements.

## 5.58 RV-01: Recreational Vehicle Standards

This Recreational Vehicle Standards section applies to the following zoning districts:

**AG** **IA** **RE** **SR** **LA**

The intent of the Recreational Vehicle Standards is to protect the health, safety, and welfare of the residents and ensure neighborliness and aesthetic quality for residents. The following standards apply:

- A. Cross Reference: See *Section 5.63: General Setback Standards* for setback standards.
- B. Exclusion: Boats and watercraft shall be excluded from the Recreational Vehicle Standards in this section.
- C. Types: The following type of recreational vehicles are permitted.
  - 1. *Stored RV*: Stored Recreational Vehicle (i.e. not being used, cleaned or prepared; as defined)
  - 2. *Parked RV*: Parked Recreational Vehicle (i.e. being used, cleaned, or prepared; as defined)
- D. Quantity: No more than one (1) recreational vehicle shall be stored or parked on a lot at any one (1) time, except businesses that sell recreational vehicles shall be exempt from this requirement.
- E. Restrictions:
  - 1. *Use*: A recreational vehicle shall not be used as a dwelling unit, temporary residence, or for living, cooking, or home business purposes.
  - 2. *Waste Disposal*: A recreational vehicle shall not be connected to the Clear Lake Sewer System or an individual's home sewer system, including a dump station.
  - 3. *Power Source*: Generators shall not be used as a power supply for a parked or stored recreational vehicle.
- F. Stored Recreational Vehicles: A recreational vehicle shall be stored on a hard surface in a side yard or rear yard of a lot such that no part of the recreational vehicle projects into the required front yard setback.
- G. Parked Recreational Vehicle:
  - 1. *Location*: A recreational vehicle shall be parked in a side yard, rear yard, or on a driveway but shall be at least ten (10) feet from the edge of the street's pavement.
  - 2. *Duration*: A parked recreational vehicle shall not be used for camping, sleeping purposes, or loading/unloading purposes for more than eight (8) days in any thirty (30) day period.

## 5.59 RV-02: Lake Residential Recreational Vehicle Standards

This Recreational Vehicle Standards Section applies to the following zoning districts:

**LR**

The following standards apply:

- A. Cross Reference: See *Section 5.63: General Setback Standards* for setback standards.
- B. Exclusion: Boats and watercraft shall be excluded from the Recreational Vehicle Standards in this section.
- C. Types: The following type of recreational vehicles are permitted (as defined).
  - 1. *Stored RV*: Stored Recreational Vehicle (i.e. not being used, cleaned or prepared; as defined)
  - 2. *Parked RV*: Parked Recreational Vehicle (i.e. being used, cleaned, or prepared; as defined)
- D. Quantity: No more than one (1) recreational vehicle shall be stored or parked on a lot at any one (1) time, except businesses that sell recreational vehicles shall be exempt from this requirement.
- E. Restrictions:
  - 1. *Use*: A recreational vehicle shall not be used as a dwelling unit, temporary residence, or for living, cooking, or home business purposes.
  - 2. *Waste Disposal*: A recreational vehicle shall not be connected to the Clear Lake Sewer System or an individual's home sewer system, including a dump station.
  - 3. *Power Source*: Generators shall not be used as a power supply for a parked or stored recreational vehicle.
- F. Stored Recreational Vehicles: A recreational vehicle shall be stored on a hard surface in a side yard of a lot such that no part of the recreational vehicle projects into the required lake yard or street yard setback.
- G. Parked Recreational Vehicle:
  - 1. *Location*: A recreational vehicle shall be parked on a driveway and shall be at least ten (10) feet from the edge of the street's pavement.
  - 2. *Duration*: A parked recreational vehicle shall not be used for camping, sleeping purposes, or loading/unloading purposes for more than eight (8) days in any thirty (30) day period.

## 5.60 RD-01: Redevelopment Standards

This Redevelopment Standards Section applies to the following zoning district:

**LR**

The following standards apply:

- A. Project Applicability: The standards in this section apply when two (2) or more lots were used in combination as a single lot for one (1) primary structure; and when that structure is demolished to develop a new primary structure on each pre-existing lot (i.e. redevelopment).
- B. Supplemental Setback
  - 1. Side Yard: The distance between each new primary structure and an existing adjacent primary structure shall be a minimum of twelve (12) feet measured from wall-to-wall.
  - 2. Lake Yard: The lake yard setback shall be the established building setback or thirty (30) feet, whichever is greater. The established building setback shall be determined by creating one (1) established building setback for the entire redevelopment site. This line shall be drawn across all of the lots to be redeveloped, the end points of which shall be the point on each adjacent primary structure that creates a line closest to the lake. If an adjacent lot does not have an existing primary structure, the end point shall be placed at the corner of the building envelope closest to the redevelopment site and the lake.

## 5.61 RW-01: Retaining Wall Standards

This Retaining Wall Standards section applies to the following zoning districts:

**CO PR AG IA RE SR LR LA MR IS NC MA**

The intent of the Retaining Wall Standards Section is to protect the health, safety, and welfare of the residents by ensuring retaining walls are constructed safely and such to avoid inadvertent injury from falls. The following standards apply:

### A. Retaining Walls (not sea walls):

1. *Retaining Walls Parallel to Side or Rear Property Lines, or Rights-of-way:*
  - a. Proximity to Property Line or Right-of-way: A retaining wall parallel to or relatively parallel to the side or rear property line or right-of way shall not be permitted within two (2) feet of a side property line or street right-of-way.
  - b. Maximum Height: The maximum height of retaining walls parallel or relatively parallel to the side or rear property lines, or rights-of-way shall not exceed a height equal to the distance it is located from the side or rear property line, or right-of-way.
2. *Retaining Walls Perpendicular to Side or Rear Property Lines:*
  - a. Proximity to Property Line: A retaining wall perpendicular or relatively perpendicular to the side or rear property line shall be permitted up to the side or rear property line if it does not exceed five (5) feet in height and if it connects to an existing or proposed retaining wall.
  - b. Maximum Height: The maximum height of retaining walls perpendicular or relatively perpendicular to the side or rear property lines, or rights-of-way shall not exceed a height equal to the distance it is located from the side or rear property line, or right-of-way, excluding retaining walls that are permitted under *Section 5.61(A)(2)(a): Proximity to Property Line*.
3. *Proximity to Lake Shore or Water Body:* A retaining wall shall not be permitted within six (6) feet of the shore line or water edge at normal pool level.
4. *Maximum Height:* Retaining walls shall not exceed twelve (12) feet in height. It is strongly encouraged to tier steep slopes with retaining walls four (4) feet in height or less, rather than taller retaining walls.
5. *Rails or Barriers:* Any retaining wall over four (4) feet in height located parallel or relatively parallel to a side or rear property line, or right-of-way, and that is located within ten (10) feet of the property line shall have a rail or other sturdy barrier installed at the top of the retaining wall and at least three (3) feet in height. Any retaining wall over eight (8) feet in height located anywhere on a property shall have a rail or other sturdy barrier installed at the top of the retaining wall and at least three (3) feet in height. The minimum standard for rails or barriers shall be equivalent to the requirement of the Indiana Residential Building Code for a deck that exceeds twenty-nine (29) inches in height above ground level.

## 5.62 RL-01: Rural Residential Standards

This Rural Residential Standards section applies to the following zoning districts:

**RE SR MR**

The intent of the Rural Residential Standards Section is to protect the health, safety, and welfare of the residents. The following standards apply to any residential property adjacent to an AG or IA zoning district:

- A. Exemptions: The standards in this section do not apply when the adjacently zoned AG land is a woodlot, unsuitable for crops or pasturage.
- B. Landscaping and Garden Setback: Any new tree, shrub, vegetable garden, flower garden, and other living landscaping, excluding lawn grasses, shall be located at least twenty (20) feet from any property line that is adjacent to land zoned as an AG or IA zoning district.
- C. Fence: Any new fence shall be located at least two (2) feet from any property line that is adjacent to land zoned as an AG or IA zoning district. No opaque fence shall be greater than four (4) feet in height unless located at least four (4) feet from any property line that is adjacent to land zoned as an AG or IA zoning district.
- D. Placement of Mailbox: A mailbox shall not be placed in any location which constricts the width of the adjacent street to less than twenty-two (22) feet between it (the mailbox) and any other fixed object (e.g. tree, boulder, or fence). A mailbox shall not be mounted on a structure or pole made from brick, masonry, cement, or high strength steel. Rather mailboxes shall be mounted to wood posts, plastic posts or light metal able to easily break or shear-off in the event a vehicle were to hit it traveling at the posted speed limit. Under no circumstances shall any part of a mailbox or its mounting be located within two (2) feet from the edge of the pavement of any local street, collector street, or arterial street. Also, a shoulder of stone, concrete or asphalt shall be installed allowing postal vehicles to gain close access to the mailbox.
- E. Wellhead Setback: A new wellhead shall not be located any closer than 100 feet from any property line that is adjacent to land zoned as an AG or IA zoning district.
- F. Waiver of Right to Remonstrate: Any proposed primary structure intended to be used for a residence, when the property is adjacent to either an AG or IA zoning district shall be required to sign an affidavit that indicated that they are aware that the adjacent land is zoned for agricultural purposes and that agricultural uses are permitted on the adjacent land, including: spraying manure from animal operations, operating large equipment late at night, application of approved pesticides, herbicides, fungicides, and the like, application of chemical fertilizers, potential for dust to drift onto and across the subject property, potential for debris to be cast onto the subject property, and similar agricultural practices. The owner of the proposed primary structure shall also declare in the affidavit that they will not remonstrate against any agricultural practices consistent with normal and common practice and that is operating within the law. Said affidavit shall be prepared in recordable form and recorded with the County Recorder prior to issuance of any Zoning Compliance Permit and shall be binding on all future owners.

## 5.63 SB-01: General Setback Standards

This setback standards section applies to the following zoning districts:

**CO PR AG IA RE SR LR LA MR IS NC MA**

The intent of the Setback Standards is to protect the health, safety, and welfare of residents by requiring structures to meet certain setbacks. The following standards apply:

- A. **General:** If a setback standard does not appear on the two-page layout for a zoning district, then the standard does not apply to that particular zoning district.
  1. **Minimum Front Yard Setback:**
    - a. The minimum front setback shall be as per each two-page layout in *Article 02: Zoning Districts*.
    - b. When a subdivision has been platted and substantially built-out utilizing a front setback less than that required by *Article 02: Zoning Districts*, an infill lot may utilize the average setback rule as defined in *Article 11: Definitions* to determine the applicable front yard setback. The average setback rule does not apply to street yards.
  2. **Minimum Side Yard Setback:** The minimum side setback shall be as per each two-page layout in *Article 02: Zoning Districts*. Accessory structures shall observe the aggregate side yard setbacks established by the location of the primary structure.
  3. **Minimum Rear Yard Setback:** The minimum rear setback shall be as per each two-page layout in *Article 02: Zoning Districts*.
  4. **Minimum Lake Yard Setback:**
    - a. The minimum lake yard setback shall be per each two-page layout in *Article 02: Zoning Districts*.
    - b. In the Lake Residential district, the minimum lake yard setback or established building setback as defined in *Article 11: Definitions* shall apply, whichever results in a greater setback from the lake. The established building setback rule does not apply to rear yards.
  5. **Minimum Street Yard Setback:** The minimum street yard setback shall be per each two-page layout in *Article 02: Zoning Districts*.
  6. **Corner Lots:** The Minimum Street Yard Setback or the Minimum Front Yard Setback shall apply to each yard abutting a street or a street right-of-way. The Minimum Side Yard Setback shall apply to the remaining yards and yards abutting an alley or alley right-of-way.
  7. **Irregular Lots:** To determine setbacks for irregular shaped lots, the Zoning Administrator shall take into consideration location of streets, location of rights-of-way, location of lake and/or other water features, as well as setbacks that apply to adjacent yards on adjacent properties.
- B. **Measurements:**
  1. **Front Yard or Street Yard:** All setbacks shall be measured from the property line or edge of pavement, whichever results in a greater setback.
  2. **Side Yard:** All setbacks shall be measured perpendicularly from the side property line.
  3. **Rear Yard:** All setbacks shall be measured perpendicularly from the rear property line.
  4. **Lake Yard:** All setbacks shall be measured perpendicularly from the water's edge to the nearest point on the foundation. If the water's edge is nearer when measured across a neighbor's property, the measurement shall be made from the lake's edge on the subject property to the foundation.



## 5.64 SB-02: Setback Exceptions Standards

This setback standards section applies to the following zoning districts:

**CO** **PR** **AG** **IA** **RE** **SR** **LA** **MR** **IS** **NC** **MA**

- A. **Exceptions:** The following types of structures or features are exempt or partially exempt from the setback standard as stated:
1. **Signs:** Signs are exempt from the required setbacks, but shall abide by the sign standards in *Section 5.67: General Sign Standards* through *Section 5.71: Institutional, Neighborhood Commercial, and Marina Sign Standards*.
  2. **Telecommunication Towers:** Telecommunication towers are exempt from the required setbacks, but shall abide by *Section 5.74: Telecommunication Antenna Standards* and *Section 5.75: Telecommunication Facility Standards*.
  3. **Architectural Features:** Cornices, eaves, sills, canopies, gutters, meters, vents, electrical drops, window wells, or similar features shall be permitted to encroach into a required front yard, side yard, and/or rear yard setback, but not more than three (3) feet. However, these items shall never be closer than three (3) feet to the property line.
  4. **Architectural Finishes:** Siding, masonry veneer, trim, casing, or similar finishes shall be permitted to encroach into a required front yard, side yard, and/or rear yard setback, but not more than six (6) inches.
  5. **Awnings:** Awnings shall be permitted to encroach into a required front yard, side yard, and/or rear yard setback not more than four (4) feet, but shall not be closer than three (3) feet to the property line.
  6. **Fences:** Fences shall be exempt from the required setbacks, but shall abide by the fence standards in *Section 5.23: General Fence Standards* through *Section 5.27: Institutional and Commercial Fence Standards*.
  7. **Driveways:** Driveways are exempt from the required setbacks, but shall abide by the side yard setbacks established in *Section 5.17: General Driveway Standards* through *Section 5.21: Nonresidential Driveway Standards*.
  8. **Parking Lots:** In commercial, institutional, and marina zoning districts, parking lots may encroach into the front yard, street yard, side yard, and rear yard setbacks for a primary structure by the following amounts:
    - a. **Front Yard or Street Yard:** Parking lots may project into a front yard or street yard by twenty-five percent (25%) of the minimum front yard or street yard setback.
    - b. **Side Yard:** Parking lots may project into a side yard by fifty percent (50%) of the minimum side yard setback.
    - c. **Rear Yard:** Parking lots may project into a rear yard by fifty percent (50%) of the minimum rear yard setback.
  9. **Utility Poles, Lines, Junction Boxes and Irrigation Boxes:** Utility poles, lines, junction boxes and irrigation boxes shall be exempt from the setbacks in this section.
  10. **Trash Receptacles:** Trash receptacles shall meet the setback standards in *Section 5.80: General Trash Receptacle Standards* and *Section 5.81: Lake Area Trash Receptacle Standards*.
  11. **Stairs or Landings:** A stairway, or landing which does not extend above the level of the floor elevation of the first floor of the primary structure shall be permitted to extend into a required front yard, street yard, side yard, and/or rear yard setback by not more than four (4) feet. However, these structures shall never be closer than three (3) feet to the side property line or ten (10) feet to the front or rear property line.
  12. **Patios:** Patios are exempt from the side yard and rear yard setback standards.
  13. **Sidewalk:** Any private sidewalk or public sidewalk shall be exempt from the setback standards.
  14. **Playset:** Playsets shall be permitted to extend into the required rear yard setback and side yard setback by fifty percent (50%).
  15. **Marina Fuel:** Fuel dispensing mechanical equipment and its containment structure is exempt from the lake yard setback standards in the MR District, but shall comply with *Section 5.46(E)(3): Above Ground Tanks*.

## 5.65 SB-03: Lake Residential Setback Standards

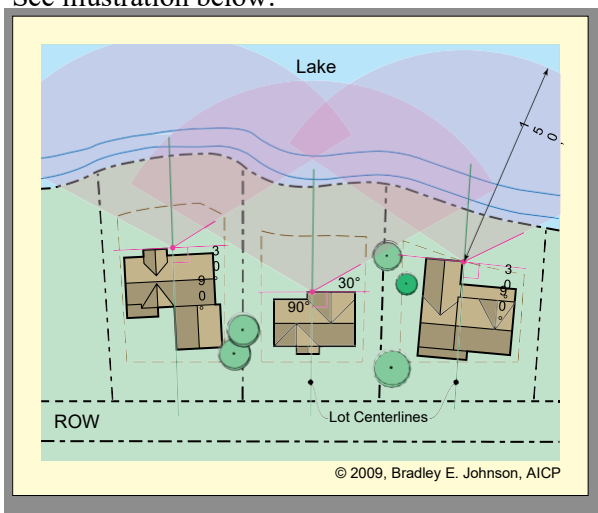
This setback standards section applies to the following zoning district:

**LR**

- A. Exceptions: The following types of structures or features are exempt or partially exempt from the setback standard as stated:
1. *Signs*: Signs are exempt from the required setbacks, but shall abide by the sign standards in *Section 5.67: General Sign Standards* and *Section 5.69: Residential Sign Standards*.
  2. *Architectural Features*: Cornices, eaves, sills, canopies, gutters, meters, vents, electrical drops, window wells, or similar features shall be permitted to encroach into a required street yard, side yard, and/or lake yard setback, but not more than three (3) feet. However, these items shall never be closer than three (3) feet to the property line.
  3. *Architectural Finishes*: Siding, masonry veneer, trim, casing, or similar finishes shall be permitted to encroach into a required street yard, side yard, lake yard and/or rear yard setback, but not more than six (6) inches.
  4. *Awnings*: Awnings shall be permitted to encroach into a required street yard, side yard, lake yard and/or rear yard setback not more than four (4) feet, but shall not be closer than three (3) feet to the property line.
  5. *Fences*: Fences shall be exempt from the required setbacks, but shall abide by all applicable Fence Standards.
  6. *Retaining Walls*: Retaining walls shall be exempt from the required setbacks, but shall abide by all applicable Retaining Wall Standards.
  7. *Sea Walls*: Sea walls shall be exempt from the required setbacks.
  8. *Utility Poles, Lines, Junction Boxes and Irrigation Boxes*: Utility poles, lines, junction boxes and irrigation boxes shall be exempt from the required setbacks.
  9. *Trash Receptacles*: Trash receptacles shall meet the setback standards in *Section 5.81: Lake Area Trash Receptacle Standards*.
  10. *Patios*: Patios are exempt from the side yard and lake yard setback standards.
  11. *Sidewalk*: Any private sidewalk or public sidewalk shall be exempt from the setback standards.
  12. *Playsets*: Playsets shall be permitted to extend into the required lake yard setback, but shall not be closer than thirty (30) feet to the lake edge.
  13. *Driveways*: Driveways shall be exempt from the required street yard setbacks and front yard setbacks, but shall abide by all other setbacks.
  14. *Common Driveway Turn-around*: When two (2) adjacent property owners desire to connect their driveways to gain a common driveway turn-around, and when said connection is made nearer to the primary structure than to the street, then that portion of the driveway (i.e. the connection) shall be exempt from the applicable side setback standards.
- B. Clear Side Yard: Under all circumstances, at least one (1) side yard shall be maintained free of obstacles including mechanical equipment, trees and shrubs that may prohibit accessibility. The clear area shall be at least four (4) feet wide and ten (10) feet in height above ground level continuously on the "clean" side yard. The exceptions listed in *Section 5.65(A): Exceptions* shall not supersede this requirement.



- C. Viewshed: Under no circumstance shall any of the following improvements on a lot obscure the horizontally protected viewshed of an adjacent lot:
1. New or modified primary structure or room addition,
  2. New, modified or relocated accessory structure, including an elevated deck, porch, or playset,
  3. Planting of one (1) or more evergreen trees, or evergreen or dense shrubs,
  4. New or modified fence, screening, or retaining wall, or
  5. New or modified architectural feature.
- D. Horizontally Protected Viewshed: The horizontally protected viewshed shall be established as follows:
1. Establish a lot centerline for each neighboring lot.
  2. Determine the existing lake yard setback for the primary structure on each neighboring lot. The existing lake yard setback shall be a line drawn across the lot that intersects the point of the primary structure that is closest to the lake and intersects the lot centerline at a 90-degree angle.
  3. From the intersection point of the lot centerline and the existing lake yard setback, all areas thirty degree (30°) or greater off the existing lake yard setback axis shall be protected for a distance of 150 feet.
  4. See illustration below:



- E. Exception to Viewshed Regulations: The following language applies to *Section 5.65(C): Viewshed* and *Section 5.65(D): Horizontally Protected Viewshed*. In the event a preexisting structure or its subparts are removed for reconstruction, then the preexisting footprint and massing of the original structure shall be permitted to be reconstructed. Any change to the preexisting footprint (e.g. locating closer to the lake) that obscures the viewshed of a neighbor shall be prohibited.

## 5.66 SW-01: Sewer and Water Standards

This sewer and water standards section applies to the following zoning districts:

**CO** **PR** **AG** **IA** **RE** **SR** **LR** **LA** **MR** **IS** **NC** **MA**

The intent of the Sewer and Water Standards is to protect the health, safety, and welfare of the residents by specifying the type of utility connections required. The following standards apply:

- A. Applicability: If the below listed sewer and water standard does not appear on the two-page layout for a zoning district, then it does not apply to that particular zoning district.
  1. *Sewer*: Connection to a sanitary sewer utility shall be per each two-page layout in *Article 02: Zoning Districts*. Details about the terminology on the two-page layouts is as follows.
    - a. Required: Connection to the municipal sanitary sewer system shall be required.
    - b. Required Where Available: Connection to the municipal sanitary sewer system shall be required when access to the municipal sanitary sewer system is available within 300 feet or less of the property line.
    - c. Not Required: Connection to the municipal sanitary sewer system is not required.
  2. *Water*: Connection to a water utility shall be per each two-page layout in *Article 02: Zoning Districts*. Details about the terminology on the two-page layouts is as follows.
    - a. Required: Connection to the municipal water system shall be required.
    - b. Required Where Available: Connection to the municipal water system shall be required when access to the municipal water system is available within 300 feet or less of the property line.
    - c. Not Required: Connection to the municipal water system is not required.

## 5.67 SI-01: General Sign Standards

This Sign Standards section applies to the following zoning districts:

**CO** **PR** **AG** **IA** **RE** **SR** **LR** **LA** **MR** **IS** **NC** **MA**

The intent of the Sign Standards is to regulate time, place, and manner characteristics of signs; to provide businesses with appropriate identification; to eliminate potential hazards to motorists and pedestrians resulting from sign location and clutter; and to promote the health, safety, and welfare of the residents. The following standards apply:

- A. Freedom of Speech: Any permanent sign or standard temporary sign permitted by the Sign Standards may be used for freedom of speech purposes for any length of time.
- B. Permits:
  1. *Improvement Location Permit*: An Improvement Location Permit shall be required for all signs located, erected, constructed, reconstructed, moved, or altered unless otherwise permitted in the sign regulations.
  2. *State Permit*: All signs proposed to be located along a State-owned interstate or highway shall obtain the proper State sign permit or written authorization from the Indiana Department of Transportation prior to seeking an Improvement Location Permit.
  3. *Easement Holder Approval*: All signs proposed to be located within an easement shall obtain written approval from the easement holder for the proposed sign prior to seeking an Improvement Location Permit. For example, a sign proposed within a county legal drain easement shall obtain written approval from the County Drainage Board before applying for an Improvement Location Permit.
- C. Cross Reference:
  1. *Home Businesses*: Signs associated with a home business shall be exempt from the Sign Standards section, but shall comply with the standards in *Section 5.31: Home Based Business Standards*.
  2. *Lighting Standards*: When illumination of signs is permitted by this Sign Standards section, all illumination and lighting associated with signs shall meet the glare, light trespass, and other standards in *Section 5.42: Lighting Standards*.
- D. Exempt: The following items are not considered signs as described and shall be exempt from the Sign Standards and therefore, exempt from obtaining an Improvement Location Permit.
  1. *Flags*: A flag, pennant, or insignia of any nation, state, municipality, or other political unit. However, when a flag, pennant, or insignia of any nation, state, municipality, or other political unit is used as an integral component of a commercial message, it shall comply with the sign standards for the applicable zoning district. (For example, an American Flag integrated into a corporation's brand or logo.)
  2. *Outdoor Scoreboard*: An outdoor scoreboard used in conjunction with a legally-established sport field. However, when the scoreboard is visible from a public street and contains a commercial message, it shall comply with the sign standards for the applicable zoning district.
  3. *Addresses*: Posting of a street address on a mailbox, building, or other prominent location to provide adequate property identification. However, when a street address is used as a commercial message or is disproportionately large, it shall comply with the sign standards for the applicable zoning district. (For example, the address numbers being illustrated with ladders and slides for a store selling children's playsets.)
  4. *Cottage Name*: Posting the name of a cottage as long as it is less than or equal to three (3) square feet in area.
  5. *Public Safety Message*: Posting of a public safety or private property message provided that no individual posting exceeds the maximum area permitted for a standard temporary sign in the applicable zoning district. (Examples include "Beware of Dog," "Private Property," "No Trespassing," "Gas Line," "Weight Limit," "Video Surveillance," and "No Turnaround.")
  6. *Operational Limitations or Information*: Posting of operational limitations and information provided the posting is no larger than necessary for the intended reader. (Examples include hours of operation, admittance requirements, "Employees Only," "Men," "Women," "Visitor Parking," and "No Deliveries.")
  7. *Required Postings*: Messages required by a State agency, State law, federal agency, or federal law provided the area of the message and height of posting be the minimum required by the agency or law.

8. *Indoor Commercial Messages*: Commercial messages displayed inside a building that cannot be viewed legibly by pedestrians or drivers outside the building. (Examples include a commercial message on a scoreboard inside a gymnasium, a wall clock inside a restaurant with a branded logo, and a large framed image of a product mounted on the wall of a retail store.)
9. *Miniscule Commercial Messages*: Miniscule commercial messages displayed on or near a primary entrance provided that the area of each miniscule commercial message does not exceed thirty (30) square inches and the cumulative area of all miniscule commercial messages does not exceed 240 square inches per primary entrance. (Examples include "Visa," "Master Card," "Diner's Club," "ATM," and corporate logos.)
10. *Religious Symbols*: Religious incorporated into the architecture on places of worship or other structures occupied by religious organizations.
11. *Holiday Decorations*: Holiday decorations provided they convey no commercial message.
12. *Murals*: Murals provided they convey no commercial message.
13. *Postings*: Postings on a permanent display board sign.
14. *Political Signs*: Posting of any number of political signs less than six (6) square feet in area.

E. Prohibited Signs:

1. *Types*:
  - a. *Animated*: Signs that gain attention using animation shall not be permitted, including the following.
    - i. Signs that utilize any motion picture, laser, or visual projection of images or copy.
    - ii. Signs that emit audible sound, odor, or visible matter.
    - iii. Signs that have blinking, flashing, or fluttering lights; or changing light intensity, brightness, or color; or give such illusion.
  - b. *Vehicle Signs*: Vehicles with signs greater than eight (8) square feet in area shall not be permitted to be parked for the primary purpose of displaying the sign. Prohibited vehicle signs shall not be construed to include vehicles with signs on them that:
    - i. Are lawfully parked overnight or during non-business hours in a discreet location.
    - ii. Are making deliveries, sales calls, transporting persons or property, or customary practices relating to operating the business.
    - iii. Are used in conjunction with customary construction operations on a construction site.
  - c. *Lights*: Strobe lights, search lights, beacons, or any light or lights that rapidly flash, project light in visible beams skyward, or project light horizontally in a circle shall not be permitted regardless if the light is part of or independent of a sign.
  - d. *Signs with Moving or Movable Parts*: Signs or devices with visibly moving parts, including human beings holding or acting as signs, shall not be permitted.
2. *Content*:
  - a. Signs that contain obscene content, indecent content, or profane words shall not be permitted.
  - b. Signs that emulate emergency service vehicles or common traffic signs or signals shall not be permitted. (Examples include a sign that uses "Stop," "Slow," "Caution," "Danger," "Warning," or similar words with similar materials, scale, color, and location resulting in driver confusion or otherwise unsafe conditions.)

F. Location:

1. *Prohibited*: Signs regardless of type, shall not be permitted in any of the following locations:
  - a. Right-of-way: Signs shall not be permitted in any right-of-way unless authorized by the Town Council.
  - b. Poles: Signs shall not be permitted on any traffic control device, street sign, construction sign, or utility pole.
  - c. Fences: Signs shall not be permitted on any fence.
  - d. Trees: Signs shall not be permitted to be attached to any tree, shrub, or other natural object.
  - e. Benches: Signs shall not be permitted to be attached to or integrated into any bench or outdoor seating.
  - f. Towers: Signs shall not be permitted to be attached to or integrated into any telecommunication antennae, telecommunication tower, television antennae, or similar towers.
  - g. Roofs: Signs shall not be permitted to be attached to or be perceived to be attached to the roof of a structure. This provision includes signs integrated into the roofing material.
  - h. Fire Safety Obstruction: Signs shall not be permitted on a fire escape or in a manner that substantially blocks view from the right-of-way to a fire door.
  - i. Obstructs Circulation: Signs that obstruct or interfere with internal or external safe movement of vehicular or pedestrian traffic shall not be permitted.
  - j. Elevation: Artificially altering the elevation of the ground to improve the visibility of a sign shall not be permitted. Likewise, increasing the height of a wall or creating a parapet wall to improve the visibility of a sign shall not be permitted.
  - k. Vision Clearance: Signs shall not be permitted in areas prohibited by *Section 5.83: Vision Clearance Standards*.

- G. Maintenance: All signs and sign components shall be kept in good repair and in safe, clean, and working condition. If landscaping is required around the base of a sign, it shall be maintained in living condition, consistent in character with the approval, and not overgrown.

## 5.68 SI-02: Agricultural Sign Standards

This Sign Standards section applies to the following zoning districts:

**AG IA**

The following standards apply:

### A. Permanent Signs:

1. *Wall Signs:* Wall signs shall be permitted provided the following conditions are met.
  - a. Quantity: One (1) wall sign shall be permitted.
  - b. Sign Area: The wall sign area shall not exceed twenty-five (25) square feet.
  - c. Projection: The wall sign shall not project more than four (4) inches from the face of the building to which it is attached.
  - d. Illumination: The wall sign shall not be illuminated.

### B. Temporary Signs:

1. *Permits:* Temporary signs shall be exempt from obtaining an Improvement Location Permit, but shall comply with applicable standards.
2. *Location:* Temporary signs shall be located a minimum of five (5) feet from any right-of-way, edge of pavement, and curb associated with a street or driveway.
3. *Illumination:* Temporary signs shall not be illuminated.
4. *Standard Temporary Signs:* Standard temporary signs shall be permitted provided the following conditions are met.
  - a. Type: A standard temporary sign shall be a yard sign. (Examples of standard temporary signs include sale of property, garage sale, and supporting high school teams.)
  - b. Quantity: One (1) standard temporary sign shall be permitted for each street the lot fronts. However, no two (2) standard temporary signs shall be closer than eighty (80) feet to one another.
  - c. Sign Area: The sign area for a standard temporary sign shall not exceed six (6) square feet per side.
  - d. Height Above Ground: No part of a standard temporary sign shall be more than four (4) feet above the ground.
  - e. Duration: A standard temporary sign may stay in place for the duration of the temporary event. The standard temporary sign may be put in place up to five (5) days prior to the temporary event. All standard temporary signs shall be taken down within seven (7) days after the standard temporary sign's purpose no longer exists.
5. *Special Temporary Signs:* Special temporary signs shall be permitted provided the following conditions are met.
  - a. Type: Special temporary signs shall include inflatables, banners, streamers, posters, and pennants.
  - b. Quantity: One (1) special temporary sign shall be permitted per lot.
  - c. Height Above Ground: No part of a special temporary sign shall be more than fifteen (15) feet above the ground.
  - d. Duration: A special temporary sign may stay in place for seven (7) continuous days, but no lot shall have special temporary signs for more than fourteen (14) total days in any calendar year.
6. *Temporary Marker Signs:* Temporary marker signs shall only be permitted on a lot having 300 feet or more of street frontage, provided the following conditions are met.
  - a. Type: Temporary marker signs shall be yard signs. (An examples of a temporary marker sign include seed signs.)
  - b. Quantity: Up to thirty (30) temporary marker signs shall be permitted per lot.
  - c. Sign Area: A single temporary marker sign shall not exceed three (3) square feet in sign area per side.
  - d. Height Above Ground: No part of a temporary marker sign shall be more than eight (8) feet above the ground.
  - e. Duration: A temporary marker sign may stay in place for the duration of the temporary event (e.g. planting through harvest). All temporary marker signs shall be taken down within seven (7) days after the temporary marker sign's purpose no longer exists.

## 5.69 SI-03: Residential Sign Standards

This Sign Standards section applies to the following zoning districts:

**RE** **SR** **LR** **LA**

The following standards apply:

- A. Permanent Signs: Permanent signs shall not be permitted.
- B. Temporary Signs: Temporary signs shall be permitted as follows:
  - 1. *Permits*: Temporary signs shall be exempt from obtaining an Improvement Location Permit, but shall comply with applicable standards.
  - 2. *Location*: Temporary signs shall be located a minimum of five (5) feet from any right-of-way, edge of pavement, and curb associated with a street or driveway.
  - 3. *Illumination*: Temporary signs shall not be illuminated.
  - 4. *Standard Temporary Signs*: Standard temporary signs shall be permitted provided all of the following conditions are met.
    - a. *Type*: A standard temporary sign shall be a yard sign. (Examples of standard temporary signs include sale of property, garage sale, and supporting high school teams.)
    - b. *Quantity*: One (1) standard temporary sign shall be permitted for lots with frontage on one (1) street. Two (2) standard temporary signs shall be permitted for lots with frontage on two (2) or more streets if they have a minimum of 300 feet of combined street frontage, or if they have a lake yard. However, no two (2) standard temporary signs shall be closer than eighty (80) feet to one another.
    - c. *Sign Area*: The sign area for a standard temporary sign shall not exceed six (6) square feet per side.
    - d. *Height Above Ground*: No part of a standard temporary sign shall be more than four (4) feet above the ground.
    - e. *Duration*: A standard temporary sign may stay in place for the duration of the temporary event. The standard temporary sign may be put in place up to five (5) days prior to the temporary event. All standard temporary signs shall be taken down within seven (7) days after the standard temporary sign's purpose no longer exists. The following are examples of duration.
      - i. *Home For Sale Sign*: Installed five days prior to being listed and removed within seven days after the home purchase is closed (i.e. closing).
      - ii. *New Construction Contractor Sign*: Installed no earlier than the date a building permit is issued (no earlier because building permits release dates are not predictable). Removed within seven days after the occupancy permit is issued.
      - iii. *Contractor or Home Service*: Installed up to five days prior to work being started and removed within seven days after work is substantially completed.



## 5.70 SI-04: Multiple-family Residential Sign Standards

This Sign Standards section applies to the following zoning district:

**MR**

### A. Permanent Signs: Permanent signs shall be permitted as follows:

1. *Entry Feature Signs*: Entry feature signs shall be permitted provided the following conditions are met.
  - a. An entry feature sign for a development with less than twenty (20) dwelling units shall meet the following conditions:
    - iv. Type: The entry feature sign shall be a ground sign and may be double-sided.
    - v. Quantity: One (1) entry feature sign shall be permitted per development.
    - vi. Sign Area: The sign area of the entry feature sign shall not exceed eight (8) square feet.
    - vii. Height Above Ground: No part of an entry feature sign shall be more than four (4) feet above the ground.
    - viii. Location: The entry feature sign shall be located a minimum of five (5) feet from any right-of-way, edge of pavement, and curb associated with a street or driveway.
    - ix. Illumination: The entry feature sign shall not be illuminated.
    - x. Materials: The sign shall be wood, metal, masonry, or other durable materials, and both sides of the entry feature sign shall be finished using the same materials. Landscaping of the entry feature sign is encouraged.
    - xi. Maintenance: The entry feature sign shall be maintained by the property owner, an owners' association, or similar legal entity.
  - b. An entry feature sign for a development with twenty (20) or more dwelling units shall meet the following conditions.
    - i. Type: The entry feature sign shall be a ground sign and shall be single-sided.
    - ii. Quantity: Two (2) entry feature signs shall be permitted at the main entrance of the development. An additional two (2) entry feature signs shall be permitted if the development has a second vehicular entrance and has 1,000 feet of combined street frontage.
    - iii. Sign Area: The sign area for a single entry feature sign shall not exceed twenty-five (25) square feet for developments with less than sixty (60) dwelling units; or forty (40) square feet for developments with sixty (60) or more dwelling units.
    - iv. Height Above Ground: No part of an entry feature sign shall be more than six (6) feet above the ground.
    - v. Location: The entry feature sign shall be located a minimum of five (5) feet from any right-of-way, edge of pavement, and curb associated with a street or driveway.
    - vi. Illumination: The entry feature sign may be illuminated by exterior ground lighting.
    - vii. Materials: Supporting apparatuses of an entry feature sign shall be at least fifty percent (50%) brick, stone, or other masonry material. The back side of entry feature signs shall also be finished using the same materials to match the front of the sign. Landscaping of entry feature signs is encouraged.
    - viii. Maintenance: Entry feature signs shall be maintained by the property owner, an owners' association, or similar legal entity.



## B. Temporary Signs:

1. *Permits:* Temporary signs shall be exempt from obtaining an Improvement Location Permit, but shall comply with all applicable standards.
2. *Location:* Temporary signs shall be located a minimum of five (5) feet from any right-of-way, edge of pavement, and curb associated with a street or driveway.
3. *Illumination:* Temporary signs shall not be illuminated.
4. *Standard Temporary Signs:* Standard temporary signs shall be permitted provided the following conditions are met.
  - a. *Type:* Standard temporary signs shall be yard signs. (Examples of standard temporary signs include sale of property, garage sale, and supporting high school teams.)
  - b. *Quantity Per Development:* One (1) standard temporary sign shall be permitted for developments with frontage on one (1) street. Two (2) standard temporary signs shall be permitted for developments with frontage on two (2) or more streets and 300 feet or more of combined street frontage. However, no two (2) standard temporary signs shall be closer than eighty (80) feet to one another.
  - c. *Sign Area:* The sign area for a standard temporary sign shall not exceed six (6) square feet per side.
  - d. *Height Above Ground:* No part of a standard temporary sign shall be more than four (4) feet above the ground.
  - e. *Duration:* A standard temporary sign may stay in place for the duration of the temporary event. The standard temporary sign may be put in place up to five (5) days prior to the temporary event. All standard temporary signs shall be taken down within seven (7) days after the standard temporary sign's purpose no longer exists.
5. *Special Temporary Signs:* Special temporary signs shall be permitted provided the following conditions are met.
  - a. *Type:* Special temporary signs shall include inflatables, banners, streamers, posters, pennants, and the like.
  - b. *Quantity:* One (1) special temporary sign shall be permitted per development.
  - c. *Height Above Ground:* No part of a special temporary sign shall be more than fifteen (15) feet above the ground.
  - d. *Duration:* A special temporary sign may stay in place for seven (7) continuous days, but no more than thirty (30) total days in any calendar year.

## 5.71 SI-05: Institutional, Neighborhood Commercial, and Marina Sign Standards

This Sign Standards section applies to the following zoning districts:

**IS** **NC** **MA**

The following standards shall apply:

### A. General:

#### 1. *Single-tenant Building:*

- a. Permanent Signs: Wall, ground, awning, window, drive-up menu, display board, and directional device signs shall be permitted for single-tenant buildings provided the conditions specified for single-tenant buildings are met, and the cumulative square footage of all permanent signs does not exceed one (1) square foot of sign area per linear foot of front facade, or 150 square feet, whichever is less.
- b. Temporary Signs: Standard temporary and special temporary signs shall be permitted for single-tenant buildings provided the conditions specified for single-tenant buildings are met.

#### 2. *Multiple-tenant Building:*

- a. Permanent Signs: Wall, gateway, awning, window, drive-up menu, display board, and directional device signs shall be permitted for multiple-tenant buildings provided the conditions specified for multiple-tenant buildings are met, and the cumulative square footage of all permanent signs does not exceed one (1) square foot of sign area per linear foot of front facade.
- b. Temporary Signs: Standard temporary and special temporary signs shall be permitted for multiple-tenant buildings provided the conditions specified for multiple-tenant buildings are met.

### B. Permanent Signs: Permanent signs shall be permitted as follows:

1. *Wall Signs:* Wall signs shall be permitted on single-tenant buildings and multiple-tenant buildings provided the following conditions are met. All wall signs shall count toward the maximum cumulative square footage for permanent signs.

Wall Signs	Single-tenant Building	Multiple-tenant Building
Maximum Quantity	1 per side of building, not to exceed 3	1 per tenant space
Maximum Sign Area	1 square foot per linear foot of front facade; maximum of 65 square feet	1 square foot per linear foot of front facade; maximum of 40 square feet
Changeable Copy Ratio	50% of the sign area may be changeable copy	50% of the sign area may be changeable copy
Maximum Projection From Building	8 inches	8 inches

- a. Changeable Copy: If changeable copy is used, it shall be an integrated component of the sign and shall only include static messages, regardless if the sign includes manually or electronically changeable copy.
- b. Illumination: Wall signs on single-tenant buildings and multiple-tenant buildings may be illuminated internally or by externally-mounted lights.
- c. Multiple-tenant Building Consistency: The sign envelope that tenants may use and the regulations to maintain consistent sign appearance shall be identified during the permitting process. The sign envelope shall not exceed one hundred fifty percent (150%) of the allowable wall sign area for each tenant space.

2. *Ground Signs*: Ground signs shall be permitted on single-tenant buildings provided the following conditions are met. All ground signs shall be counted toward the maximum cumulative square footage for permanent signs.

Ground Sign	Single-tenant Building	Multiple-tenant Building
Maximum Quantity	1; or 2 for corner lots with a minimum of 150 feet of combined street frontage	not permitted
Maximum Sign Area	1 square foot per linear foot of front facade; maximum of 36 square feet	not permitted
Changeable Copy Ratio	80% of sign area may be changeable copy	not permitted
Height Above Ground	6 feet maximum	not permitted

- a. Double-sided: If a ground sign has two (2) identical sides, back-to-back, only one (1) side's area counts toward the maximum cumulative square footage.
  - b. Location: A ground sign shall be located a minimum of ten (10) feet from any existing or proposed right-of-way, edge of pavement, and curb associated with a street or driveway; and a ground sign shall be setback ten (10) feet from all property lines.
  - c. Sign Separation: When two (2) ground signs are permitted on the same lot, they shall be seventy (70) feet or more from one another and located along different street frontages.
  - d. Changeable Copy: If changeable copy is used, it shall be an integrated component of the sign and shall only include static messages, regardless if the sign includes manually or electronically changeable copy.
  - e. Illumination: A ground sign may be illuminated internally or by externally-mounted ground lighting.
3. *Awning Signs*: Awning signs shall be permitted on single-tenant buildings and multiple-tenant buildings provided the following conditions are met. All awning signs shall be counted toward the maximum cumulative square footage for permanent signs.

Awning Sign	Single-tenant Building	Multiple-tenant Building
Maximum Quantity	2	1 per tenant
Maximum Sign Area	20 square feet total	20 square feet per tenant
Maximum Projection From Building	6 feet	6 feet

- a. Illumination: Awning signs on single-tenant buildings and multiple-tenant buildings may be illuminated with externally-mounted lights, but shall not be illuminated with backlighting.
4. *Window Signs*: Window signs shall be permitted on single-tenant buildings and multiple-tenant buildings provided the following conditions are met. All window signs shall be counted toward the maximum cumulative square footage for permanent signs.

5. **Display Board Signs:** Display board signs shall be permitted on single-tenant and multiple-tenant buildings provided the following conditions are met. (Examples of display board signs include permanently affixed bulletin boards or encased display boards for posting of menus, specials, events, performances, and other temporary postings.) Display board signs shall be counted toward the maximum cumulative square footage for permanent signs.

Display Board Signs	Single-tenant Building	Multiple-tenant Building
Maximum Quantity	1	1 per tenant
Maximum Sign Area	40 square feet	20 square feet per tenant
Height Above Ground	7 feet maximum	7 feet maximum

- a. Design: The display board sign shall be framed with wood, metal, or other durable material and be permanently attached to the building; or be a designated window on the building.
  - b. Postings: Postings on the display board sign shall not exceed the size of the display board sign. Postings shall not be required to obtain any type of permit.
6. **Directional Device Signs:** Directional device signs shall be permitted for single-tenant buildings and multiple-tenant buildings provided the following conditions are met. Directional device signs shall not count toward the maximum cumulative square footage for permanent signs.
- a. Directional device signs may only be used to indicate vehicular points of entry or exit.
  - b. Directional device signs shall not exceed three (3) square feet in area per side per entrance. Up to forty percent (40%) of the sign area may be a corporate logo.
  - c. Directional device signs shall not exceed thirty-six (36) inches in height.
  - d. Directional device signs may be internally illuminated, but shall not be illuminated with externally-mounted lights.
  - e. Directional device signs shall not interfere with safe vehicular or pedestrian traffic circulation, obstruct the view of drivers entering or exiting, or be placed within a right-of-way.
  - f. No more than two (2) directional device signs shall be used per street frontage, and no more than four (4) directional device signs shall be used per lot.
- C. **Temporary Signs:** Any combination of standard temporary and special temporary signs shall be permitted for single-tenant buildings and multiple-tenant buildings provided the following conditions are met.
1. **Permits:** Temporary signs shall be exempt from obtaining an Improvement Location Permit, but shall comply with applicable standards.
  2. **Location:** Temporary signs shall be located a minimum of five (5) feet from any right-of-way, edge of pavement, and curb associated with a street or driveway.
  3. **Illumination:** Temporary signs shall not be illuminated.
  4. **Standard Temporary Signs:** Standard temporary signs shall be permitted provided the following conditions are met. The following conditions apply to single-tenant buildings and multiple-tenant buildings unless otherwise specified.
    - a. Type: A standard temporary sign shall be a yard sign or a window panel. (Examples of standard temporary signs include sale of property, special sale, and special offer signs.)
    - b. Quantity:
      - i. Single-tenant Buildings: One (1) standard temporary sign shall be permitted for each lot, except for corner lots. Two (2) standard temporary signs shall be permitted for corner lots that have 150 feet or more of combined street frontage. However, standard temporary signs shall be located at least eighty (80) feet from one another.
      - ii. Multiple-tenant Buildings: One (1) standard temporary sign shall be permitted for each tenant.
    - c. Sign Area: The sign area for a standard temporary sign shall not exceed six (6) square feet per side.
    - d. Height Above Ground: No part of a standard temporary sign shall be more than five (5) feet above the ground unless the standard temporary sign is in a first floor window.

- e. Duration: A standard temporary sign may stay in place for the duration of the temporary event. The standard temporary sign may be put in place up to five (5) days prior to the temporary event. All standard temporary signs shall be taken down within seven (7) days after the standard temporary sign's purpose no longer exists.
- 5. *Special Temporary Signs*: Special temporary signs shall be permitted provided the following conditions are met. The following conditions apply to single-tenant buildings and multiple-tenant buildings unless otherwise specified.
  - a. Type: Special temporary signs shall include inflatables, banners, streamers, posters, pennants, yard signs, window panels, sandwich boards, self-standing signs, and the like (e.g. "now hiring" banner or "welcome home" sign).
  - b. Quantity:
    - i. Single-tenant Buildings: One (1) special temporary sign shall be permitted at any one (1) time for a lot.
    - ii. Multiple-tenant Buildings: One (1) special temporary sign shall be permitted for each tenant.
  - c. Height Above Ground: A special temporary sign shall not exceed fifteen (15) feet above the ground.
  - d. Duration: A special temporary sign may stay in place for seven (7) continuous days, no more than four (4) times in any calendar year.

## 5.72 SE-01: Special Exception Standards

This Special Exception Standards section applies to the following zoning districts:

**PR** **AG** **IA** **RE** **SR** **LR** **LA** **MR** **IS** **NC**

The intent of the Special Exception Standards is to protect the health, safety, and welfare of the residents by ensuring the most appropriate development standards are applied to special exception requests. The following standards apply:

- A. Cross Reference: The approval process and criteria for Special Exceptions is in *Article 09: Processes*.
- B. Applicable Development Standards: The development standards assigned to each zoning district are considered appropriate for the permitted uses within that zoning district. However, the development standards may not be appropriate for all Special Exception uses within a zoning district. For instance, some institutional uses are permitted in residential zoning districts as Special Exceptions. In this case, residential development standards would not necessarily be applicable.
  1. *Determining Appropriate Development Standards*:
    - a. The Zoning Administrator shall determine which development standards sections within *Article 05: Development Standards* shall apply to each Special Exception petition. The development standards determined to apply shall be documented in the petition and approval.
    - b. If the Special Exception use is a permitted use within another zoning district, the development standards for that zoning district shall be used as a guideline. In situations where the Special Exception use is not a permitted use in any zoning district, the most stringent development standards may be assigned by the Zoning Administrator as appropriate.

## 5.73 ST-01: Structure Standards

This Structure Standards section applies to the following zoning districts:

CO PR AG IA RE SR LR LA MR IS NC MA

The intent of the Structure Standards section is to protect the health, safety, and welfare of the public and the functional capacity of each zoning district by regulating the quantity of primary structures on a lot. The following standards apply:

### A. General:

1. *Maximum Primary Structures*: The maximum number of primary structures shall be one (1) unless indicated otherwise on the applicable two-page layout in *Article 02: Zoning Districts*.

## 5.74 TC-01: Telecommunication Antenna Standards

This Telecommunication Facility Standards section applies to the following zoning district:

**IS**

The intent of the Telecommunication Facility Standards section is to protect the health, safety, and welfare of the residents by allowing for the provision of adequate and reliable public and private telecommunication service while minimizing the adverse, undesirable visual effects of such. The following standards apply:

- A. Permits: An Improvement Location Permit shall not be required for telecommunication antenna.
- B. Types:
  - 1. *Permitted*: Telecommunication antennas shall be permitted when the following standards are met.
    - a. The telecommunication antennas shall be non-freestanding
    - b. The telecommunication antennas shall be located in a functional, but inconspicuous place on an existing structure such as a water tower, utility pole, or roof.
    - c. The telecommunication antennas mounted on a roof shall not exceed the maximum structure height indicated in the appropriate two-page layout in *Article 02: Zoning Districts* by more than ten (10) feet.
    - d. The telecommunication antennas mounted on poles and other structures shall not exceed one hundred ten percent (110%) of the existing pole or structure height.
  - 2. *Prohibited*: Freestanding telecommunication towers and all other telecommunication facilities, except telecommunication antennas, shall not be permitted.

## 5.75 TC-02: Telecommunication Facility Standards

This Telecommunication Facilities Standards section applies to the following zoning district:

**IS**

The following telecommunication facility standards shall apply:

- A. Permits: An Improvement Location Permit shall be required prior to the construction, erection, placement, modification, or alteration of a telecommunication facility. See *Article 09: Processes*.
- B. Location:
  - 1. *Accessory Utility Structures*: The accessory utility structures of telecommunication facilities shall meet the minimum front yard setback, minimum side yard setback, and minimum rear setback requirements in the appropriate two-page layouts in *Article 02: Zoning Districts*.
  - 2. *Towers*:
    - a. *Front Yard Setback*: Telecommunication towers shall be set back from any right-of-way a minimum distance equal to fifty percent (50%) of the tower height, including all antennas and attachments.
    - b. *Side and Rear Yard Setback*: Telecommunication towers shall be set back from the side and rear property lines a minimum distance equal to fifty percent (50%) of the tower height, including all antennas and attachments.
    - c. Telecommunication towers shall not be located between the primary structure and a public street.
    - d. Telecommunication towers shall not be located within the boundaries of any residential zoning district, and shall be set back from the boundaries of any residential zoning district a minimum distance equal to one hundred ten percent (110%) of the tower height.
- C. Design:
  - 1. *General*: Proposed or modified telecommunication towers and antennas shall meet the following design requirements:
  - 2. *Height*:
    - a. Telecommunication towers shall not exceed 199 feet in height.
    - b. All other utility structures and antennas shall meet the height standards in the appropriate two-page layouts in *Article 02: Zoning Districts* and in *Section 5.30: General Height Standards*.
  - 3. *Appearance*: Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in an instance where the color is dictated by State or federal authorities such as the Federal Aviation Administration (FAA).



4. *Monopole Design*: Towers shall be of a monopole design, unless the Board of Zoning Appeals determines an alternative design would better blend in with the surrounding environment.
5. *Collocation*: Any proposed telecommunication tower shall be designed structurally, electrically, and in all respects to accommodate both the petitioner's antennas and comparable antennas for the following:
  - a. A minimum of one (1) additional user if the telecommunications tower is between sixty (60) and 100 feet in height.
  - b. A minimum of two (2) additional users if the telecommunications tower is 100 feet or more in height.
6. *Accessory Utility Structures*: All utility structures needed to support a telecommunications tower shall be architecturally designed to blend in with the surrounding environment.
7. *Fence Enclosure*: Telecommunication facilities and all accessory utility structures shall be protected by a security fence that shall be at least six (6) feet tall.
8. *Screening*: A live evergreen screen consisting of shrubs, planted three (3) feet on-center maximum or a row of evergreen trees planted a maximum of ten (10) feet on-center shall be planted around the entire telecommunication facility and each of the guy wires and anchors, if used. The height of all plants at the time of planting shall be no less than five (5) feet.
9. *Lighting*: Telecommunication facilities shall not be illuminated by artificial means and shall not display strobe lights, except when it is dictated by State or federal authorities such as the Federal Aviation Administration (FAA).
10. *Signs*: The use of any portion of a telecommunication facility for the posting of any signs or advertisements of any kind, other than warning or equipment information signs, shall not be permitted.
- D. Construction Standards: All telecommunication facilities shall be subject to inspection by the Zoning Administrator during the construction process.
  1. *Easements*: If an easement is required for location of a telecommunication facility on the property, the easement shall be staked by a licensed and registered Indiana land surveyor so as to provide proof the facility has been constructed within the easement.
  2. *Footers*: Footing inspections shall be required for all telecommunication facilities having footings.
  3. *Electrical Standards*: All telecommunication facilities containing electrical wiring shall be subject to the provisions of the Indiana Electric Code, as amended.
- E. Inspection of Towers: The following shall apply to the inspection of telecommunications facilities:
  1. *Frequency*: Towers may be inspected at least once every five (5) years, or more often as needed to respond to complaints received, by the Zoning Administrator and/or a registered, professional engineer to determine compliance with the original construction standards.
  2. *Investigation*: The Zoning Administrator may enter onto the property to investigate the matter and may order the appropriate action to bring the facility into compliance.
  3. *Violations*: Notices of Violation will be sent in accordance with *Article 10: Enforcement and Penalties* for any known violation on the telecommunication facility.
- F. Abandoned Towers: Any tower unused or left abandoned for six (6) months shall be removed by the property owner at its expense. Should the property owner fail to remove the tower after thirty (30) days from the date a Notice of Violation is issued, the Town may remove the tower and bill the property owner for the costs of removal and cleanup of the site.

## 5.76 TU-01: General Temporary Use and Structure Standards

This Temporary Use and Structure Standards section applies to the following zoning districts:

**CO** **PR** **AG** **IA** **RE** **SR** **LR** **LA** **MR** **IS** **NC** **MA**

The intent of Temporary Use and Structure standards is to protect the public health, safety, and welfare of the residents by establishing standards for temporary uses and temporary structures. The following standards apply.

- A. Cross Reference: See *Section 5.67: General Sign Standards* through *Section 5.71: Institutional, Neighborhood Commercial, and Marina Sign Standards* for temporary sign standards.
- B. Permits: A Temporary Improvement Location Permit shall be obtained prior to establishing the temporary use or structure except as indicated otherwise in this section.
- C. Types:
  1. *Fund-raising Events*: Fund-raising events such as chicken barbecues, fish fries, and car washes shall be permitted and shall be exempt from obtaining a Temporary Improvement Location Permit if the duration of the event is less than forty-eight (48) hours over a three (3) day period.
  2. *Garage and Yard Sales*: Garage and yard sales shall be permitted and shall be exempt from obtaining a Temporary Improvement Location Permit. Garage sales are limited to three (3) days in any thirty (30) day period of time.
  3. *Portable Storage Unit*: A Portable Storage Unit (e.g. PODS) units shall be permitted and shall be exempt from obtaining a Temporary Improvement Location Permit, but shall not be located outdoors for more than fourteen (14) consecutive days, three (3) times per calendar year. Portable storage units are also permitted during a construction project, but for no more than one (1) year, unless petitioned for and permitted by the Zoning Administrator to extend its use.
- D. Termination: Temporary uses shall be terminated and structures removed at the end of the permitted event period.

## 5.77 TU-02: Agricultural and Rural Estate Temporary Use and Structure Standards

This Temporary Use and Structure Standards section applies to the following zoning districts:

**AG** **IA** **RE**

The following standards apply:

- A. Roadside Sales of Produce: The roadside sale of farm produce shall be permitted if the following conditions are met:
  1. *Grown On-site*: Eighty percent (80%) of the produce offered for sale shall be grown on the same lot the where the roadside sale is located.
  2. *Duration*: The roadside sale shall not exceed six (6) months per calendar year.
  3. *Sales Stand*: The sales stand shall be portable or seasonal construction, shall comply with the provisions of *Section 5.83: Vision Clearance Standards*, and shall be removed so as to observe the setback line for accessory structures when not in use.
  4. *Parking*: The roadside sale shall be arranged so that parking does not block any right-of-way.

## 5.78 TU-03: Residential Temporary Use and Structure Standards

This Temporary Use and Structure Standards section applies to the following zoning districts:

**SR** **LR** **MR**

The following standards apply:

- A. Model Homes: Model homes, apartments, and condominiums that contain a sales office shall be permitted with the following requirements:
1. *Duration*: The duration of a Temporary Improvement Location Permit for a model home, apartment, or condominium shall be three (3) years and may be renewed annually after the initial three-year period.
  2. *Location*: Model homes, apartments, and condominiums shall be on the site of the development for which the sales are taking place.
  3. *Parking*: The model home, apartment, or condominium shall provide the required parking in *Section 5.49: General Parking Standards* through *Section 5.53: Nonresidential Parking Standards* for the applicable district.

## 5.79 TU-04: Nonresidential Temporary Use and Structure Standards

This Temporary Use and Structure Standards section applies to the following zoning districts:

**PR** **IS** **NC**

The following standards apply:

- A. Farmer's Market: Farmer's markets shall be permitted and exempt from obtaining a Temporary Improvement Location Permit provided the following standards are met:
1. *Duration*: The farmer's market shall occur on a regular basis, no more than twice per week, for a period not to exceed seven (7) months per calendar year.
  2. *Location*: The farmer's market shall consist of vendors transporting produce and products to the site of the farmer's market, setting up tables or booths, and removing all produce, products, tables, and booths at the end of the day.
  3. *Parking*: One (1) parking space shall be required for every vendor space in a farmer's market. The required parking spaces shall be within 600 feet of the farmer's market and may include on street parking spaces and public parking lots.
- B. Sale of Seasonal Items: The sale of seasonal items such as Independence Day fireworks, Christmas trees, and Halloween pumpkins shall be permitted if the following standards are met:
1. *Duration*: The duration of a Temporary Improvement Location Permit for the sale of seasonal items shall be no more than forty-five (45) days. All unsold merchandise shall be removed within five (5) days after the expiration of the Temporary Improvement Location Permit.
  2. *Location*:
    - a. The sale of seasonal items shall be on a lot that fronts a collector or arterial street.
    - b. The sale of seasonal items shall be at least fifty (50) feet from residential zoning districts.
  3. *Additional Requirements*: The sale of seasonal items must comply with all requirements of applicable State laws.

## 5.80 TR-01: General Trash Receptacle Standards

This Trash Receptacle Standards section applies to the following zoning districts:



The intent of the Trash Receptacle Standards section is to protect the health, safety, and welfare of the residents by requiring outdoor trash receptacles to meet standards and to enhance the aesthetic environment. The following standards apply:

- A. **Project Applicability:** Any outdoor trash receptacle, dumpster, compactor, or similar container placed after the effective date of this Unified Development Ordinance.
  - 1. *Exemptions:* Dumpsters or similar containers temporarily placed (e.g. for a construction projects) shall be exempt from the standards in this section during the time the project has a building permit.
- B. **Design:**
  - 1. *Screening:*
    - a. Outdoor trash receptacles, dumpsters, compactors, or similar containers shall be screened on three sides by a fence that is one (1) foot higher than the container it surrounds and shall be constructed with wood, brick, PVC, or stone.
    - b. Outdoor trash receptacles, dumpsters, compactors, or similar containers shall be screened by a gate on the remaining side.
    - c. The screening of outdoor trash receptacles, dumpsters, compactors, or similar containers shall meet the location and setback requirements in *Section 5.23: General Fence Standards* through *Section 5.27: Institutional and Commercial Fence Standards*.
  - 2. *Surface Materials:* Outdoor trash receptacles, dumpsters, compactors, or similar containers shall be placed on a paved surface, including the approach.
- C. **Setbacks:**
  - 1. *Side Yard:* Trash receptacles may project into a side yard setback for a primary structure by fiftypercent (50%) of the minimum side yard setback.
  - 2. *Rear Yard:* Trash receptacles may project into a rear yard setback for a primary structure by fiftypercent (50%) of the minimum rear yard setback.
  - 3. *Lake Yard:* Trash receptacles are not permitted in a lake yard except at a marina.
- D. **Maintenance:** All trash receptacles and screening associated with trash receptacles shall be properly maintained and kept in good condition.

## 5.81 TR-02: Lake Area Trash Receptacle Standards

This Trash Receptacle Standards section applies to the following zoning districts:



- A. **Project Applicability:** Any trash receptacle placed after the Unified Development Ordinance effective date.
- B. **Permitted:** Any trash receptacle ≤ 110 gallons. Any trash receptacle greater than 110 gallons shall not be permitted with the following exception.
  - 1. *Exemptions:* Dumpsters or similar containers temporarily placed (e.g. construction projects) shall be exempt from the standards in this section.
- C. **Design:**
  - 1. *Screening:*
    - a. Outdoor trash receptacles ≤ 110 gallons shall not be required to be screened.
    - b. Exempt trash receptacles shall not be required to be screened.
- D. **Setbacks:**
  - 1. *Street Yard:* Trash receptacles are permitted to be located in a street yard setback, but shall be at least three (3) feet from the edge of pavement and out of the public right-of-way.
  - 2. *Side Yard:* Trash receptacles may project into a side yard setback for a primary structure by fiftypercent (50%) of the minimum side yard setback.
  - 3. *Lake Yard:* Trash receptacles are not permitted in a lake yard.
- E. **Maintenance:** All trash receptacles and screening associated with trash receptacles shall be properly maintained and kept in good condition.

## 5.82 UT-01: Utility Standards

This Utility Standards section applies to the following zoning districts:

**SR** **LR** **LA** **MR**

- A. Project Applicability: Any property on which an improvement is being made that meets any of the following descriptions shall be required to meet the Utility Standards in this section:
  - 1. *Relocated Utility Service*: An on-site improvement (e.g. a room addition) requires an Improvement Location Permit and results in:
    - a. Relocating the point at which the utility enters the structure (e.g. the meter base is moved), and/or
    - b. Relocating the point at which the service originates (e.g. the utility connection comes from a different telephone pole);
  - 2. *Upgraded Utility Service*: An on-site improvement (e.g. a room addition) requires an Improvement Location Permit and results in upgrading the utility service (e.g. upgrading from 100 amp service to a 200 amp service) even if the points of connection do not change;
  - 3. *New Construction*: The on-site improvement is a new primary structure; or
  - 4. *New Addition*: The on-site improvement is an addition to an existing primary structure adding at least twenty-five percent (25%) more square feet of enclosed space (e.g. adding a second floor to a one-story home or adding an attached two (2) car garage to a existing 1,000 square foot cottage).
- B. Electrical Service: All electrical service shall be provided to the primary structure utilizing underground lines.
- C. Telephone Service: All telephone service shall be provided to the primary structure utilizing underground lines or wireless technology.
- D. Cable Television: All cable services shall be provided to the primary structure utilizing underground lines or wireless technology.
- E. Sewer Connection: Any sanitary sewer connected by grinder pump shall establish an easement around the grinder pump and extending to the public right-of-way following the lateral. The minimum radius from the grinder pit shall be five (5) feet and the easement around the lateral to the public right-of-way shall be a minimum of ten (10) feet, centered on the lateral.

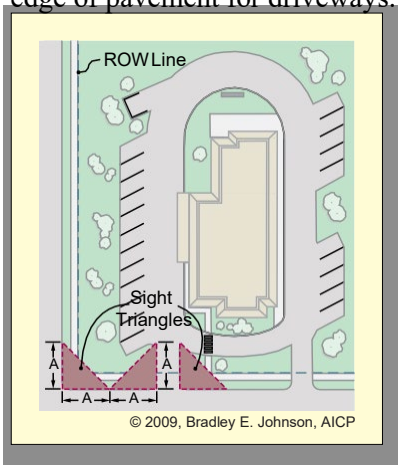
## 5.83 VC-01: Vision Clearance Standards

This Vision Clearance Standards section applies to the following zoning districts:

**CO** **PR** **AG** **IA** **RE** **SR** **LR** **LA** **MR** **IS** **NC** **MA**

The intent of the Vision Clearance Standards section is to protect the health, safety, and welfare of the residents by eliminating visual obstructions at intersections. The following standards apply:

- A. Vision Clearance Triangle: A vision clearance or sight triangle shall be maintained at every intersection of two (2) or more streets, intersection of a street and alley, and intersection of a street.
  1. *Horizontal Area*:
    - a. Arterial/Highway Streets: The vision clearance triangle leg lengths shall be forty (40) feet as measured from the edge of pavement (see "A" in the illustration below) when one (1) or more of the intersecting streets is an arterial street.
    - b. Other Streets: The vision Clearance triangle leg lengths shall be fifteen (15) feet as measured from the edge of pavement (see "A" in the illustration below) when one (1) or more of the intersecting streets is a collector or local street.
    - c. Driveways: The vision Clearance triangle leg lengths shall be five (5) feet as measured along the edge of pavement for driveways.



2. *Vertical Area*: No primary or accessory structures, landscaping, fences, or signs shall be permitted to be placed or to project into the vision clearance triangle between the heights of three (3) feet and nine (9) feet above the crown of the adjacent roadway.
3. *Exemptions*: Public Street signs, mailboxes, temporary placement of trash for pickup, and utility poles shall be exempt from the vision clearance standards.

# Article

# 06

## Subdivision Types

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### Town of Clear Lake Unified Development Ordinance

## 6.01 Simple Subdivision Intent

**The Simple Subdivision type is intended to provide a development option with the following features:**

**Land Use**

- As per this Unified Development Ordinance

**Applicability**

- Lot splits creating up to 2 new lots (i.e. going from 1 parent tract to 3 total lots)

**Pedestrian Network**

- Public sidewalks and sidepaths along perimeter streets when required by the Plan Commission

**Vehicular Network**

- Connectivity to land behind frontage lots
- Assure separation of driveways

**Site Feature Preservation**

- Strive to save existing quality tree stands

**Incentives**

- n/a

## 6.02 Simple Subdivision Prerequisites

**Base Zoning**

- CO, PR, AG, IA, RE, SR, LA, IS, and NC

**Minimum Parent Tract:**

- No minimum

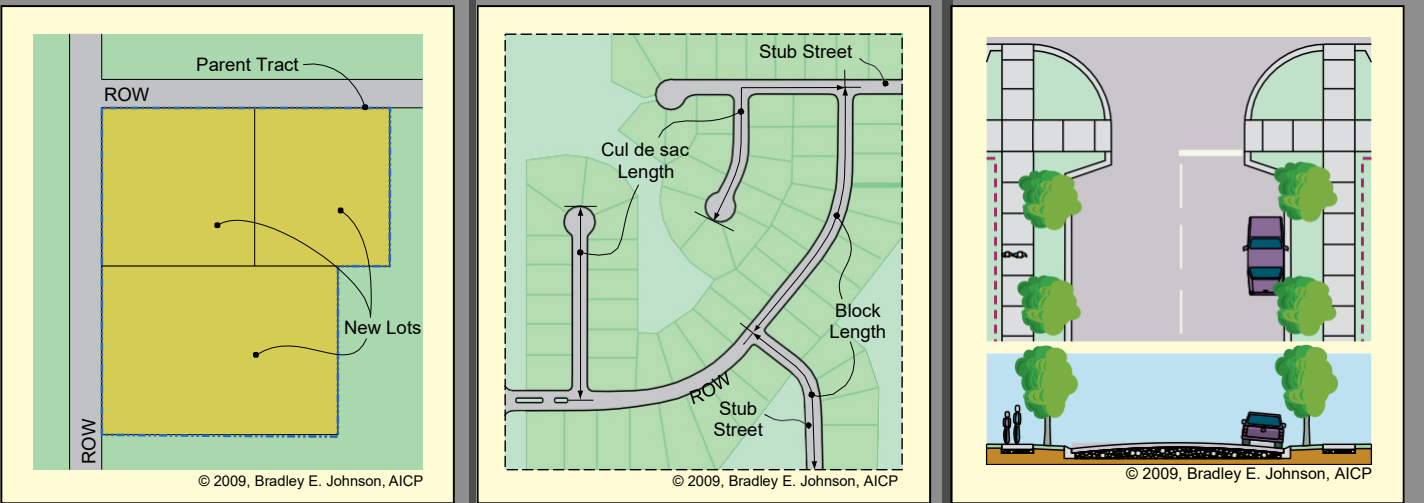
**Maximum Parent Tract:**

- No maximum



# Simple Subdivision (SS)

## 6.03 Simple Subdivision Standards



### Required Open Space

- 0%

### Minimum Perimeter Landscaping

- n/a

### Minimum Block Length

- n/a

### Maximum Block Length

- n/a

### Minimum Cul-de-sac Length

- n/a

### Maximum Cul-de-sac Length

- n/a

### Minimum ROW on Local Streets

- n/a

### Design Speed

- n/a

### Minimum Street Width

- n/a

### Curb

- n/a

### On-street Parking

- n/a

### Minimum Tree Plot Width

- 5 feet when applicable

### Minimum Sidewalk/Sidepath Width

- 6 feet sidepaths or public sidewalks along perimeter streets when applicable

## Additional Design Standards that Apply

<b>Erosion Control (EC)</b>	
• EC-01 .....	7-8
<b>Flood Hazard (FH)</b>	
• FH-01 .....	7-9
<b>Lot Establishment (LE)</b>	
• LE-01 .....	7-11
<b>Monument and Marker (MM)</b>	
• MM-01 .....	7-13
<b>Pedestrian Network (PN)</b>	
• PN-01 .....	7-17
<b>Prerequisite (PQ)</b>	
• PQ-01 .....	7-19

## 6.04 Standard Subdivision Intent

**The Standard Subdivision type is intended to provide a development option with the following features:**

**Land Use**

- 100% residential

**Applicability**

- Residential subdivisions of all sizes that may or may not require new streets

**Pedestrian Network**

- Safe and efficient pedestrian circulation within the subdivision
- Safe and efficient pedestrian accessibility to perimeter streets

**Vehicular Network**

- Connectivity to adjacent development, adjacent undeveloped parcels, and the existing street network
- Large radius corners and curves

**Site Feature Preservation**

- Strive to save existing quality tree stands

**Incentives**

- Density bonus for anti-monotony
- Density bonus for added open space

## 6.05 Standard Subdivision Prerequisites

**Base Zoning**

- RE, SR, and MR

**Minimum Parent Tract:**

- not applicable

**Maximum Parent Tract:**

- No maximum

## 6.06 Standard Subdivision Standards

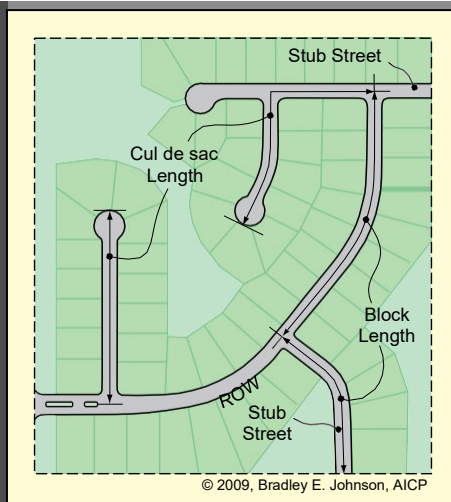


### Required Open Space

- 15%

### Minimum Perimeter Landscaping

- 25 feet along perimeter streets



### Minimum Block Length

- 140 feet

### Maximum Block Length

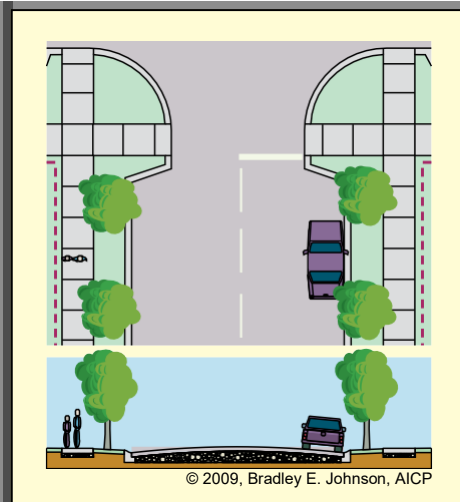
- 1,000 feet

### Minimum Cul-de-sac Length

- 140 feet

### Maximum Cul-de-sac Length

- 500 feet



### Minimum ROW on Local Streets

- 60 feet

### Design Speed

- 20 to 30 mph

### Minimum Street Width

- 28 feet

### Curb

- Rolled or vertical curb required

### On-street Parking

- Required on at least one side

### Minimum Tree Plot Width

- 5 feet

### Minimum Sidewalk/Sidepath Width

- 5 feet public sidewalks along both sides of all internal streets
- 6 feet sidepaths or public sidewalks along perimeter streets

## Additional Design Standards that Apply

<b>Dedication of Public Improvement (DD)</b>	
• DD-01.....	7-3
<b>Development Name (DN)</b>	
• DN-01.....	7-4
<b>Easement (EA)</b>	
• EA-01.....	7-5
<b>Entryway Feature (EF)</b>	
• EF-01.....	7-7
<b>Erosion Control (EC)</b>	
• EC-01.....	7-8
<b>Flood Hazard (FH)</b>	
FH-01.....	7-9
<b>Incentive (IC)</b>	
IC-01.....	7-10
<b>Lot Establishment (LE)</b>	
LE-01.....	7-11

<b>Monument and Marker (MM)</b>	
• MM-01.....	7-13
<b>Open Space (OP)</b>	
• OP-01.....	7-14
<b>Owners' Association (OA)</b>	
• OA-01.....	7-15
<b>Pedestrian Network (PN)</b>	
• PN-01.....	7-17
<b>Perimeter Landscaping (PL)</b>	
• PL-01.....	7-18
<b>Prerequisite (PQ)</b>	
• PQ-01.....	7-19
<b>Storm Water (SM)</b>	
• SM-01.....	7-20

<b>Street and Access (SA)</b>	
• SA-01.....	7-21
• SA-02.....	7-24
• SA-03.....	7-25
• SA-05.....	7-27
<b>Street Lighting (SL)</b>	
• SL-01.....	7-28
<b>Surety (SY)</b>	
• SY-01.....	7-29
<b>Utility Establishment (UE)</b>	
• UE-01.....	7-31

## 6.07 Conservation Subdivision Intent

**The Conservation Subdivision type is intended to provide a development option with the following features:**

**Land Use**

- 100% residential

**Applicability**

- Residential subdivisions at least forty (40) lots and requiring new streets

**Pedestrian Network**

- Pedestrian circulation within the subdivision that is sensitive to the subdivision's natural amenities
- Safe pedestrian accessibility to perimeter streets

**Vehicular Network**

- Connectivity to adjacent development, adjacent undeveloped parcels, and the existing street network
- Moderate use of cul-de-sacs
- Narrow streets without curb

**Site Feature Preservation**

- Preserve existing quality tree stands
- Preserve other existing natural amenities

**Incentives**

- Narrow local streets without curb
- Street lighting not required
- Public sidewalks only required on one side of internal streets

## 6.08 Conservation Subdivision Prerequisites

**Base Zoning**

- RE and SR

**Minimum Parent Tract**

- 5 acres (217,800 square feet)

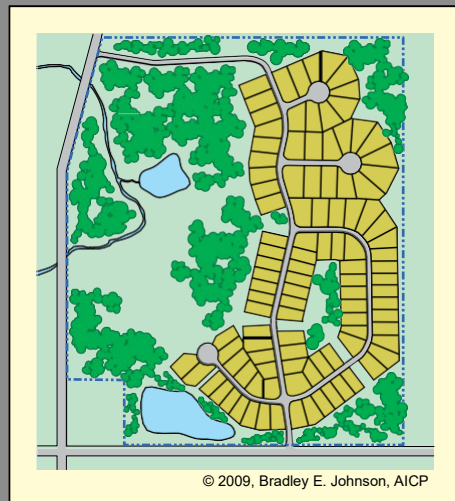
**Maximum Parent Tract**

- No maximum

**Special Qualifications**

- The parent tract shall have a quality natural amenity covering at least 20% of the parent tract
- Subdivision shall facilitate clustered development that ensures the preservation of on-site natural amenities and significant common open space

## 6.09 Conservation Subdivision Standards

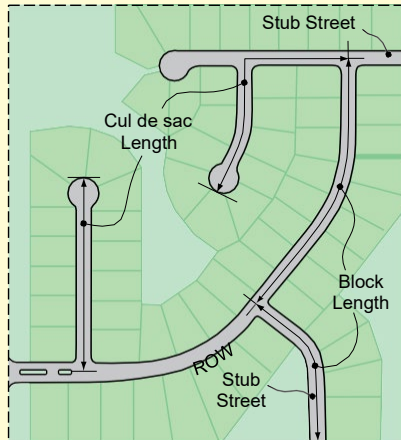


### Required Open Space

- 40%

### Minimum Perimeter Landscaping

- 25 feet along perimeter streets that shall be common area
- 10 feet along all other perimeters



### Minimum Block Length

- 100 feet

### Maximum Block Length

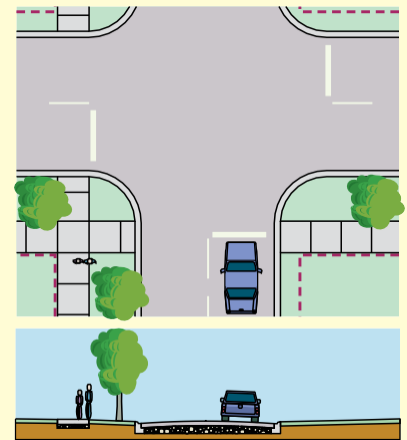
- 1,760 feet (1/3 mile)

### Minimum Cul-de-sac Length

- 140 feet

### Maximum Cul-de-sac Length

- 1,000 feet



### Minimum ROW on Local Streets

60 feet

### Design Speed

20 to 30 mph

### Minimum Street Width

22 feet

### Curb

- Not required

### On-street Parking

- Not required
- Discouraged

### Minimum Tree Plot Width

- 5 feet, if public sidewalk is installed along street

### Minimum Sidewalk/Sidepath Width

- Unimproved path in conservation areas
- 4 feet public sidewalk along one side of all internal streets
- 6 feet sidepath or public sidewalk along perimeter streets

## Additional Design Standards that Apply

<b>Dedication of Public Improvement (DD)</b>	
• DD-01 .....	7-3
<b>Development Name (DN)</b>	
• DN-01 .....	7-4
<b>Easement (EA)</b>	
• EA-01 .....	7-5
<b>Entryway Feature (EF)</b>	
• EF-01 .....	7-7
<b>Erosion Control (EC)</b>	
• EC-01 .....	7-8
<b>Flood Hazard (FH)</b>	
• FH-01 .....	7-9
<b>Incentive (IC)</b>	
• IC-01 .....	7-10
<b>Lot Establishment (LE)</b>	
• LE-01 .....	7-11

<b>Monument and Marker (MM)</b>	
• MM-01 .....	7-13
<b>Open Space (OP)</b>	
• OP-01 .....	7-14
<b>Owners' Association (OA)</b>	
• OA-01 .....	7-15
<b>Pedestrian Network (PN)</b>	
• PN-01 .....	7-17
<b>Perimeter Landscaping (PL)</b>	
• PL-01 .....	7-18
<b>Prerequisite (PQ)</b>	
• PQ-01 .....	7-19
<b>Storm Water (SM)</b>	
• SM-01 .....	7-20

<b>Street and Access (SA)</b>	
• SA-01 .....	7-21
• SA-02 .....	7-24
• SA-03 .....	7-25
• SA-05 .....	7-27
<b>Street Lighting (SL)</b>	
• SL-01 .....	7-28
<b>Surety (SY)</b>	
• SY-01 .....	7-29
<b>Utility Establishment (UE)</b>	
• UE-01 .....	7-31



# Article

# 07

## Design Standards

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### Town of Clear Lake Unified Development Ordinance

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## 7.01 Using This Section

The following pages contain the design standards for site and infrastructure improvements associated with subdivisions, planned developments, and development plan approval. These requirements shall also apply to planned developments associated with subdivision approval. Each section represents the regulations for a specific category. There are two (2) ways to determine which design standards apply to a specific type of petition. They are:

- A. Using Two-page Layouts: Refer to the two-page layouts in *Article 06: Subdivision Types* for a specific subdivision type. Applicable design standards for that specific subdivision type are identified by four-digit codes in the "Additional Design Standards that Apply." Only the four-digit codes noted in the "Additional Design Standards that Apply" section apply to that subdivision type.
- B. Using Icons: Refer to the project icons used at the top of each design standards section in *Article 07: Design Standards*. Each design standard section begins with a four-digit code and introductory sentence followed by square icons that stand for subdivision or project type. These project icons note that the design standards written in that section applies to that type of petition.

## 7.02 Purpose of Design Standards

- A. Intent: It is the purpose of *Article 07: Design Standards* to establish and define design standards that shall be required by the Town for any subdivision of land, development plan approval, and planned development.

## 7.03 Icon Key



- Simple Subdivision



- Standard Subdivision



- Conservation Subdivision



- Development Plan



- Planned Development

Section Name	Page Number	Section Name	Page Number
Dedication of Public Improvement Standards (DD)	7-3	Pedestrian Network Standards (PN)	7-17
Development Name Standards (DN)	7-4	Perimeter Landscaping Standards (PL)	7-18
Easement Standards (EA)	7-8	Prerequisite Standards (PQ)	7-19
Entryway Feature Standards (EF)	7-5	Storm Water Standards (SM)	7-20
Erosion Control Standards (EC)	7-6	Street and Access Standards (SA)	7-21
Flood Hazard Standards (FH)	7-7	Street Lighting Standards (SL)	7-28
Incentive Standards (IC)	7-10	Surety Standards (SY)	7-29
Lot Establishment Standards (LE)	7-11	Utility Establishment Standards (UE)	7-31
Mixed-use Development Standards (MX)	7-12		
Monument and Marker Standards (MM)	7-13		
Open Space Standards (OP)	7-14		
Owners' Association Standards (OA)	7-15		



## 7.04 DD-01: Dedication of Public Improvement Standards

This Dedication of Public Improvement Standards section applies to the following types of development:



- A. Project Applicability: All rights-of-way on an approved secondary plat (subdivisions), approved final plan (planned developments), or on an approved development plan shall be considered dedicated upon approval by the Plan Commission.
  - 1. *Streets and Sidewalks*: The intent of the Town is to take ownership of streets and public sidewalks located within the rights-of-way that have been constructed to meet or exceed the *Town of Clear Lake Construction Standards*. The Town, however, may choose not to take ownership of specialty access improvements, including but not limited to alleys, driveways, driving aisles, unusual on-street parking, or eyebrows.
  - 2. *Other Facilities*: Other infrastructure or facilities may, at the election of the Town Council, be dedicated to the Town. These facilities may include parks, open space, retention ponds, drainage facilities, utilities, street lighting, or other facilities in which the Town may have interest.
- B. Maintenance Surety: A maintenance bond may be required by the Town at the time of dedication. See *Section 7.26: Surety Standards*.

## 7.05 DN-01: Development Name Standards

This Development Name Standards section applies to the following types of development:



- A. Proposed Development Name: The petitioner shall propose a unique name for the development.
  - 1. *Root Name*: The proposed root name of the development shall not duplicate, or closely approximate phonetically, the name of any other development within the zoning jurisdiction of the Town.
  - 2. *Suffix Name*: Deviations in suffix names (e.g. Place, Woods, or Glen) shall not constitute a unique name (for example, if Preston Place exists, the name Preston Woods shall not be permitted).
  - 3. *Large Developments*: Unique subareas within a large development or separate developments within close proximity may be authorized to use the same root name by the Plan Commission.
- B. Approval Authority: While the development name proposed by the petitioner shall be considered, the Plan Commission has authority to approve or deny the proposed name.
- C. Renaming Authority:
  - 1. *Existing Development Names*: Existing development names and development names that have been approved by the Plan Commission shall not be changed without Plan Commission approval.
  - 2. *Proposed Development Names*: The Plan Commission shall have authority to require a new unique name for a development if the name proposed by the petitioner is unacceptable. If an acceptable and unique development name is not proposed by the petitioner, the Plan Commission shall rename the development prior to final approval.

## 7.06 EA-01: Easement Standards

This Easement Standards section applies to the following types of development:



### A. Cross Reference:

1. *Private Street Easements*: For details concerning private street easements, see *Section 7.21: Private Street and Access Standards*.
2. *Temporary Turnaround Easements*: For details concerning temporary turnaround easements, see *Subsection 7.20(C)(6): Temporary Turnarounds*.
3. *Utility Easements*: For details concerning utility easements, see *Section 7.27: Utility Establishment Standards*.
4. *Drainage Easements*: For details concerning drainage easements, see *Section 7.19: Storm Water Standards*.

### B. Cross-access Easements:

1. *Instrument Specifications*: When required by this Unified Development Ordinance, each property owner of record shall execute a cross-access easement instrument in favor of the adjoining property owner. The cross-access easement instrument shall be signed by the owner or an authorized representative of the owner of all associated properties. The cross-access easement instrument shall include the following language:
  - a. Identify the development with which the cross-access easement (CAE) is associated.
  - b. The CAE shall grant the general public the right to utilize the easement for purpose of accessing adjoining parking lots.
  - c. The CAE shall prohibit any person from parking vehicles within the easement.
  - d. The CAE shall prohibit any person, including the property owner, from placing any obstruction within the easement.
  - e. The CAE shall be binding on all heirs, successors, and assigns to the property on which the cross-access easement is located.
  - f. The CAE shall be enforceable by the owners of each associated property, the Town, and any other specially affected persons identified in the cross-access easement.
  - g. The CAE shall provide for modification or termination in a manner specified in this Unified Development Ordinance.
  - h. The CAE shall be cross referenced to the most recently recorded deeds of the associated properties.
  - i. The CAE shall include a metes and bounds description of the easement.
2. *Cross-access Easement Certificate*:
  - a. When a secondary plat, development plan, or final plan of a planned development is being recorded, the petitioner may forego a separate cross-access easement instrument in favor of printing the following "Cross-access Easement Certificate on the recordable instrument: "Areas on these plans designated as a 'Cross-access Easement' or abbreviated as "CAE" are established in favor of the adjoining property owner, and grant the public the right to enter the easement for purposes of accessing adjoining parking lots. These easements prohibit any person from parking vehicles within the easement, and prohibit the property owners or any other person from placing any obstruction within the easement. These easements are binding on all heirs, successors, and assigns to the property on which they are located. The grantee or the Town may enforce the provisions of the easement. [\_\_\_\_\_] is also entitled to enforce the provisions of the easement. The easement shall only be modified or vacated in the manner stipulated in this Unified Development Ordinance, or its successor ordinance."
  - b. The dedication and acceptance of any cross-access easements shown on a recordable instrument shall be accomplished via a Certificate of Dedication and Acceptance signed by the appropriate property owners, or their agents.
  - c. If the Declaration of Covenants is included on the recordable instrument, the cross-access easement certificate clearly be shall separate from the Declaration of Covenants.

## C. General Easements:

1. *Instrument Specifications:* When an easement is required by this Unified Development Ordinance or an easement is required per a commitment or condition of approval, but the standards for the easement type are not specified, the property owner of record shall execute the easement instrument in favor of the appropriate parties (for example, the general public, Town, specific abutting property owner, etc.). The easement instrument shall be signed by the property owner of record granting the easement and an authorized representative of the appropriate party accepting the easement. The easement instrument shall include the following language:
  - a. Identify the project or development with which the easement is associated.
  - b. Specify those activities the appropriate parties are authorized to perform in the easement.
  - c. Specify those activities the property owner of record is prohibited from performing in the easement.
  - d. Be binding on all heirs, successors, and assigns to the property on which the easement is located.
  - e. Be enforceable by the property owner of record, any appropriate parties, and the Town.
  - f. Provide for modification in the manner stipulated in this Unified Development Ordinance.
  - g. Be cross referenced to the most recently recorded deed to the property on which the easement is to be established.
  - h. Include a metes and bounds description of the easement.
  - i. Be signed by an authorized representative of the property owner of record granting the easement and by an authorized representative of the grantee accepting the easement.
2. *Easement Certificate:*
  - a. When a secondary plat, development plan, or final plan of a planned development is being recorded, the petitioner may forego a separate easement instrument in favor of printing an easement certificate, the content of which has been approved by the Plan Commission Attorney, on the recordable instrument.
  - b. The dedication and acceptance of any easements shown on a recordable instrument shall be accomplished via a Certificate of Dedication and Acceptance signed by the appropriate property owners, or their agents.
  - c. If the Declaration of Covenants is included on the recordable instrument, the easement certificate clearly be shall separate from the Declaration of Covenants.

## 7.07 EF-01: Entryway Feature Standards

This Entryway Feature Standards section applies to the following types of development:



### A. Applicability:

1. *Residential*: Residential developments with twenty (20) or more lots or units shall be required to establish an entryway feature. Residential developments with less than twenty (20) lots or units may establish an entryway feature.
2. *Non-residential*: Non-residential developments with more than four (4) lots and private streets shall be required to establish an entryway feature. Non-residential developments that have four (4) lots or less or that do not have private streets may establish an entryway feature.

### B. Location: Entryway features shall be located at vehicular entrances to a development, but shall not be located within any right-of-way.

### C. Quantity and Size: The quantity and size of entryway features shall depend on the number of entrances and classification of the street where the entrance is located.

#### 1. *Residential*:

- a. Residential developments with less than fifty (50) lots or units shall be permitted one (1) entryway feature. The identification portion of the entryway feature shall not exceed twenty (20) square feet in area.
- b. Residential developments with fifty (50) or more lots or units shall be permitted one (1) entryway feature for the primary entrance, and one (1) entryway feature for one (1) secondary entrance. The identification portion of the primary entrance's entryway feature shall not exceed forty (40) square feet; the identification portion of the secondary entrance's entryway feature shall not exceed twenty (20) square feet.

#### 2. *Non-residential*: Non-residential developments shall be permitted one (1) entryway feature. The identification portion of the entryway feature shall not exceed twenty (20) square feet in area.

### D. Landscaping: The identification portion of the entryway feature shall be significantly subordinate to the landscaping.

## 7.08 EC-01: Erosion Control Standards

This Erosion Control Standards section applies to the following types of development:



### A. Permits:

1. *Site Improvement Permit:* No changes shall be made in the contour of the land, nor shall grading, or excavating begin until an Erosion and Sedimentation Control Plan has been reviewed and a Site Improvement Permit has been issued by the Zoning Administrator.
2. *Rule 5 Permit:* Any development over one (1) acre shall obtain a Rule 5 Permit from the Indiana Department of Environmental Management.

### B. Off-site Sedimentation: Whenever sedimentation is caused by stripping of vegetation, regrading, or other development activities, it shall be the responsibility of the petitioner to remove sedimentation from all adjoining surfaces, drainage systems, and watercourses, and to repair any damage. This work shall be done at the petitioner's expense.

### C. Fill Material: All fill material shall be compacted to meet the specifications of the *Town of Clear Lake Construction Standards*.

1. *Off-site Fill Material:* Off-site fill material shall be free of environmentally hazardous materials. The petitioner shall ensure that fill material hauled from an off-site location is free of environmental contaminants. The source of fill material shall be identified prior to petition for a Site Improvement Location. The Zoning Administrator may request the petitioner have testing performed on representative samples of the fill material to determine if environmentally hazardous materials are present.
2. *Organic Material:* Detrimental amounts of organic material shall not be permitted in fill material.
3. *Irreducible Material:* No rock or similar irreducible material with a maximum dimension greater than twelve (12) inches shall be buried or placed in fills unless included and approved as part of the Site Improvement Permit.

### D. Health, Safety and Welfare: If the Zoning Administrator determines that any existing excavation or embankment or fill is hazardous, the property owner or the owner's agent shall be notified in writing and shall, within the period specified, repair or eliminate the hazard or be subject to *Article 10: Enforcement and Penalties*.

### E. Disturbance of Protected Areas: If any "no disturb" area is driven over, altered, disturbed, or damaged in any way, the petitioner or property owner shall be subject to *Article 10: Enforcement and Penalties*.

## 7.09 FH-01: Flood Hazard Standards

This Flood Hazard Standards section applies to the following types of development:



- A. Cross Reference: See Appendix C for additional Flood Hazard Design Standards.
- B. Base Flood Elevation:
  - 1. *Within Special Flood Hazard Areas*: The base flood elevation (BFE) shall be identified on all primary plats containing lands within a Special Flood Hazard Area (SFHA) and submitting for approval.
  - 2. *Larger Developments*: Base flood elevation data shall be provided for proposed subdivisions, planned developments, and development plans encompassing either five (5) or more acres or fifty (50) or more lots.
- C. Design:
  - 1. *Minimize Flood Damage*: All proposed subdivisions, planned developments, and development plans shall be designed to minimize flood damage, including having public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
  - 2. *Drainage*: All proposed subdivisions, planned developments, and development plans shall have adequate drainage provided to reduce exposure to flood hazards.
- D. Evacuation Plan: All owners of manufactured home parks or subdivisions located within a Special Flood Hazard Area (SFHA) identified as an "A Zone" on the Flood Insurance Rate Maps shall develop an evacuation plan for those lots located in the Special Flood Hazard Area (SFHA) and have the evacuation plan filed with and approved by the appropriate community emergency management authorities.

## 7.10 IC-01: Residential Incentive Standards

This Density and Intensity Incentive Standards section applies to the following types of development:



- A. **Applicability:** Residential developments that elect to follow the anti-monotony standards or extra open space standards shall be eligible for density incentives as described below.
- B. **Anti-monotony Standards:**
  1. **Architectural Features:** At least eighty percent (80%) of all dwelling units in the development shall:
    - a. Utilize masonry on seventy-five percent (75%) of the front facade and fifty percent (50%) on each side and rear facade.
    - b. Utilize side-loading or rear-loading garages on at least sixty percent (60%) of all dwelling units. When front-loading garages are used, the garage shall not project in front of the main living area of the dwelling unit by more than six (6) feet.
  2. **Rear Facades:** All perimeter lots where the rear facade faces a right-of-way shall have the same exterior window treatments (such as shutters) that are used on the front facade; and at least one (1) of the following features:
    - a. An offset or bump-out, at least four (4) feet from the plane of the rear facade, across at least forty percent (40%) of the rear facade.
    - b. An all-brick chimney that is offset from the plane of the rear facade by at least two (2) feet.
    - c. A sunroom that is at least eleven (11) feet by eleven (11) feet.
  3. **Windows:** All dwelling units shall have at least one (1) window per floor on each side elevation and two (2) windows per floor on the front and rear elevation.
  4. **Proposed Standards:** A petitioner may seek to not follow the requirements above, and instead submit detailed architectural design standards that are mandatory for all dwelling units within the development. These architectural design standards shall achieve the same or a greater degree of anti-monotony as those listed above. The submitted architectural design standards shall be approved by the Plan Commission as part of a primary plat for a subdivision, detailed development plan for a planned development, or development plan approval. The developer shall include at least three (3) sample dwelling unit designs to be built within the development showing color drawings of each elevation. These designs shall highlight how the proposed architectural design standards will result in quality architecture and anti-monotony for the development.
- C. **Extra Open Space Standards:** A subdivision, planned development, or development plan that sets aside one and one-half (1 ½) times the minimum required open space (as stated in *Article 06: Subdivision Types* or *Article 04: Planned Development District*) or more, shall be eligible for density incentives as described below. (For example, if a 100-acre development that is required to set aside a minimum of fifteen percent (15%) open space, would have to set aside at least twenty-two and one-half (22 ½) acres to meet the extra open space standard and be eligible for the density incentive.)
- D. **Density Incentives:** Minimum lot size may be up to twenty percent (20%) smaller than the required minimum lot size.



## 7.11 LE-01: Lot Establishment Standards

This Lot Establishment Standards section applies to the following types of development:



- A. **Project Applicability:** The shape, location, and orientation of lots within a subdivision, planned development, or other development shall be appropriate for the uses proposed and be consistent with the intent of the subdivision as indicated in *Article 06: Subdivision Types* or as indicated in *Article 04: Planned Development District* for planned developments. Lot sizes shall also be consistent with those indicated for the appropriate zoning district in *Article 02: Zoning Districts*.
- B. **Lot Design:** Lots shall meet the following conditions.
  - 1. *Interior Street Frontage:* Lots shall be laid out to front interior streets, which may include frontage streets. Residential lots shall not front perimeter streets.
  - 2. *Side Lot Lines:* Lots shall have side lot lines that are within fifteen degrees (15°) of a right angle to the street the lot fronts.
  - 3. *Corner Lots:* Corner lots smaller than 20,000 square feet shall be twenty-five percent (25%) larger than the minimum lot area indicated for the zoning district. This shall include lots at the corner of a development entrance and a perimeter street. Simple subdivisions and lots created through the minor subdivision process are exempt from this provision.
  - 4. *Through Lots:* Through lots are discouraged, and shall only be permitted if the lot does not establish access to the both frontages.
  - 5. *Special Lots:* Lots abutting a watercourse, drainage way, channel, or stream shall be twenty-five percent (25%) larger than the minimum lot area indicated for the zoning district. This space shall be allocated on the side of the lot that abuts the water feature as a “no-disturb” zone. Simple subdivisions and lots created through the minor subdivision process are exempt from this provision.
  - 6. *Property Line Corners:* At intersections of streets, property line corners shall be rounded by arcs of at least fifteen (15) feet in radius or by chords of such arcs.

## 7.12 MX-01: Mixed-use Development Standards

This Mixed Use Development Standards section applies to the following types of development:



- A. Project Applicability: Any development that incorporates a mix of uses, either as a development plan or a planned development shall meet the standards in this section. A mix of uses may be proposed within the same building and/or on the same parent tract.
- B. Development Plan:
  - 1. *Minimizing On-site Conflicts*: Mixed uses shall be arranged on the site to minimize conflicts between other uses on-site or off-site.
- C. Planned Development:
  - 1. *Minimizing On-site Conflicts*: Mixed uses shall be arranged on the site to minimize conflicts between other uses on-site or off-site.
  - 2. *Buffering Adjacent Properties*: Any land use within the development that borders a differing land use outside the development shall be reviewed to determine if a buffer yard is necessary. If a buffer yard is required, the planned development shall install the buffer yard to specifications in *Section 5.41: Buffer Yard Planting Standards*.

## 7.13 MM-01: Monument and Marker Standards

This Monument and Marker Standards section applies to the following types of development:



- A. Installation of Monuments and Markers: All monument and marker improvements shall be installed per 865 IAC 1-12-18 and the *Town of Clear Lake's Construction Standards*.
- B. Centerline Monuments: Monuments conforming to 865 IAC 1-12 shall be set on street center lines at the beginning and end of curves and at the intersection of center lines. When it is not practical to set a centerline monument in accordance with 865 IAC 1-12, a centerline monument conforming to 865 IAC 1-12 shall be set.
- C. Reporting: Upon completion of the development, as-built drawings shall be submitted showing where monuments and markers were placed. This shall be accompanied by an affidavit by the surveyor certifying that the monuments and markers are still accurately in place, and were not removed, moved, or buried such that they do not accurately denote surveyed lines or cannot be easily located.

## 7.14 OP-01: Open Space Standards

This Open Space Standards section applies to the following types of development:



- A. **Applicability:** The minimum open space required for each type of subdivision shall be as indicated on the two-page layouts *Article 06: Subdivision Types* or as indicated in *Article 04: Planned Development District* for planned developments.
- B. **Ownership:** Open space areas shall retain private ownership whether that be a single land owner or an owners' association.
- C. **Qualifying Areas:** The following features count toward the minimum open space requirements:
  - 1. *Conservation Areas:* Any required preservation/conservation area.
  - 2. *Man-made Water Features:* Any man-made water feature, including a retention facility, if it supports aquatic life and provides native habitat that meets the following conditions:
    - a. A surface area at normal pool elevation of at least 32,670 square feet (.75 acre); and
    - b. A buffer area around the perimeter of the water feature that is at least fifty (50) feet in width that is open space. The buffer area shall be planted and maintained as wildlife habitat.
  - 3. *Man-made Dry Detention Facilities:* Any man-made storm water dry detention facility that meets the following conditions:
    - a. At least 10,890 square feet (.25 acre) of flat bottom area.
    - b. Depth of the detention facility shall not exceed four (4) feet from top of bank.
    - c. Slopes within the detention facility shall not exceed a 4:1 ratio.
    - d. A buffer area around the perimeter of the facility that is at least twenty-five (25) feet from the top of bank that is open space. The buffer area (and facility) shall be planted and maintained as usable area. This includes use of prairie grasses, native species, native ground cover, or lawn grass. Tree planting shall not be within the basin area or on the slopes of the bank.
  - 4. *Regulated Floodplain:* The regulated floodplain of any stream, regulated drain, or river.
  - 5. *Required Perimeter Landscaping:* Fifty percent (50%) of the perimeter landscaping areas required in *Section 7.17: Perimeter Landscaping Standards*.
  - 6. *Other:* Other common areas set aside to meet open space requirements.

## 7.15 OA-01: Owners' Association Standards

This Owners' Association Standards section applies to the following types of development:



- A. Project Applicability: Any subdivision or development with common area, private streets, shared parking, amenity centers, shared or private utilities, community retention pond, and the like shall meet the Owners' Association Standards.
- B. Establishment of Owners' Association:
  - 1. *Perpetuity*: An owners' association shall be created in perpetuity to make decisions about and to maintain all common property and/or common facilities.
  - 2. *Organization*: An owners' association shall be a legally incorporated entity or shall be created by other legal mechanism which provides shared ownership or shared responsibility of common property and/or common facilities. A board of directors or other means for representation in decision-making shall be established.
  - 3. *Recording of Legal Mechanism*: The legal mechanism binding all property owners or vested parties shall be recorded in the Office of the Steuben County Recorder, and shall be cross referenced to each applicable lot or property.
  - 4. *Declaration of Covenants*: The owners' association shall be responsible for the administration of any covenants utilized to further restrict improvements and uses in the development. The "Declaration of Covenants" shall be recorded in the Office of the Steuben County Recorder following secondary plat approval (subdivisions) or Final Development Plan approval (planned developments or development plans) and prior to selling a lot or unit.
  - 5. *Commitments or Conditions of Approval*: Any covenant language that resulted as a commitment or condition of approval shall be included in the covenants or other legal document, and shall be clearly denoted as non-amendable by the owners' association.
  - 6. *Association Fee*: An association fee or other financial mechanism shall be included in the legal mechanism and be equal to the financial needs of the owners' association to maintain common property and/or common facilities, and to accumulate a reserve account for long-term large expenditures, emergencies, and contingencies.
- C. Contractual Obligations: Prior to the transition from the developer being responsible for common property and/or common facilities to the owners' association being responsible for common property and/or common facilities, the developer shall not enter into any contractual obligation on behalf of the owners' association that exceeds one (1) year. Once the owners' association is responsible, the renewal of such a contract shall be at the discretion of the owners' association.
- D. Required Language: The following language shall be required in the legal mechanism establishing the owners' association:
  - 1. *Street Lighting*: When street lighting is installed, the Town shall not, now or in the future, be obligated to accept the lights as public property. The Town shall bear no financial responsibility for operation or maintenance costs associated with street lighting. The owners' association shall bear the cost of operation and maintenance. In the event the owners' association fails to maintain street lighting, the Town may make the improvements and assess each property for the project cost plus administration costs.
  - 2. *Retention Pond and Drainage Systems*: When a retention pond and/or other drainage systems are required or installed, the Town shall not, now or in the future, be obligated to accept them as public infrastructure or to maintain those facilities. The owners' association shall bear the cost of such maintenance. In the event the owners' association fails to maintain the retention pond and/or other drainage facilities, the Town may make the improvements and assess each property for the project cost plus administration costs.

3. *Private Streets*: When private streets are installed, the Town shall not, now or in the future, be obligated to accept private streets as public property. The Town shall bear no financial responsibility for maintenance or replacement costs associated with private streets. The owners' association shall bear the cost of maintenance and replacement. In the event the owners' association fails to maintain private streets, the Town may make the improvements and assess each property for the project cost plus administration costs.
  4. *Sidewalks*: When public sidewalks are installed outside of a right-of-way, the Town shall not, now or in the future, be obligated to accept the sidewalks as public property. The Town shall bear no financial responsibility for maintenance or replacement costs. The owners' association shall bear the cost of maintenance and replacement. In the event the owners' association fails to maintain the public sidewalks, the Town may make the improvements and assess each property for the project cost plus administration costs.
  5. *Landscaping*: When landscaping installed in common areas or easements, the owners' association shall be responsible for maintaining the plant material in healthy condition, removal of dead or diseased vegetation, and/or replacement of landscaping, as necessary.
  6. *Right-of-way*: Once rights-of-way are platted, the Town obtains ownership of the area within the right-of-way and retains the right to reasonably remove any tree or shrub impeding necessary work to be performed by the Town and/or all public utilities, or other properly authorized users, regardless if the owners' association is assigned financial, maintenance, or replacement responsibility. However, Town action shall not result in an unnecessary or unfair financial burden to the owners' association.
- E. Enforcement: Failure of the owners' association to maintain an effective legal mechanism or failure of the owners' association to fulfill its responsibilities within that legal mechanism shall be deemed a violation of this Unified Development Ordinances and may be subject to *Article 10: Enforcement and Penalties*.

## 7.16 PN-01: Pedestrian Network Standards

This Pedestrian Network Standards section applies to the following types of development:



- A. **Applicability:** Developments shall integrate an interior and exterior pedestrian network comprised of concrete sidewalks and/or asphalt sidepaths for pedestrian transportation and recreation. This network shall consist of sidewalks along street frontages and sidepaths between developments and public destinations (e.g. schools, parks, or hospitals), nearby trails, other developments, and undeveloped properties.
1. **Required:** Details about when and where public sidewalks are required shall be as indicated on the two-page layout for each subdivision type in *Article 06: Subdivision Types*, as indicated in *Article 04: Planned Development District* for planned developments, or as indicated in *Section 5.57: Public Improvement Standards* for development plans. If not indicated, the Zoning Administrator shall determine the appropriate public sidewalk/sidepath requirements.
    - a. **Location:** To the extent possible, public sidewalks/sidepaths shall be located one (1) foot inside the right-of-way to be dedicated to the Town. If utility poles, trees, or other features complicate installation, then the public sidewalk/sidepath may extend into common areas or private property if a pedestrian easement is created and executed.
    - b. **Public sidewalks** shall be spaced away from the curb to create a tree plot and to provide pedestrian separation from vehicles. The minimum tree plot width shall be as indicated on the two-page layout for each subdivision type in *Article 06: Subdivision Types* or as indicated in *Article 04: Planned Development District* for planned developments.
  2. **Width:** The minimum public sidewalk/sidepath width shall be as indicated on the two-page layout for each subdivision type in *Article 06: Subdivision Types* or as indicated in *Article 04: Planned Development District* for planned developments. If not indicated, the Zoning Administrator shall determine the appropriate public sidewalk/sidepath width.
- B. **Cross Reference:** Public sidewalks and sidepath improvements shall be constructed to meet or exceed the *Town of Clear Lake Construction Standards*.

## 7.17 PL-01: Perimeter Landscaping Standards

This Perimeter Landscaping Standards section applies to the following types of development:



- A. Applicability: Perimeter landscaping shall be installed as indicated in the minimum perimeter landscaping standards on the two-page layout for each subdivision type in *Article 06: Subdivision Types* or as indicated in *Article 04: Planned Development District* for planned developments. If not indicated, the Zoning Administrator shall determine the appropriate perimeter landscaping requirements for the development.
- B. Ownership: Perimeter landscaping areas shall retain private ownership whether that be a single land owner or an owners' association.
- C. Landscaping Design:
  - 1. *Size*: Perimeter landscape areas shall extend the entire length of the frontage.
  - 2. *Plantings*: Trees and shrubs shall be provided at a combined rate of ten (10) per 100 linear feet of perimeter planting. Plantings should be fifty percent (50%) evergreen, and grouping of the plantings is encouraged to imitate natural vegetation.
  - 3. *Fencing or Mounding*: Fencing and/or mounding may be integrated with the required plantings if the following conditions are met:
    - a. Perimeter fences shall be high quality; constructed of masonry, stone, wood, or metal; and be at least thirty-six (36) inches in height, but not over seventy-two (72) inches in height.
    - b. Mounds may be combined with plantings and fencing. If used, mounds shall be a minimum of three (3) feet in height with a side slope not to exceed a ratio of three horizontal units to one vertical units (3:1 ratio). Continuous mounds shall not be permitted (i.e. levee-like mounds).
- D. Qualifying as Required Open Space: Fifty percent (50%) of the perimeter landscaping areas may count towards open space required in *Section 7.14: Open Space Standards*.



## 7.18 PQ-01: Prerequisite Standards

This Prerequisite Standards section applies to the following types of development:



- A. **Applicability:** If any the of the prerequisite do not appear for a particular type of subdivision (in *Article 06: Subdivision Types*) or for a planned development (in *Article 04: Planned Development District*), then that prerequisite does not exist for that particular subdivision type or planned development.
1. **Base Zoning:** The base zoning of the parent tract for a subdivision shall be as indicated on the two-page layout for each type of subdivision in *Article 06: Subdivision Types* prior to consideration of the subdivision by the Plan Commission. If a parent tract is in multiple zoning districts, each of those zoning districts must be listed. Likewise, the base zoning of a property proposed for a planned development shall be as indicated in *Article 04: Planned Development District* for planned developments prior to consideration of the planned development by the Plan Commission.
  2. **Minimum Parent Tract:** The minimum parent tract area shall be as indicated on the two-page layout for each type of subdivision in *Article 06: Subdivision Types* or as indicated in *Article 04: Planned Development District* for planned developments.
  3. **Maximum Parent Tract:** The maximum parent tract area shall be as indicated on the two-page layout for each type of subdivision in *Article 06: Subdivision Types* or as indicated in *Article 04: Planned Development District* for planned developments.
  4. **Special Qualifications:** All special qualifications indicated on the two-page layout for each type of subdivision in *Article 06: Subdivision Types* or as indicated in *Article 04: Planned Development District* for planned developments shall be met prior to consideration of the subdivision or planned development by the Plan Commission.

## 7.19 SM-01 Storm Water Standards

This Storm Water Standards section applies to the following types of development:



- A. Applicability: Subdivisions, planned developments, and development plans shall provide for the collection and management of all storm and surface water drainage.
- B. Cross Reference:
  1. *County*: Developments outside of the Town's corporate limits and developments accessing a county legal drain shall meet or exceed the standards of Steuben County per the Steuben County Surveyor's Office.
  2. *Construction*: Drainage facilities shall be constructed to meet or exceed the *Town of Clear Lake Construction Standards*.
- C. Existing Drainage Facilities:
  1. *Protection*: If any stream or surface drainage course is located in the area to be developed, an easement shall be established along the stream or surface drainage course that extends twenty (20) feet per side or as required by the Steuben County Surveyor. The petitioner may propose re-routing the surface drainage course, but shall obtain approval from the Steuben County Drainage Board, Indiana Department of Natural Resources, Indiana Department of Environmental Management, and/or Army Corps of Engineers, whichever entities have jurisdiction.
  2. *Obstruction*: The petitioner shall not block, impede the flow of, alter, construct any structure, deposit any material or object, or commit any act which will affect normal or flood flow in any ditch, stream, or watercourse without having obtained prior approval from the Steuben County Drainage Board, Indiana Department of Natural Resources, Indiana Department of Environmental Management, and/or Army Corps of Engineers, whichever entity has jurisdiction.
  3. *Restoration*: The petitioner shall restore any stream, watercourse, swale, tile, floodplain, or floodway that is disturbed during development and return these areas/facilities to their original or equal condition.
- D. Proposed Drainage Facilities: Drainage facilities shall meet the following conditions.
  1. *Location*: Drainage facilities shall be located in common areas or on private property if the necessary drainage easements (or utility and drainage easements) are created and executed.
  2. *Design*:
    - a. Drainage facilities shall be durable, easily maintained, retard sedimentation, and retard erosion.
    - b. Drainage facilities shall not endanger the public health and safety, or cause damage to property.
    - c. Drainage facilities shall have sufficient capacity to accept the current water runoff from areas upstream and accept the water runoff from the site after it is developed.
    - d. Design of drainage facilities shall give consideration to water runoff from future developments in undeveloped areas upstream if that water runoff cannot reasonably be accommodated in the upstream area. The types of consideration should include, but need not be limited to retention-detention systems; over-sizing with fifteen-year law cost recovery; and granting easements for future construction. The type of future development shall be consistent with the uses indicated in the Town of Clear Lake Comprehensive Plan or the use permitted by current zoning, whichever use is most intense.
    - e. Drainage facilities shall be designed such that there will be no increase in the peak discharge runoff rate as a result of the proposed development unless the existing or improved downstream drainage facilities are adequate to accept the present water runoff from developed and undeveloped areas upstream; the present water runoff of downstream areas, and the water runoff from the site after it is developed.
    - f. Drainage facilities shall be designed such that the low point of entry for structures is two (2) feet above the base flood elevation (BFE) and free from a 100-year flood.
  3. *Inspection*: Drainage facilities shall be inspected during construction by a professional engineer or registered land surveyor at the expense of the petitioner and certified that the standards within this Unified Development Ordinance. Inspection reports and a signed certification shall be submitted to the Zoning Administrator.
- E. As-built Drawings: As-built drawings of all drainage facilities associated with a development shall be submitted to the Zoning Administrator within six (6) months of the completion of construction.

## 7.20 SA-01: General Street and Access Standards

This Street and Access Standards section applies to the following types of development:



- A. **General:** All developments shall provide adequate access to the existing street network and allocate adequate areas for new streets that is consistent with the *Town of Clear Lake Comprehensive Plan*.
- B. **Cross Reference:** All street improvements, private or public, shall be designed, constructed, and installed to meet or exceed the *Town of Clear Lake Construction Standards*. This includes cul-de-sacs, passing blisters, acceleration lanes, and deceleration lanes.
- C. **Design Principles:** Streets shall create conditions favorable to health, safety, convenience, and the harmonious development of the community; shall give consideration to connectivity to adjacent parcels; shall provide access to the Town's existing street network. All public streets and associated rights-of-way and all private streets and associated easements shall meet the following design criteria.
  1. **Applicability:**
    - a. **Block Length:** The maximum block length shall be as indicated on the two-page layout for each type of subdivision in *Article 06: Subdivision Types* or as indicated in *Article 04: Planned Development District* for planned developments. If not indicated, the Zoning Administrator shall determine the appropriate maximum block length.
    - b. **Cul-de-sac Length:** The minimum cul-de-sac length and maximum cul-de-sac length shall be as indicated on the two-page layout for each type of subdivision in *Article 06: Subdivision Types* or as indicated in *Article 04: Planned Development District* for planned developments. If not indicated, cul-de-sacs shall not be permitted in that type of development.
    - c. **Right-of-way:** The minimum right-of-way on local streets shall be as indicated on the two-page layout for each type of subdivision in *Article 06: Subdivision Types* or as indicated in *Article 04: Planned Development District* for planned developments. If not indicated, the Zoning Administrator shall utilize the *Town of Clear Lake Comprehensive Plan* to determine an appropriate width.
    - d. **Street Width:** The minimum street width shall be as indicated on the two-page layout for each type of subdivision in *Article 06: Subdivision Types* or as indicated in *Article 04: Planned Development District* for planned developments. If a minimum street width is not indicated, the Zoning Administrator shall utilize the *Town of Clear Lake Comprehensive Plan* to determine the appropriate street width. Street width shall be determined by measuring from back of curb to back of curb or, when curb does not exist, from edge of pavement to edge of pavement.
    - e. **Curb:** Curb requirements shall be as indicated on the two-page layout for each type of subdivision in *Article 06: Subdivision Types* or as indicated in *Article 04: Planned Development District* for planned developments. If curb requirements are not indicated, the Zoning Administrator shall determine which type of curb is required, if any.
    - f. **On-street Parking:** On-street parking shall be as indicated on the two-page layouts for each type of subdivision in *Article 06: Subdivision Types* or as indicated in *Article 04: Planned Development District* for planned developments. If on-street parking requirements are not indicated, the Zoning Administrator shall determine appropriate on-street parking requirements for the development.
      - i. On-street parking shall meet the following criteria when it is included in a development.
        - [a] On-street parking installed on arterial streets shall be striped to indicate each parking space.
        - [b] On-street parking spaces shall be at least thirty (30) feet from an intersection unless the Zoning Administrator determines a greater distance is necessary.
        - [c] When on-street parking is utilized at street intersections, bump-outs may be required. Bump-outs shall utilize six (6) inch vertical curb and be at least eight (8) feet wide.
    - g. **Tree Plots:** Tree plots shall be provided to meet or exceed the minimum tree plot width as indicated on the two-page layouts for each type of subdivision in *Article 06: Subdivision Types* or as indicated in *Article 04: Planned Development District* for planned developments. If a minimum tree plot width is not indicated, the Zoning Administrator shall determine appropriate minimum tree plot width for the development.

2. *Prohibited Street Designs:*
  - a. Permanent dead end streets shall not be permitted. Cul-de-sacs and stub streets are not considered dead end streets.
  - b. Eyebrow streets shall not be permitted.
3. *Grades:* Streets shall be adjusted to the contour of the land to produce reasonable grades and produce usable lots.
4. *Connectivity:* All developments shall provide stub streets to connect to adjacent properties that meet the following criteria:
  - a. Where the development abuts land that has established stub streets, built or platted, the petitioner shall design the street system to connect to those stub streets.
  - b. Where the development abuts undeveloped land, stub streets may be proposed by the petitioner. Generally, each side of the development that does not border a public street shall have at least one (1) stub street. In large developments, additional stub streets may be necessary to provide adequate connectivity adjacent properties, but in conservation developments, stub streets may not be necessary. Ultimately, the final number and location of stub streets shall be determined by the Zoning Administrator.
  - c. Regard shall be given to the *Town of Clear Lake Comprehensive Plan*.
5. *Stub Streets:* Stub streets shall be constructed when other streets are built within the development.
6. *Temporary Turnarounds:* A temporary turnaround shall be established for each stub street, and a temporary turnaround easement shall provide for the turnaround.
  - a. Temporary Turnaround Easements: When a temporary turnaround is required, the petitioner shall execute a temporary turnaround easement instrument in favor of the general public through the Town Council or print the following information, a temporary turnaround easement certificate, on the plan or plat that is to be recorded.
    - i. Identify the development with which the temporary turnaround easement is associated.
    - ii. The temporary turnaround easement shall grant the general public the right to access the easement for purpose of maneuvering vehicles.
    - iii. The temporary turnaround easement shall grant the Town the right to alter, repair, maintain, or remove the improvements.
    - iv. The temporary turnaround easement shall prohibit any person from parking vehicles within the easement.
    - v. The temporary turnaround easement shall prohibit any person, including the property owner, from placing any obstruction within the easement.
    - vi. The temporary turnaround easement shall be binding on all heirs, successors, and assigns to the property on which the temporary turnaround easement is located.
    - vii. The temporary turnaround easement shall be enforceable by the Town Council, the Plan Commission, the Zoning Administrator, and the Town Attorney.
    - viii. The temporary turnaround easement shall automatically terminate upon the Town's acceptance of a connecting street. Otherwise, the temporary turnaround easement shall only be modified or terminated in a manner specified in this Unified Development Ordinance.
  - b. When a temporary turnaround easement instrument is used, it shall cross reference the most recently recorded deed to the property on which the temporary turnaround easement is to be established; include a metes and bounds description of the temporary turnaround easement; and be signed by the property owner of record granting the temporary turnaround easement and by authorized representatives of the Town Council accepting the easement.
  - c. When the temporary turnaround easement certificate on the plan or plat to be recorded is used, the dedication and acceptance of the easement shall be accomplished by a Certificate of Dedication being signed by the property owner of record granting the easement, and a Certificate of Acceptance signed by the appropriate representative of the Town Council. These documents shall be recorded with the plan or plat, and shall not be part of any declaration of covenants for the development.

7. *Gated Entrances*: Developments may have gated entrances, but shall have apparatus installed such that emergency vehicles (e.g. fire truck, police car, or ambulance) can quickly and easily gain access to the development. Further, the gates shall be sized to allow the largest fire truck in service in the Town to easily turn into the development.
8. *Boulevard Entrances*: Developments may have a boulevard entrance, but the boulevard entrance shall extend at least fifty (50) feet from the perimeter street's right-of-way. The width of the center planting strip shall be at least ten (10) feet.
9. *Intersections*:
  - a. All intersections of two (2) streets shall be within fifteen degrees (15°) of right angles to each other as measured at the street center lines.
  - b. Intersections of more than two (2) streets at one (1) point shall not be permitted.
  - c. Where ever possible, new local streets shall be aligned with existing local streets. Local street intersections with centerline offsets of less than 125 feet shall not be permitted.
- D. *Naming and Addressing Principles*: All streets, public and private, shall meet the following street name criteria.
  1. *Proposed Street Name*: The petitioner shall propose a unique name for each street within the development at the time of initial petition. The proposed street names shall meet the following criteria.
    - a. *Extensions*: Streets which are extensions, continuations, or in alignment with any existing street, platted right-of-way, or recorded access easement, shall bear the name of the existing street.
    - b. *Root Name*: The root street name (e.g. Maple) shall not duplicate or be phonetically similar to any existing street name.
    - c. *Suffix Name*: Deviations in suffix names (e.g. Street, Court, or Avenue) shall not constitute a unique name (for example, if Maple Street existed, the name Maple Court would not be permissible).
    - d. *Large Developments*: Streets within a large development or separate developments within close proximity may be authorized to use the same root name by the Plan Commission.
  2. *Proposed Address Numbers*: Street address numbers for all lots that are consistent with the Town's existing address scheme shall be proposed by the petitioner.
  3. *Approval Authority*: While street names and address numbers proposed by the petitioner shall be considered, the Plan Commission has authority to approve or deny any proposed street name or address number.
  4. *Renaming Authority*:
    - a. *Existing Street Names and Address Numbers*: Existing street names and address numbers that have been approved by the Plan Commission shall not be changed without Plan Commission approval.
    - b. *Proposed Street Names and Address Numbers*: The Plan Commission shall have authority to require a new unique name for any street if the name proposed by the petitioner is unacceptable. If an acceptable and unique street name is not proposed by the petitioner, the Plan Commission shall rename the street prior to final approval. Likewise, if an unacceptable address number is proposed for a lot, the Plan Commission shall have the authority to assign a new address number to any lot prior to final approval.
- E. *Additional Rights-of-way Required*: When developments abut or include existing streets that do not meet the minimum right-of-way widths established in the *Town of Clear Lake Comprehensive Plan*, the petitioner shall dedicate additional width along either one (1) or both sides of such streets sufficient to meet the requirements of the *Town of Clear Lake Comprehensive Plan*. If the petitioner only controls property on one (1) side of the street, sufficient right-of-way shall be dedicated to bring the half right-of-way up to the width required in the *Town of Clear Lake Comprehensive Plan*.
  1. *Off-site Street Improvements*: When a development requires off-site street improvements, such as a passing blister, acceleration lane, or deceleration lane, and inadequate right-of-way exists to install the off-site street improvement, the petitioner shall make a good faith effort to acquire property sufficient for the installation of the off-site improvement. If the owner of the property on which the off-site improvement is to be installed refuses to sell the property to the petitioner, the petitioner shall provide the Zoning Administrator with copies of all surveys; appraisals; written offers made by the petitioner; and correspondence from the property owner.



2. *Eminent Domain*: When the installation of off-site street improvements is required, it is because those off-site street improvements are vital to the health, safety, and welfare of the motoring public. As a result, the Town may begin eminent domain proceedings in accordance with *IC 32-24: Eminent Domain* for the acquisition of public right-of-way sufficient for the installation of the off-site street improvement upon receipt of the aforementioned documentation illustrating the petitioners failure to acquire the needed property. Upon completion of the eminent domain proceedings, the petitioner shall reimburse the Town in an amount equal to the cost of the land, cost for any condemnation on that land, and the cost to relocated any features.
3. *Installation of Improvements*: The petitioner shall then install the off-site street improvement to meet or exceed the *Town of Clear Lake Construction Standards*.

## 7.21 SA-02: Private Street and Access Standards

This Street and Access Standards section applies to the following types of development:



- A. Project Applicability: Private streets shall be permitted, but shall meet or exceed the standards for public streets established within this Unified Development Ordinance and the construction standards for public streets within the *Town of Clear Lake Construction Standards*.
- B. Required Language: When a private street easement appears on a plat, the following language shall be printed on the plat, "The developer of this real estate covenants and warrants on behalf of itself and all future owners of lots within this subdivision/development that because the streets are private, all maintenance, repairs, and replacement, now and forever, shall be undertaken at the expense of the lot owners (or unit owners) in accordance with the terms and conditions set forth in the owners' association by-law and articles. No governmental entity has any duty or responsibility to maintain, repair, or replace any private street."
- C. Location: Private streets shall be located within private street easements, rather than rights-of-way. All private street easements shall meet or exceed all the standards for rights-of-way established within this Unified Development Ordinance, the *Town of Clear Lake Comprehensive Plan*, and the *Town of Clear Lake Construction Standards*.
  1. *Private Street Easement Instrument Specifications*: The petitioner shall execute a private street easement instrument in favor of the future lot owners or unit owners to which the private street provides access. The following language shall be included on the private street easement instrument.
    - a. Identify the development with which the private street easement is associated.
    - b. Grant future lot or unit owners the right to access the easement for purposes of accessing their lot or unit.
    - c. Specify the financial responsibilities of the future lot or unit owners with respect to the alteration, repair, maintenance, and removal of the improvements.
    - d. Prohibit future lot or unit owners or any other person from placing any obstruction within the easement.
    - e. Require that the private street be built to the *Town of Clear Lake Construction Standards*.
    - f. Be binding on all heirs, successors, and assigns to the property on which the easement is located.
    - g. Be enforceable by the future lot or unit owners, the Town, and any other specially affected persons entitled to enforce the easement.
    - h. Provide for modification or termination in the manner stipulated in this Unified Development Ordinance.
    - i. Be cross referenced to the most recently recorded deeds to the properties on which the easement is to be established.
    - j. Include a metes and bounds description of the easement.
    - k. Be signed by a each property owner granting the easement and by an authorized representative of future lot or unit owners accepting the easement.
  2. *Private Street Easement Certificate*:
    - a. When a plan (e.g. Secondary Plat or Development Plan) is being recorded, the petitioner may forego a separate easement instrument in favor of printing the following private street easement certificate on the recordable instrument: "Areas show on this plan that are designated as a "Private Street

*Easement" shall be established in favor of the adjoining property owners that are hereby granted the right to enter the easement for purposes of accessing their lot. The easement prohibits the property owners or any other person from placing any obstruction within the easement. The easements are binding on all heirs, successors, and assigns to the property on which they are located. The adjoining property owners or the Town may enforce the provisions of the easement. [\_\_\_\_\_] is also entitled to enforce the provisions of the easement. The easement shall only be modified or vacated in the manner stipulated in this Unified Development Ordinance."*

- b. The dedication and acceptance of Private Street Easements shown on a recordable instrument shall be accomplished via a Certificate of Dedication and Acceptance signed by the property owner of record granting the easement, and a Certificate of Acceptance signed by an authorized representative of the future lot owners or unit owners.
- c. If a Declaration of Covenants is included on the recordable instrument, the Private Street Easement Certificate shall be clearly separate from the Declaration of Covenants.

## 7.22 SA-03: Residential Street and Access Standards

This Street and Access Standards section applies to the following types of development:



- A. Quantity: Vehicular access into/out of the development shall be provided as follows:
  - 1. *Small Developments*: Subdivisions, developments, and planned developments with less than fifty (50) lots or with that will result in less than 100 units, shall have one (1) street into and out of the development. Every effort should be made for that access to be to/from an arterial street or a collector street.
  - 2. *Large Developments*: Subdivisions, developments, and planned developments with fifty (50) lots or more, or with 100 or more units shall provide at least one (1) street into and out of the development. That access shall be to/from an arterial street or a collector street. Large developments may also have a secondary access street into/out of the development if it is off of a different street than the first primary access, or at least 1,200 feet from the primary access street, if located off the same street.
- B. Specialty Access:
  - 1. *Frontage Streets*: Any development that includes a single-family detached dwelling unit fronting an arterial street, shall provide a frontage street unless the single-family detached dwelling unit is the only property within 400 feet that obtains access from the same arterial. The Zoning Administrator shall have discretion in requiring frontage streets in other circumstance to ensure a safe and efficient future transportation network. Frontage streets shall meet the following conditions.
    - a. *Design*:
      - i. Frontage streets shall generally run parallel to the arterial street to which it accesses and shall be separated a minimum of thirty (30) feet (edge of pavement to edge of pavement) from the arterial street to which they are parallel.
      - ii. Frontage streets shall accommodate two-way traffic.
      - iii. Right-of-way or private street easement for a frontage street shall be at least forty (40) feet in width.
      - iv. Pavement width for a frontage street shall be twenty-four (24) feet when parking is not permitted, or twenty-eight feet (28) when parking is permitted on one (1) side.
      - v. Public sidewalks shall be required on each side of a frontage street that has residential lots which derive their access from the frontage street.
    - b. *Points of Ingress/Egress*: A frontage street that is less than 300 feet in length or serves five (5) or less properties shall have one (1) ingress/egress. All other frontage streets shall be permitted up to two (2) ingress/egress points onto street.
    - c. *Separation*: Each ingress/egress shall be at least 150 feet from any intersection and any other ingress/egress on the same or opposite side of the street. Ingress/egress points that align across the street do not require separation.

## 7.23 SA-04: Nonresidential Access Standards

This Access Streets Standards section applies to the following types of development:



- A. Quantity: A petitioner shall propose the minimal quantity of ingress/egress points to provide safe, efficient, and adequate access for the various types of vehicular traffic that will access the development. The Zoning Administrator shall make the final determination.
- B. Specialty Access:
  - 1. *Access Streets and Rear Access Streets*: Any non-residential development that fronts an arterial street and has two (2) or more lots or a multiple tenant building shall provide an access street/rear access street as the primary access. Commonly, an access street is perpendicular to the arterial street and accesses lots that front the arterial street. An access street may also lead or turn into a rear access street, which is generally parallel to the arterial street. A rear access street is generally located behind the first tier of commercial lots, but in front of the second tier of commercial lots (often the anchor lots), but provides access to both. The Zoning Administrator shall have discretion in requiring rear access streets in other circumstances to ensure a safe and efficient future transportation network. Access streets and rear access streets shall meet the following conditions.
    - a. Design:
      - i. Access streets shall generally run perpendicular to the arterial street.
      - ii. Rear access streets shall generally run parallel to the arterial street and be at least 150 feet from the arterial street (measured from the edge of pavement to the edge of pavement). Frontage streets shall not be permitted.
      - iii. Access streets and rear access streets shall accommodate two-way traffic.
      - iv. Right-of-way or private street easement for an access street or a rear access street shall be at least forty (40) feet in width.
      - v. Pavement width for an access street or rear access street shall be a minimum of twenty-four (24) feet.
      - vi. Parking shall not be permitted on rear access streets.
      - vii. Public sidewalks shall be on one (1) side of access streets and rear access streets and be integrated into the overall pedestrian network of the development.
    - b. Points of Ingress/Egress: An access street or rear access streets serving developments less than fifteen (15) acres shall be permitted two ingress/egress points onto a street. Developments with fifteen (15) acres or more shall have a maximum of three (3) ingress/egress points onto a street.
    - c. Separation: Each ingress/egress point shall be at least 150 feet from any intersection and any other ingress/egress on the same or opposite side of the street. Ingress/egress points that align across the street do not require separation.



## 7.24 SA-05: Street and Access (Signs) Standards

This Street and Access (Signs) Standards section applies to the following types of development:



- A. **General:** All streets, public or private, shall have signs necessary to provide a safe environment for drivers and pedestrians and provide information for located streets, addresses, or development amenities.
- B. **Cross Reference:** The Town's policies and the Indiana Manual on Uniform Traffic Control Devices for Streets and Highways (current version adopted by the Indiana Department of Transportation) shall be used to determine the type, size, height, and location of each of these signs. Each sign's location and height shall be communicated to the petitioner at the time they are received by the petitioner.
- C. **Public Safety Signs:** The petitioner shall coordinate with the Zoning Administrator before purchasing and installing any public safety related street sign. The Zoning Administrator shall make the final determination regarding the final location and height of each sign. All public safety related street signs shall be installed prior to any street being open to the public.
- D. **Street Name Signs:** The petitioner shall coordinate with the Zoning Administrator before purchasing and installing any street name sign. One (1) street name sign shall be required for each intersection within the development and on all perimeter intersections. The Zoning Administrator shall make the final determination regarding the final location and height of each sign. All street name signs shall be installed prior to any street being open to the public.
- E. **Wayfinding System Signs:** The petitioner may propose a wayfinding system of signs.
  - 1. **Purpose:** Wayfinding system signs shall be used to direct vehicular and pedestrian traffic to specific destinations.
  - 2. **Appearance:** Wayfinding systems shall be required to have signs of consistent size, scale, and appearance.
  - 3. **Location:**
    - a. Wayfinding system signs shall not be located within the vision clearance triangle as defined in *Section 5.83: Vision Clearance Standards*:
    - b. Wayfinding system signs may be located within rights-of-way with written authorization from the Town Council. However, the Town shall not be responsible for the maintenance or replacement of any wayfinding system signs.
  - 4. **Review and Approval:** Proposals for wayfinding systems shall be reviewed and approved at the discretion of the Zoning Administrator. The Zoning Administrator may take into account the need for the wayfinding system, the size and complexity of the development, quantity and location of signs, number of entrances and exists and the appearance of signs.

## 7.25 SL-01: Residential Street Lighting Standards

This Street Lighting Standards section applies to the following types of development:



- A. Project Applicability: Street lights shall be installed in subdivisions, developments, and planned developments at all intersections, development entrances, and along internal streets.
- B. Ownership: Street lights and all associated fixtures shall remain private property and be the responsibility of the petitioner or an owners' association. The Town shall not be responsible for any operation or maintenance costs associated with street lighting.
- C. Street Light System Design: The proposed street light system shall meet the following conditions:
  - 1. *Glare*: Street lights shall be shielded to prevent glare on residential properties.
  - 2. *Continuity*: Street lights shall be consistent in size, type, and scale throughout the entire development.
    - a. If a street light exists along the street on which the entrance to the development is located, the petitioner shall install the same or similar street light at the entrance.
  - 3. *At Intersections*: The petitioner shall propose a lighting design that provides the minimum amount of light necessary for vehicular and pedestrian safety at all intersections within the development.
  - 4. *Between Intersections*: Unless street lights have been provided at mid-block or every fifteen (15) lots, a dusk-to-dawn light that operates on a photo cell shall be installed on each residential lot. This lighting shall be provided by the builder and maintained by the owner in perpetuity.
  - 5. *Height*: Street lights located at the entrance, intersections or mid-block shall not exceed twenty (20) feet in height.

## 7.26 SY-01: Surety Standards

This Surety Standards section applies to the following types of development:



- A. **Construction/Performance Surety:** All petitioners shall provide a Performance Surety to the Town for any street, public sidewalk, path, utility, drainage facility, or any other facility that is intended or will be dedicated to the Town. All such facilities, any off-site improvements committed to by the petitioner, and any off-site improvements required as a condition of approval shall be covered by the performance surety.
  1. **Timing:** The Performance Surety shall be accepted by the Town Council prior to final approval of the development by the Plan Commission.
  2. **Requirements:** The bond or letter of credit shall:
    - a. Be in an amount determined by the Town to be sufficient to complete the improvements and installations in compliance with this Unified Development Ordinance and the *Town of Clear Lake Construction Standards*.
    - b. Provide surety satisfactory to the Town.
    - c. Run to and be in favor of the Town or the County (outside the corporate limits).
    - d. Specify the time for the completion of the improvements and installations (both on- and off-site).
    - e. Be on a form approved by the Town Council.
  3. **Duration of Surety:** All Performance Sureties shall be effective from approval to begin construction of the project and shall not terminate until thirty (30) days after the final construction is approved by the Town and the maintenance bonds have been accepted. The Performance Surety shall not be released until the Town Engineer has certified that he has inspected the improvements during construction and after completion, and that they have been installed in accordance with the intent of the approved construction plans and specifications.
  4. **Payment in Lieu:**
    - a. There is hereby created a dedicated account in a form acceptable to the State Board of Accounts which shall hold and accumulate all funds paid pursuant to the provisions of this section and which shall not thereafter be appropriated for any use unless it is associated with the completion of infrastructure improvements which had been approved by the Town and which had not been completed after having been initiated for any reason whatsoever.
    - b. Nothing in this section shall in any way limit the ability of the Town to give consideration to other alternative forms of insuring the proper completion of public improvement projects involving infrastructure which is to be dedicated to the Town or for the benefit of the public.
- B. **Maintenance Surety:** When the improvements covered by the Performance Surety have been completed, the petitioner shall apply for the release of the Performance Surety. The petitioner shall provide a Maintenance Surety to the Town for any improvement that has been dedicated to and accepted by the Town.
  1. **Requirements:** The maintenance bond shall:
    - a. Run to and be in favor of the Town;
    - b. Be in a sum of not less than twenty percent (20%) of the construction costs of the improvements to assure and guarantee the maintenance of all improvements including, but not limited to:
      - i. Streets to minimum specifications at the end of such period, sanitary sewers, storm sewers, including lift stations, pumps, motors, connections and main lines installed in the subdivision;
      - ii. Public sidewalks, shoulders, side slopes and ditches, street signs and street lights;
    - c. Provide surety satisfactory to the Town;
    - d. Warrant the workmanship and all materials used in the construction, installation, and completion of said improvements and that the installations are of good quality and have been constructed and completed in a workmanlike manner in accordance with standards, specifications and requirements of this Unified Development Ordinance and the *Town of Clear Lake Construction Standards*;
    - e. Include a certification from the developer that all improvements and installations for the development required for compliance with this Unified Development Ordinance have been made or installed in accordance with the approved plans and specifications.

2. *Duration of Surety*: All Maintenance Sureties shall be effective for three (3) years from the date the improvements were accepted by the Town and shall not terminate until the Zoning Administrator has certified that he has inspected and approved the improvements, and the Certificate of Final Acceptance has been issued.
- C. Certificate of Final Acceptance: The Town shall issue a Certificate of Final Acceptance after the expiration of the Maintenance Surety.

## 7.27 UE-01: Utility Establishment Standards

This Utility Establishment Standards section applies to the following types of development:



- A. Project Applicability: Sanitary sewer utility infrastructure shall be provided in subdivisions, developments, and planned developments.
- B. Location:
  - 1. *General*: Sanitary sewer utility infrastructure shall be located in a right-of-way or within an area designated as a utility easement or a utility and drainage easement. The location of proposed utilities and any utility easements shall be approved by the Zoning Administrator and the appropriate utility department prior to the final approval of any plan and prior to any installation.
  - 2. *Under Ground*: All power, telephone, cable, and fiber optics lines shall be located under ground throughout the development, including laterals to buildings.
- C. Construction:
  - 1. *Town Standards*: All utility improvements and utility infrastructure intended to be dedicated to and accepted by the Town shall be designed and installed to meet or exceed the *Town of Clear Lake Construction Standards* and each component (e.g. hydrants or valves) shall approved by the Town.
  - 2. *State Approval*: The Indiana Department of Environmental Management shall approve plans for the water utility infrastructure after Primary Plat approval, but prior to any installation or Secondary Plat approval.
  - 3. *Coordination*: The petitioner shall be responsible for coordinating the installation of the utilities. Conflicts with prior constructed utilities and damage to them shall be repaired before allowing any work to continue.
- D. Up-sizing: The Town and the petitioner shall consider up-sizing sanitary sewer utility infrastructure based on future development expectations of adjacent parcels. Agreements concerning up-sizing utility infrastructure shall be in accordance with appropriate Indiana Statutes and executed prior to the start of installation of the utility infrastructure.



## Article

# 08

## Nonconformances

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### Town of Clear Lake Unified Development Ordinance

## 8.01 Intent

As new zoning regulations are adopted or zoning map changes are made, lots, structures, and uses that were previously compliant with zoning regulation are sometimes made noncompliant. *Article 08: Nonconformances* specifies the provisions that apply to these legal nonconforming (informally referred to as “grandfathered”) lots, structures, and uses.

## 8.02 Distinction Between Conforming, Illegal Nonconforming, and Legal Nonconforming

Each structure, use, and lot is either "conforming" or "nonconforming." Conforming is used to describe a structure, use, or lot as being in full compliance with the current Unified Development Ordinance. Nonconforming is used to describe a structure, use, or lot that is in violation of the current Unified Development Ordinance. Nonconforming structures, uses, and lots are either "illegal nonconforming" or "legal nonconforming." The following sections determine the nonconforming status of a structure, use, or lot:

### A. Illegal Nonconforming:

1. *Structure*: A structure constructed in violation of the zoning ordinance that was in effect when the structure was constructed and which remains in violation of the current Unified Development Ordinance is an illegal nonconforming structure.
2. *Use*: A use that was in violation of the zoning ordinance that was in effect when the use was initiated and which remains in violation of the current Unified Development Ordinance is an illegal nonconforming use. In addition, a legal nonconforming use which is abandoned as described in *Section 8.06(C)(1): Abandonment of Use* shall be considered an illegal nonconforming use.
3. *Lot*: A lot established in violation of the zoning ordinance or subdivision control ordinance that was in effect at the time of establishment and which remains in violation of the current Unified Development Ordinance is an illegal nonconforming lot.

### B. Legal Nonconforming:

1. *Structure*: A structure or flatwork that does not meet one (1) or more development standards of this Unified Development Ordinance, but was legally established prior to the effective date of this Unified Development Ordinance shall be deemed a legal nonconforming structure. Generally, a structure or flatwork is rendered legal nonconforming by an amendment to the zoning regulations or a zoning map change. However, a legal nonconformity may be a result of government use of eminent domain or right-of-way acquisition.
2. *Use*: The use of a structure or land (or a structure and land in combination) that was legally established and has since been continuously operated, that is no longer permitted by this Unified Development Ordinance in the zoning district in which it is located, shall be deemed a legal nonconforming use. Generally, a use is rendered legal nonconforming by an amendment to the zoning regulations or a zoning map change.
3. *Lot*: A lot that does not meet one (1) or more lot standards of this Unified Development Ordinance, but was legally established and recorded prior to the effective date of this Unified Development Ordinance shall be deemed a legal nonconforming lot of record. Generally, a lot is rendered legal nonconforming by an amendment to the zoning regulations or a zoning map change. However, a legal nonconformity may be a result of government use of eminent domain or right-of-way acquisition.

## 8.03 Illegal Nonconforming Structures, Uses, and Lots

An illegal structure, use, or lot is subject to the enforcement procedures and penalties of this Unified Development Ordinance as amended. The enforcement and penalties of the zoning ordinance in place at the time the violation occurred shall no longer be in effect.



## 8.04 Legal Nonconforming Structures

The following provisions apply to legal nonconforming structures, structures associated with legal nonconforming uses, and structures associated with legal nonconforming lots.

- A. Legal Nonconforming Building Provisions: The provisions for legal nonconforming buildings, a subcategory of structures, are as follows:
1. *Building Expansion*: A legal nonconforming building shall be permitted to expand in area and height as long as the nonconformity is not increased and the expansion otherwise meets the current Unified Development Ordinance. For example, if a building is in violation of the maximum height standard, it can be expanded in area as long as the new addition does not exceed the maximum height standard and is otherwise in compliance with current Unified Development Ordinance.
  2. *Building Exterior Alteration*: The exterior walls of a building shall not be moved except as provided in the previous clause. Otherwise, the roof and exterior walls may be maintained, repaired, re-faced, and modified, resulting in the original aesthetic character or an altered exterior character, as long as the building's nonconformity is not increased and the alteration otherwise meets the current Unified Development Ordinance.
  3. *Building Interior Alteration*: Ordinary repair and replacement of interior finishes, heating systems, fixtures, electrical systems, or plumbing systems; and interior wall modifications are not regulated by this Unified Development Ordinance.
  4. *Building Relocating*: A legal nonconforming building may be relocated if, by moving the building, it decreases the legal nonconformity and the relocation otherwise meets the current Unified Development Ordinance.
- B. Legal Nonconforming Structure Provisions: The provisions for legal nonconforming structures and flatwork, excluding the subcategory of buildings, are as follows:
1. *Structure Alteration*: A legal nonconforming structure or flatwork shall be permitted to be altered in height, area, mass, and time as long as the nonconformity is not increased and the alteration otherwise meets the current Unified Development Ordinance. For example, if a permanent sign is in violation of the maximum height standard, it can be altered as long as the alteration does not exceed the maximum height standard currently permitted and is otherwise in compliance with the Unified Development Ordinance.
  2. *Structure Relocating*: A legal nonconforming structure or flatwork may be relocated if, by moving the structure or flatwork, it decreases the legal nonconformity and the relocation otherwise meets the current Unified Development Ordinance.
  3. *Conversion for Longevity*: Converting a structural component of a legal nonconforming structure or the surface of legal nonconforming flatwork to a more permanent material in order to prolong legal nonconformity shall not be permitted. For example, a legal nonconforming permanent pole sign would not be permitted to replace its existing wood posts with metal posts even if dimensionally the same size.
- C. Loss of Legal Nonconforming Structure Status: The following provisions apply to all types of structures:
1. *Condemned Structures*: If a structure, through lack of maintenance, is declared by an authorized official to be condemned due to its physical or unsafe condition, it shall lose its legal nonconforming status and become illegal nonconforming; unless the structure is restored or repaired within three (3) months of the declaration. The Zoning Administrator may grant an appropriate extension of time if work was started within the initial three (3) month period and reasonable attempts are being made by the owner to remedy the condemnation.
  2. *Removal of Permanent Structures*: If a permanent structure is fully or significantly removed or razed, the remaining permanent structure shall lose its legal nonconforming status and become illegal nonconforming; unless by significantly removing or razing the permanent structure the remaining permanent structure is in compliance or more in compliance with the current Unified Development Ordinance.

3. *Removal of Temporary Structures:* If a temporary structure is removed (e.g. moved inside, taken off-site, or replaced by a new temporary structure), the temporary structure shall lose its legal nonconforming status and become illegal nonconforming.
  4. *Flood:* If a structure is damaged by flood, resulting in a lost value greater than fifty percent (50%), or a loss of fifty percent (50%) or more of its physical structure, all reconstruction and replacement shall be required to meet the current Unified Development Ordinance. All other flood damaged structures shall be permitted to rebuild or replace the structure that previously existed.
  5. *Acts of God and Accidental Fire:* If a structure is severely damaged from an act of God (excluding flooding) or accidental fire resulting in a lost value greater than seventy percent (70%), or a loss of seventy percent (70%) or more of its physical structure, all reconstruction and replacement shall be required to meet the current Unified Development Ordinance. All other structures damaged by an act of God or accidental fire shall be permitted to rebuild or replace the structure that previously existed.
  6. *Zoning Administrator Discretion:* The Zoning Administrator may determine whether estimates or bids are necessary to make a determination.
- D. Maintenance and Repair: Nothing in this section shall be deemed to prevent the maintenance or repair of a structure or flatwork to keep it in a safe, aesthetic, and functional condition.

## 8.05 Legal Nonconforming Lots

The following provisions apply to legal nonconforming lots:

- A. Legal Nonconforming Lot Provisions: A legal nonconforming lot shall be permitted to be developed as long as the desired structure(s) and use(s) meets the current Unified Development Ordinance. If the application of the current Unified Development Ordinance renders the lot undevelopable (e.g. the current setbacks do not permit a developable building envelope), the owner may request a reasonable variance through the variance process established in *Section 9.19: Variance*. The variance application fee shall be waived for such a variance, but the owner shall be responsible for the publication costs established in the Town of Clear Lake's fee schedule.
- B. Loss of Legal Nonconforming Lot Status:
  1. *Combining Lots Results in Conformity*: If a legal nonconforming lot is combined with an adjacent lot through an Administrative Subdivision as provided for in *Section 9.17: Administrative Subdivision* resulting in conformity with the current Unified Development Ordinance, it shall become conforming and developable. Any future division of the combined lot shall conform with the current Unified Development Ordinance.
  2. *Lots in Combination*: If a legal nonconforming lot is owned by the same person as the adjacent lot, and both lots are used in combination (e.g. a permanent structure is or has been constructed across the property line or one lot provides any structure or a required side yard setback for the use or benefit of the other), the legal nonconforming lot shall lose its legal nonconforming status and become undevelopable should those lots no longer be used in combination or are no longer owned by the same person; provided that the two (2) or more lots in combination would constitute a single conforming lot. Any future division of the conforming lot shall conform with the current Unified Development Ordinance.

## 8.06 Legal Nonconforming Use

The following provisions apply to legal nonconforming uses:

### A. Cross Reference:

1. *Agricultural*: With respect to agricultural legal nonconforming uses, nothing in this section shall be interpreted in a manner that is inconsistent with *IC 36-7-4-616: Zoning ordinance; agricultural nonconforming use*.

### B. Legal Nonconforming Use Provisions:

1. *Expansion of Structures*: No existing structure devoted to a legal nonconforming use shall be enlarged, expanded, intensified, increased, extended, constructed, reconstructed, moved, or structurally altered unless it:
  - a. Complies with *Section 8.06(B)(4)* for limited and small expansions; or
  - b. Changes the use of the structure to a use permitted in the zoning district in which it is located; or
  - c. Changes the use to a less intensive nonconforming use and is approved by the Plan Commission.
2. *New Structures*: No new building or structure shall be constructed in connection with an existing legal nonconforming use of land.
3. *Expansion of Use*: Any legal nonconforming use of a structure may be extended throughout any parts of a building which were plainly arranged or designed for such use at the effective date of the Unified Development Ordinance, but no such use shall be extended to occupy any land outside the building.
4. *Limited and Small Expansions*: In the case of the legal nonconforming use of a structure, the structure may be expanded two (2) times only. Each of the two (2) expansions may not exceed ten percent (10%) of the existing floor area. The expansion shall conform to all applicable development standards except landscaping standards, unless a variance of development standards is received from the Board of Zoning Appeals.

### C. Loss of Legal Nonconforming Use Status:

1. *Abandonment of Use*: Any nonconforming use the Zoning Administrator determines to have been discontinued for a period of twelve (12) consecutive months, except when a government or legal action (e.g. foreclosure, trust or estate dispute, or seizure) impedes access to the premises, 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 the current Unified Development Ordinance. Seasonal use of a cottage shall not constitute abandonment.
2. *Change of Use*: When a legal nonconforming use is changed, altered, or evolves to be in compliance or more in compliance with the current Unified Development Ordinance, the legal nonconforming use status is lost or partially lost. The current use cannot revert back to the original legal nonconforming use -or increments thereof.

# Article

# 09

## Processes

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### Town of Clear Lake Unified Development Ordinance

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Improvement Location Permit	9-5	Minor Subdivision of Land	9-31
Temporary Improvement Location Permit	9-10	Subdivision of Land; Primary Plat	9-34
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## 9.01 Improvement Location Permit Processes Applicable to a Parcel

This process section applies to the following zoning districts:

**CO PR AG IA RE SR LR LA**

- A. Permanent Construction, Installation, Addition, Alteration, or Relocation of a Structure: A project that involves constructing, installing, adding onto, altering, or relocating a building or structure for a permanent duration shall have the project reviewed for compliance with this Unified Development Ordinance. Projects determined to be in full compliance with the applicable regulations shall be issued an Improvement Location Permit authorizing the project to begin. See *Section 9.05: Improvement Location Permit* for details about this process.
- B. Permanent Alteration to the Land: A project that involves permanently altering the topography, drainage, floodplain, or significant environmental features shall have the project reviewed for compliance with this Unified Development Ordinance. Projects determined to be in full compliance with the applicable regulations will be issued an Improvement Location Permit authorizing the project to begin. See *Section 9.05: Improvement Location Permit* for details about this process.
- C. Temporary Use of Land or Structure: A project that involves establishing a temporary use or installing a temporary structure shall have the project reviewed for compliance with this Unified Development Ordinance. Projects determined to be in full compliance with the applicable regulations shall be issued an improvement location permit authorizing the project to begin. See *Section 9.06: Temporary Improvement Location Permit* for details about this process.
- D. Establish a New Land Use or Change an Existing Land Use: A project that involves establishing a new land use on a parcel or in a structure, or changing an existing land use, shall have the project reviewed for compliance with this Unified Development Ordinance. Projects determined to be in full compliance with the applicable regulations shall be issued an Improvement Location Permit authorizing the project to begin. See *Section 9.05: Improvement Location Permit* for details about this process.
- E. Special Exception: An Application for a Special Exception may be filed for a land use classified as a Special Exception in *Article 02: Zoning Districts* for the subject zoning district. The Board of Zoning Appeals shall utilize a specific public hearing and procedural findings to determine whether the land use is appropriate for the specific parcel named in the petition. See *Section 9.13: Special Exception* for details about this process.
- F. Change to a Different Zoning District: An Application for a Rezoning may be filed for a parcel to be changed from its existing zoning district to a different zoning district. The Plan Commission shall utilize a specific public hearing to review the proposed change in zoning. The Plan Commission shall then forward a recommendation to the Town Council for final action. Approval or denial is the full discretion of the Town Council. See *Section 9.20: Zoning Map Amendment (Rezoning)* for details about this process.

## 9.02 Development Plan Approval Processes Applicable to a Parcel

This process section applies to the following zoning districts:

**MR** **IS** **NC** **MA**

- A. Permanent Construction, Installation, Addition, Alteration, or Relocation of a New Structure: A project that involves constructing, installing, adding onto, altering, or relocating a structure (e.g. building) for a permanent duration shall be reviewed as a Development Plan by the Plan Commission. Projects determined to meet the Plan Commission's expectations and that are in full compliance with the applicable regulations shall be issued an Improvement Location Permit authorizing the project to begin. See *Section 9.08: Development Plan* for details about this process.
- B. Permanent Alteration to the Land: A project that involves permanently altering the topography, drainage, floodplain, or significant environmental features shall be reviewed as a Development Plan by the Plan Commission. Projects determined to meet the Plan Commission's expectations and that are in full compliance with the applicable regulations shall be issued an Improvement Location Permit authorizing the project to begin. See *Section 9.08: Development Plan* for details about this process.
- C. Temporary Use of Land or Structure: A project that involves establishing a temporary use or installing a temporary structure shall be reviewed as a Development Plan by the Plan Commission. Projects determined to meet the Plan Commission's expectations and that are in full compliance with the applicable regulations will be issued a Temporary Improvement Location Permit authorizing the project to begin. See *Section 9.06: Temporary Improvement Location Permit* for details about this process.
- D. Establish a New Land Use or Change an Existing Land Use: A project that involves establishing a new land use on a parcel or in a structure, or changing an existing land use, shall be reviewed as a Development Plan by the Plan Commission. Projects determined to meet the Plan Commission's expectations and that are in full compliance with the applicable regulations will be issued an Improvement Location Permit authorizing the project to begin. See *Section 9.05: Improvement Location Permit* for details about this process.
- E. Special Exception: An Application for a Special Exception may be filed for a land use classified as a Special Exception in *Article 02: Zoning Districts* for the subject zoning district. The Board of Zoning Appeals shall utilize a specific public hearing and procedural findings to determine whether the land use is appropriate for the specific parcel named in the petition. See *Section 9.13: Special Exception* for details about this process.
- F. Change to a Different Zoning District: An Application for a Rezoning may be filed for a parcel to be changed from its existing zoning district to a different zoning district. The Plan Commission shall utilize a specific public hearing to review the proposed change in zoning. The Plan Commission shall then forward a recommendation to the Town Council for final action. Approval or denial is the full discretion of the Town Council. See *Section 9.20: Zoning Map Amendment (Rezoning)* for details about this process.

**9.03 Processes Applicable to Planned Developments and Division or Combination of Lots**

This process section applies to the following zoning districts:

**CO** **PR** **AG** **IA** **RE** **SR** **LR** **LA** **MR** **IS** **NC** **MA**

- A. **Planned Development:** An elective approval process for developments that involve mixed-use, for significantly unique development designs, and for land that has significantly unique geologic features. This process allows the developer to write a unique ordinance that partially replaces this Unified Development Ordinance to allow greater design flexibility. Applications for Planned Development are reviewed and approved by a combination of the Plan Commission and Town Council, and approval or denial is the full discretion of the Plan Commission and Town Council. See *Section 9.09: Planned Development; General* for details about this process.
- B. **Subdivision of Land:** An Application for Subdivision Plat to divide a lot in order to create additional buildable lots shall be required to be reviewed and approved by the Plan Commission. This process also applies to any two (2) or more lots being combined into a single buildable lot. Divisions of a lot recorded at the Office of the Steuben County Recorder without being approved by the Plan Commission or by an Administrative Subdivision shall not result in buildable lots. See *Section 9.14: Subdivision of Land; Minor Subdivision Plat*, *Section 9.15: Subdivision of Land; Primary Plat*, or *Section 9.17: Subdivision of Land; Administrative* for applicability (i.e. there are limits on which zoning districts are permitted to use some of these processes) and applicable standards.

**9.04 Processes for Relief from Regulations**

This process section applies to the following zoning districts:

**CO** **PR** **AG** **IA** **RE** **SR** **LR** **LA** **MR** **IS** **NC** **MA**

- A. **Administrative Appeal:** An Application for Appeal for a decision, interpretation, order determination, or action of the Zoning Administrator to be overturned or corrected shall be reviewed by the Board of Zoning Appeals. The Board of Zoning Appeals may allow the Zoning Administrator's interpretation to stand or may overturn or correct any Zoning Administrator's decision, interpretation, order determination or action. See *Section 9.07: Administrative Appeal* for details about this process.
- B. **Variance from Development Standards or Use:** An Application for a Variance may be filed requesting an applicable development standard be partially or fully waived, and/or requesting a non-permitted use be permitted. The Board of Zoning Appeals may grant a Variance of Development Standard or a Variance of Use upon making specific findings of fact, with or without conditions or commitments. See *Section: 9.19 Variance* for details about this process.



## 9.05 Improvement Location Permit

- A. Applicability: An Improvement Location Permit shall be required prior to permanent construction, installation, addition, alteration, or relocation of a structure; prior to permanent alteration to the land; and prior to establishment of a new land or change an existing land use. The following are **examples** of projects necessitating an Improvement Location Permit process:
- Constructing, altering, or modifying a house or cottage
  - Constructing, altering, or modifying an accessory structure (e.g. garage, carport, shed, pool house)
  - Altering or modifying a structure's height, roof pitch, or massing (e.g. adding a dormer)
  - Constructing or modifying impervious surface (e.g. driveway, sidewalk, patio)
  - Installing a swimming pool
  - Installing, altering, or modifying a fence
  - Constructing, altering, or modifying a deck or retaining wall
  - Installing a permanent sign
  - Constructing a pond
  - Outdoor mechanical equipment
  - Home Business
- B. Exemption from Improvement Location Permit: This exemption is only from having to obtain an Improvement Location Permit. It is not an exemption from having to meet all applicable regulations in this Unified Development Ordinance. Any project exempt from having to acquire an Improvement Location Permit that is in violation of this Unified Development Ordinance is subject to *Article 10: Enforcement and Penalties*. The following projects are exempt from having to obtain an Improvement Location Permit.
1. *Agriculture*: An agricultural related accessory structure is exempt from obtaining an Improvement Location Permit.
  2. *Landscaping and Hardscaping*: Installing trees, shrubs, plants, and flowers; applying mulch or soil enhancers; raising of planting beds around foundations; and installing accent hardscaping (e.g. stone steps, stone edging, or small retaining walls) is exempt from obtaining an Improvement Location Permit as long as there is no adverse effect to drainage or the clear side yard setback (SB-03: Lake Residential Setback Standards 5.65 (B)).
  3. *Sign Content Change*: Sign content may be changed without having to receive an Improvement Location Permit.
  4. *Flag Pole*: Flag poles may be installed without obtaining an Improvement Location Permit.
  5. *Play Set*: Playsets that do not project more than ten (10) feet off the ground, do not utilize more than seventy-five square feet in area, and do not include any roof or wall features may be installed without obtaining an Improvement Location Permit.
  6. *Home Business*: Home businesses may commence without obtaining an Improvement Location Permit.
  7. *Property Maintenance*: Maintenance and repairs to the existing structure or site features may commence without obtaining an Improvement Location Permit. Outdoor mechanical equipment shall not be exempted by this provision.
  8. *Adding or Changing Light Fixtures*: Light fixtures may be added or changed without obtaining an Improvement Location Permit.
  9. *Decorative Fences*: Decorative fences as described in Section 5.23(B)(2): Decorative Fence Permit Exemption and as defined may be installed without obtaining an Improvement Location Permit.

C. Cross Reference:

1. *Building Permit:* An Improvement Location Permit does not authorize compliance with building codes. Concurrent to having a project reviewed for compliance with this Unified Development Ordinance most projects with any type of building will also have to be reviewed for compliance with the Building Code.
2. *Site Improvement Permit:* An Improvement Location Permit does not authorize compliance with the Town's Stormwater Management Ordinances. Concurrent to having a project reviewed for compliance with this Unified Development Ordinance most projects will also have to be reviewed for compliance with the Stormwater Management Ordinance.
3. *Other Permits:* An Improvement Location Permit does not authorize compliance with any County, State or Federal Permits. It is the responsibility of the property owner to acquire any other required permits prior to making any improvement.
4. *Clear Side Yard:* See Section 5.65(B): Clear Side Yard for further limitations on placement of landscaping.
5. *Town Ordinance Title V: Public Works, Chapter 51: Sewers, 51.59 (H) Grinder Pump Station Accessibility* for further limitations on placement of landscaping.
6. *Parking:* Parking within the Town of Clear Lake shall comply with Town of Clear, Indiana Code of Ordinances Title VII: Traffic Code Chapter 72: Parking Regulations paragraph 72.02 Regulations on Roads and Streets

D. Prerequisites:

1. *Administrative Subdivisions:* Any lot being used in combination with an adjacent lot shall first complete the Administrative Subdivision process, *Section 9.17: Subdivision of Land; Administrative*, if in an applicable zoning district, and if the project includes a new primary structure, an addition to the primary structure, a new occupiable accessory structure, an addition to an occupiable accessory structure, a new storage-based accessory structure, or an addition to a storage-based accessory structure.
2. *Sewer Connections:* In projects where a new sanitary sewer connection is necessary, written approval of the new connection from the Town Council shall be required prior to an Improvement Location Permit being issued.
3. *Construction Parking:* Four (4) off- street parking spaces for construction vehicle parking shall be identified prior to an Improvement Location Permit being issued and a figure or equivalent designating the location of approved construction parking spaces shall be posted in the same area as the approved ILP. Construction parking shall not be located on the street, but may be located on adjacent properties with permission from the property owner. Contractors shall be required to keep the street free of construction vehicles, mud, dirt, and other debris for the duration of the project. The Zoning Administrator shall have discretion to waive this prerequisite for small projects.

E. Filing Requirements:

1. *Application:* Application for an Improvement Location Permit shall be made on a form provided by the Zoning Administrator. The following information shall be provided on the application form.
  - a. Property owner's name, mailing address, phone number and/or email address.
  - b. Applicant's name, mailing address, phone number, and/or email address, if different than owner.
  - c. Written detailed description of the proposed project.
  - d. Date submitted and signed.
  - e. Signature of the applicant, testifying that they are authorized to represent the property.
  - f. Any other information requested on the application form.
2. *For Permanent Construction, Installation, Addition, Alteration, or Relocation of a Structure:* The following supporting information, as applicable, shall be provided on a site plan, application form, or as an attachment.
  - a. Projects involving non-inhabitable structures not mounted on a permanent foundation.
    - i. A drawing of the parcel with dimensions.
    - ii. The building envelope (i.e. the resulting developable area after applying setbacks).
    - iii. The location of existing structures (e.g. home, garage, sidewalk, or driveway).
    - iv. The location of the proposed structure.
    - v. A calculation of the existing lot coverage, expressed in a percentage.
    - vi. A calculation of the lot coverage as it would be upon completing the project, expressed in a percentage.

- vii. An affidavit stating the proposed project is not located within a floodplain or easement. (e.g., Sewer Grinder, etc.).
- viii. Denotation of the location of canopy trees required by 5.38 Landscaping pg. 5-34.
- b. Flatwork projects.
  - i. A drawing of the parcel with dimensions.
  - ii. The location of primary structures.
  - iii. Location of the proposed flatwork.
  - iv. An affidavit stating the proposed project is not located within an easement. (e.g., Sewer Grinder, etc.).
  - v. If the Zoning Administrator suspects the intended site for flatwork to be a wetland, the Zoning Administrator may request a determination by a soil scientist as to whether a wetland exists.
- c. Projects involving non-inhabitable structures mounted on a permanent foundation.
  - i. All requirements of *Section 9.05(E)(3)(a): Applicability*.
  - ii. A scale drawing of the parcel with dimensions.
  - iii. Existing adjacent rights-of-way, street easements or alley easements, and the name of the street or alley if applicable.
  - iv. Easements (e.g., Sewer Grinder, etc.) on the parcel or easement adjoining to the parcel, including the name of the easement holder and a description of the terms of the easement.
  - v. Denotation of any existing structure on adjacent parcels if within twenty (20) feet of the subject parcel's property line.
  - vi. If the Zoning Administrator suspects the intended site of a non-inhabitable building to be a wetland, the Zoning Administrator may request a determination by a soil scientist as to whether a wetland exists.
  - vii. Denotation of the location of canopy trees required by 5.38 Landscaping pg. 5-34
- d. Projects involving inhabitable buildings.
  - i. All requirements of *Section 9.05(E)(3)(a): Applicability*.
  - ii. Denotation of the location of mature trees, greater than nine (9) inches in caliper.
  - iii. Elevation above sea level at the location of the project prior to alteration of land.
  - iv. If the Zoning Administrator suspects the intended site of an inhabitable building to be a wetland, the Zoning Administrator may request a determination by a soil scientist as to whether a wetland exists.
  - v. Denotation of adjacent zoning districts if different than the subject parcel.
  - vi. Location of existing or proposed drainage tile.
  - vii. Denotation of where utilities lines will be run to the building and whether they are above or below grade.
  - viii. Location of a septic system, reserve area for a replacement septic system, well, geothermal loop, or other on-site utility system.
  - ix. Denotation of any existing structure on adjacent parcels if within fifty (50) feet of the subject parcel's property line.
  - x. Easements (e.g., Sewer Grinder, etc.) on the parcel, including the name of the easement holder.
  - xi. Denotation of the location of canopy trees required by 5.38 Landscaping pg. 5-34
- e. Complex or Unique Projects: The Zoning Administrator may require any additional information if reasonably necessary to determine if a complex or unique project complies with the provisions of this Unified Development Ordinance.

3. *For Permanent Alteration to the Land:* The following supporting information, as applicable, shall be provided on a site plan, application form, or as an attachment.
  - a. *Applicability:* Projects that involve disturbing (e.g. altering drainage or relocating dirt on-site) more than five percent (5%) of a parcel's area on a parcel less than five (5) acres in area, or disturbing any portion of a site greater than five (5) acres, or a project which results in more than 300 cubic yards of soil being disturbed (cumulative of soil added from one area and soil removed from another, not the net of soil added and removed) shall provide the following.
    - i. A scale drawing of the parcel with dimensions.
    - ii. The location of existing structures (e.g. building, sidewalk, or driveway).
    - iii. Denotation of existing mature trees, greater than nine (9) inches in caliper.
    - iv. Denotation of floodplains, wetlands, rock formations, karst, natural lakes, streams, regulated drains, retention ponds, detention ponds, known drainage tile, inlets, outlets, monuments or markers, and drainage swales on the parcel and within seventy-five (75) feet of the parcel's property lines.
    - v. If the Zoning Administrator suspects the intended site to be a wetland, the Zoning Administrator may request a determination by a soil scientist as to whether a wetland exists.
    - vi. Two-foot contour lines of the existing parcel.
    - vii. Two-foot contours showing the parcel's contours as it would be upon completing the proposed project.
    - viii. Erosion control methodology, devices, locations, and maintenance strategy.
    - ix. Drainage evaluation of the existing parcel and as it would be upon completion of the proposed project with a characterization of the change to drainage onto adjacent properties, into drainage tile, or into surface water ways.
    - x. Design cross-section of recreation ponds.
4. *For Installation of Outdoor Mechanical Equipment:* The following supporting information shall be provided on a site plan, application form, or as an attachment.
  - a. A drawing of the parcel with dimensions.
  - b. Location of primary structures.
  - c. Location of proposed outdoor mechanical equipment.
5. *For Establishment of a New Land Use or Change to an Existing Land Use:* The following supporting information shall be provided on a site plan, application form, or as an attachment.
  - a. Description of the proposed new land use or change to an existing land use.
  - b. Detailed description of how the new or changed in land use will affect parking, average daily trips, currier service, building alterations inside and outside, use of outdoor areas, use of accessory structures, and number of employees.
6. *Deadline:* Applications for an Improvement Location Permit may be filed any time.
7. *Fees:* Applicable fees shall be paid at the time the application for an Improvement Location Permit is filed. Fees shall include reimbursement for any cost borne by the Plan Commission or Zoning Administrator to hire a professional engineer, professional planner, or other professional technician necessary to subsidize the Zoning Administrator's capabilities for review of the application or proposed project.

F. Permit Procedure:

1. *Substantially Complete Application:* An application for an Improvement Location Permit shall not be reviewed for approval until it is determined to be substantially complete by the Zoning Administrator. The Zoning Administrator must first verify that the application form and required supplemental information has been submitted correctly, and the applicable application fee is paid.
2. *Review the Project's Compliance:* After the application is verified as being substantially complete, the Zoning Administrator shall review the project to determine whether it complies with this Unified Development Ordinance. The Zoning Administrator may consult with any other person, department, or group to determine if the project complies with all of the provisions of this Unified Development Ordinance. During the review process, the Zoning Administrator may:
  - a. *Request Additional Information:* During the process of rendering a decision, the Zoning Administrator may request additional information to be added to the site plan, application form, or attachments.
  - b. *Exercise Discretion:* Some provisions within this Unified Development Ordinance allow the Zoning Administrator to apply discretion to a decision. If such discretion is exercised, the Zoning Administrator shall describe the decision and cite the authority for that discretion.
  - c. *Interpret this Unified Development Ordinance:* Because this Unified Development Ordinance cannot address every possible unique situation, project features, or land use, the Zoning Administrator shall interpret the intent of this Unified Development Ordinance when not specifically addressed.
3. *Render a Decision:* The Zoning Administrator shall render a "decision to deny" or "decision to approve" based on the information submitted, project review, discretion exercised, and interpretations made.
4. *Issuing an Improvement Location Permit:* If the proposed project complies with this Unified Development Ordinance, the Zoning Administrator shall render a decision to approve, document the terms of the approval on the permit, and then issue an Improvement Location Permit. The Zoning Administrator shall send the adjacent property owners a courtesy notice indicating an Improvement Location Permit had been issued, a brief description of the project approved, and notice that an appeal period applies.
5. *Decision to Deny:* If the proposed project does not comply with this Unified Development Ordinance, the Zoning Administrator shall not issue an Improvement Location Permit. The Zoning Administrator shall internally document the reasons for not issuing an Improvement Location Permit and send that information to the applicant by email or U.S. Mail, or by telephone. If an email is used to communicate denial, documentation that the email was received shall be included in the file. Similarly, if a phone call is used to communicate denial, documentation of the phone call shall be included in the file. If a proposed project does not comply with this Unified Development Ordinance, the applicant may promptly revise the application, or may promptly pursue relief from this Unified Development Ordinance.
6. *Allowance for Revision Prior to a Decision:* At the discretion of the Zoning Administrator, the applicant may be permitted to modify the site plan, application form, or attachments prior to a decision by the Zoning Administrator.
7. *Allowance for Revision After a Decision:* After a decision to deny, the applicant may promptly revise the site plan, application form, or attachment in order to comply with this Unified Development Ordinance without terminating the process.
8. *Pursuit of Relief:* After a decision to deny, the applicant may promptly pursue an administrative appeal, variance from development standards, or variance of use. During an appeal for relief, the application for Improvement Location Permit shall be suspended until the Board of Zoning Appeals rules on the matter.

G. Duration:

1. *Procedural Expiration:* An application shall expire and be void after the applicant is notified of a decision to deny unless the applicant makes revisions to the application or pursues relief from the Board of Zoning Appeals within ninety (90) days from notification.
2. *Commencement:* After an Improvement Location Permit is issued, the project shall commence within three (3) months.
3. *Expiration:* After an Improvement Location Permit is issued, the project shall be completed within twelve (12) months. Improvement Location Permits that exceed the twelve (12) month timeframe shall apply for a Improvement Location Permit Extension with the Zoning Administrator.

H. Modification After Issuance of an Improvement Location Permit: At the discretion of the Zoning Administrator, an Improvement Location Permit may be modified if:

- Warranted: Warranted due to discoveries during construction or other significant finding, and
  - Requested Prior to Initiation: Requested prior to permanent construction, installation, addition, alteration, or relocation of a structure; prior to permanent alteration to the land; and prior to establishment of a new land use or change to an existing land use.
- or if:
- Warranted: Warranted due to discoveries during construction or other significant finding, and
  - Component is Not Completed: Requested prior to the applicable component of the project has been completed, and
  - Not Correcting a Violation: The modification is not an attempt to correct a violation.

If a modification is permitted, the Zoning Administrator shall request any necessary information, shall review the modification for its compliance to this Unified Development Ordinance, and then render a decision. If the proposed modification meets the provisions of this Unified Development Ordinance the Improvement Location Permit may be amended and filed. If denied to be considered or denied for non-compliance, the modification shall be disallowed.

# Improvement Location Permit

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## 9.06 Temporary Improvement Location Permit

- A. Applicability: A Temporary Improvement Location Permit shall be required prior to establishment of a temporary use of land or structure. The following are examples of projects necessitating a Temporary Improvement Location Permit process:
- Temporary sign
  - Tent sale
  - Sidewalk sale
  - Construction trailer
  - Model home
- B. Filing Requirements:
1. *Application*: Application for a Temporary Improvement Location Permit shall be made on a form provided by the Zoning Administrator. Supporting information shall be submitted as per all applicable requirements described below.
  2. *Establishment of a Temporary Use of Land or Structure*: The following application and supporting information, when applicable, shall be provided on a site plan, application form, or as an attachment.
    - a. Property owner's name, mailing address, phone number and/or email address.
    - b. Applicant's name, mailing address, phone number, and/or email address, if different than owner.
    - c. Written detailed description of the proposed project.
    - d. Date submitted and signed.
    - e. Signature of the applicant, testifying that they are authorized to represent the property.
    - f. Any other information requested on the application form.
    - g. A drawing of the parcel with dimensions.
    - h. The location of existing structures (e.g. building, parking lot, sidewalk, or driveway).
    - i. The location of the proposed temporary structure.
    - j. The applicable setbacks shown on the parcel drawing.
    - k. Description of the proposed temporary land use.
    - l. Description of the desired duration of the temporary structure and/or land use.
    - m. An affidavit stating the proposed temporary structure does not impede drainage, sight visibility, vehicular circulation, pedestrian circulation, or emergency exit.
  3. *Deadline*: Applications for a Temporary Improvement Location Permit may be filed anytime.
  4. *Fees*: The applicable fee shall be paid at the time the application for a Temporary Improvement Location Permit is filed. Fees shall include reimbursement for any cost borne by the Plan Commission or Zoning Administrator to hire a professional engineer, professional planner, or other professional technician necessary to subsidize the Zoning Administrator's capabilities for review of the application or proposed project.
- C. Permit Procedure:
1. *Substantially Complete Application*: An application for a Temporary Improvement Location Permit shall not be reviewed for approval until it is determined to be substantially complete by the Zoning Administrator. The Zoning Administrator shall first verify that the application form and required supplemental information has been submitted correctly, and the applicable application fee is paid.
  2. *Review the Project's Compliance*: After the application is verified as being substantially complete, the Zoning Administrator shall review the project to determine whether it complies with this Unified Development Ordinance. The Zoning Administrator may consult with any other person, department, or group to determine if the project complies with all of the provisions of this Unified Development Ordinance. During the review process, the Zoning Administrator may:
    - a. *Request Additional Information*: During the process of rendering a decision, the Zoning Administrator may request additional information to be added to the site plan, application form, or attachments.
    - b. *Exercise Discretion*: Some provisions within this Unified Development Ordinance allow the Zoning Administrator to apply discretion to a decision. If such discretion is exercised, the Zoning Administrator shall describe the decision and cite the authority for that discretion.



- c. Interpret this Unified Development Ordinance: Because this Unified Development Ordinance cannot address every possible unique situation, project features, or land use, the Zoning Administrator shall interpret the intent of this Unified Development Ordinance when not specifically addressed.
  3. *Render a Decision*: The Zoning Administrator shall render a "decision to deny" or "decision to approve" based on the information submitted, project review, discretion exercised, and interpretations made.
  4. *Issuing a Temporary Improvement Location Permit*: If the proposed project complies with this Unified Development Ordinance and, the Zoning Administrator shall render a decision to approve, document the terms of the approval on the permit, and then issue a Temporary Improvement Location Permit.
  5. *Decision to Deny*: If the proposed project does not comply with this Unified Development Ordinance, the Zoning Administrator shall not issue a Temporary Improvement Location Permit. The Zoning Administrator shall internally document the reasons for not issuing a Temporary Improvement Location Permit and send that information to the applicant by email or U.S. Mail, or by telephone. If an email is used to communicate denial, documentation that the email was received shall be included in the file. Similarly, if a phone call is used to communicate denial, documentation of the phone call shall be included in the file. If a proposed project does not comply with this Unified Development Ordinance, the applicant may promptly revised the application, or may promptly pursue relief from this Unified Development Ordinance.
  6. *Allowance for Revision Prior to a Decision*: Not applicable.
  7. *Allowance for Revision After a Decision to Deny*: After a decision to deny, the applicant may promptly revise the site plan, application form, or attachment in order to comply with this Unified Development Ordinance without terminating the process.
  8. *Pursuit of Relief*: After a decision to deny, the applicant may promptly pursue an administrative appeal or variance from development standards. During an appeal for relief, the application for Improvement Location Permit shall be suspended until the Board of Zoning Appeals rules on the matter.
- D. Duration:
4. *Procedural Expiration*: An application shall expire and be void after the applicant is notified of a decision to deny unless the applicant makes revisions to the application or pursues relief from the Board of Zoning Appeals within thirty (30) days from notification.
  5. *Commencement*: After a Temporary Improvement Location Permit is issued, the permit shall expire after the last approved date for the temporary use and/or structure.
  6. *Permit Expiration*: A Temporary Improvement Location Permit shall be issued for the dates requested by the applicant and within the ordinance limits as described in *Section 5.76: General Temporary Use and Structure Standards* and *Section 5.79: Nonresidential Temporary Use and Structure Standards*. The permitted dates shall be displayed on the Temporary Improvement Location Permit.
  7. *Extensions*: Not applicable.
- E. Modification After Issuance of a Temporary Improvement Location Permit: Not applicable.

## 9.07 Administrative Appeal

- A. Applicability: An Administrative Appeal applies to a petitioner or interested party that wants a decision, interpretation, order determination, or action of the Zoning Administrator and/or enforcement officer to be overturned or corrected by the Board of Zoning Appeals. Any decision, interpretation, order determination, or action of the Plan Commission shall not be the subject of an Administrative Appeal.
- B. Filing Requirements:
1. *Petition*: Petition for Administrative Appeal shall be made on a form provided by the Zoning Administrator. Supporting information shall be submitted as per the requirements described below.
  2. *Information to be Submitted*: The following information shall be provided on the petition form.
    - a. Petitioner's name, mailing address, phone number, and/or email address.
    - b. Petitioner's standing (i.e. legal right to initiate a petition).
    - c. The Zoning Administrator or Enforcement Official that rendered the decision, interpretation, order determination, or action.
    - d. Written statement describing the administrative decision, interpretation, order determination, or action; and the reason and facts supporting action by the Board of Zoning Appeals.
    - e. Date submitted and signed.
    - f. Signature of the petitioner.
    - g. Any other information requested on the petition form.
  3. *Deadline*: A petition for an Administrative Appeal shall be filed with the Board of Zoning Appeals within ninety (90) days of the decision, interpretation, order determination, or action that is the subject of the appeal.
  4. *Suspension of Work*: Work related to the decision, interpretation, order determination, or action being appealed shall be suspended until the Administrative Appeal is complete, or until the Board of Zoning Appeals authorizes full or partial work to resume prior to a Board of Zoning Appeals decision.
  5. *Fees*: The applicable fee shall be paid at the time the petition for Administrative Appeal is filed.
- C. Appeal Procedure:
1. *Substantially Complete Petition*: A petition for an Administrative Appeal shall not be issued a docket number or be scheduled for hearing by the Board of Zoning Appeals until it is determined to be substantially complete by the Zoning Administrator. The Zoning Administrator shall verify that the petition form and required supplemental information has been submitted correctly, and the applicable petition fee is paid.
  2. *Assignment*: Once a petition for an Administrative Appeal has been determined substantially complete, the Zoning Administrator shall assign a case number and place the appeal on the agenda of the Board of Zoning Appeals. The Zoning Administrator shall inform the petitioner, in writing, of the date and time of the Board of Zoning Appeals meeting at which the appeal is to be heard.
  3. *Public and Interested Party Notice*: The petitioner shall be responsible for providing public notice in accordance with the Board of Zoning Appeals Rules of Procedure. The petitioner shall also be responsible for returning proof of public notice to the Zoning Administrator at least three (3) business days before the meeting at which the appeal is to be heard. Failure to submit proof of notice may result in the Administrative Appeal being continued to the following month's Board of Zoning Appeals meeting.
  4. *Transfer of Information*:
    - a. The Zoning Administrator shall provide the petitioner for an Administrative Appeal any additional information which is being conveyed to the Board of Zoning Appeals in preparation for the meeting.
    - b. The Zoning Administrator or Enforcement Official that is the subject of the appeal shall transmit the documents, plans, and papers constituting the record regarding the case to the Board of Zoning Appeals.
    - c. The Zoning Administrator or Enforcement Official that is the subject of the appeal may provide a written report explaining the final decision or action on the case.

5. *Review:* The Board of Zoning Appeals shall hear the Administrative Appeal according to their Rules of Procedure. The Board of Zoning Appeals may consider information conveyed to them in writing and testimony during the hearing in making a decision.
6. *Decision:* Following the hearing and review, the Board of Zoning Appeals may reverse, affirm, or modify the decision, interpretation, order determination, or action from which the appeal stems. The Board of Zoning Appeals may also add conditions to its decision when warranted.
7. *Appeal:* Any person aggrieved by the decision of the Board of Zoning Appeals may appeal such decision to the Circuit or Superior Court of Steuben County.

## 9.08 Development Plan

### A. Applicability:

1. *Zoning Districts:* This process applies to the following zoning districts:



Development Plan Approval shall be required prior to an Improvement Location Permit being issued for:

- a. Permanent Construction, Installation, Addition, Alteration, or Relocation of a New Structure,
  - b. Permanent Alteration to the Land.
2. *Subdivisions:* For residential subdivisions, Development Plan Approval shall be reviewed concurrently with the final subdivision plat.

### B. Exemptions from Development Plan:

1. *Single-family detached residential:* Any lot being developed for a single-family detached residence or its accessory structures shall be exempt from Development Plan Approval. Only the Improvement Location Permit process shall apply.
2. *Agriculture Sites and Buildings:* Any lot being solely used for agricultural purposes shall be exempt from Development Plan Approval. Only the Temporary Improvement Location Permit process shall apply.
3. *Temporary Use of Land or Structure:* Any temporary use of land or structure shall be exempt from Development Plan Approval. Only the Improvement Location Permit process shall apply.
4. *Establish a New Land Use or Change an Existing Land Use:* Establishing a new land use or changing an existing land use shall be exempt from Development Plan Approval. Only the Improvement Location Permit process shall apply.

### C. Filing Requirements:

1. *Application:* Application for Development Plan Approval shall be made on a form provided by the Zoning Administrator. The following information shall be provided on the petition form.
  - a. Property owner's name, mailing address, phone number and/or email address.
  - b. Petitioner's name, mailing address, phone number, and/or email address, if different than owner.
  - c. Written detailed description of the proposed project.
  - d. Date submitted and signed.
  - e. Signature of the petitioner, testifying that they are authorized to represent the property.
  - f. Any other information requested on the petition form.
2. *Interested Parties:* A list of names and mailing addresses of all known property owners within 300 feet of the boundary of the proposed site shall be provided by the petitioner. The measurement shall include any property that is wholly or partially within the 300 foot boundary regardless if a road, river, railroad, or other physical barrier exists. This information may be obtained from the Steuben County Auditor's Office.
3. *For Permanent Construction, Installation, Addition, Alteration, or Relocation of a Structure:* The following supporting information, as applicable, shall be provided on a site plan, petition form, and/or as an attachment.
  - a. Projects involving non-inhabitable structures not mounted on a permanent foundation.
    - i. A drawing of the parcel with dimensions.
    - ii. The building envelope (i.e. the resulting developable area after applying setbacks).
    - iii. The location of existing structures (e.g. home, garage, sidewalk, or driveway).
    - iv. The location of the proposed structure.
    - v. A calculation of the existing lot coverage, expressed in a percentage.
    - vi. A calculation of the lot coverage as it would be upon completing the project, expressed in a percentage.
    - vii. An affidavit stating the proposed project is not located within a floodplain or easement.

- b. Projects involving non-inhabitable structures mounted on a permanent foundation.
    - i. All requirements of *Section 9.08(C)(3)(a)* for projects involving non-inhabitable structures not mounted on a permanent foundation.
    - ii. A scale drawing of the parcel with dimensions.
    - iii. Existing adjacent rights-of-way, street easements or alley easements, and the name of the street or alley if applicable.
    - iv. Easements on the parcel or adjacent to the parcel, including the name of the easement holder and a description of the terms of the easement.
    - v. Denotation of any existing structure on adjacent parcels if within twenty (20) feet of the subject parcel's property line.
  - c. Projects involving inhabitable buildings.
    - i. All requirements of *Section 9.08(C)(3)(b)* for projects involving non-inhabitable structures mounted on a permanent foundation.
    - ii. Denotation of the location of mature trees, greater than nine (9) inches in caliper.
    - iii. Elevation above sea level at the location of the project prior to alteration of land.
    - iv. If the Zoning Administrator suspects the intended site of an inhabitable building to be a wetland, the Zoning Administrator may request a determination by a soil scientist as to whether a wetland exists.
    - v. Denotation of adjacent zoning districts if different than the subject parcel.
    - vi. Location of existing or proposed drainage tile.
    - vii. Denotation of where utilities lines will be run to the building and whether they are above or below grade.
    - viii. Location of a septic system, reserve area for a replacement septic system, well, geothermal loop, or other on-site utility system.
    - ix. Denotation of any existing structure on adjacent parcels if within fifty (50) feet of the subject parcel's property line.
  - d. Complex or Unique Projects: The Zoning Administrator may require any additional information if reasonably necessary to determine if a complex or unique project complies with the provisions of this Unified Development Ordinance.
4. *For Permanent Alteration to the Land:* The following supporting information, as applicable, shall be provided on a site plan, petition form, and/or as an attachment.
- a. Projects that involve disturbing more than five percent (5%) of a parcel's area on a parcel less than five (5) acres in area, or disturbing any portion of a site greater than five (5) acres, or that results in more than 9,000 cubic feet of soil being disturbed (cumulative amount of soil added from one area and soil removed from another, not the net of soil added and removed).
    - i. A scale drawing of the parcel with dimensions.
    - ii. The location of existing structures (e.g. building, sidewalk, or driveway).
    - iii. Denotation of existing mature trees, greater than nine (9) inches in caliper.
    - iv. Denotation of floodplains, wetlands, rock formations, karst, natural lakes, streams, regulated drains, retention ponds, detention ponds, known drainage tile, inlets, outlets, monuments or markers, and drainage swales on the parcel and within seventy-five (75) feet of the parcel's property lines.
    - v. Two-foot contour lines of the existing parcel.
    - vi. Two-foot contours showing the parcel's contours as it would be upon completing the proposed project.
    - vii. Erosion control methodology, devices, locations, and maintenance strategy.
    - viii. Drainage evaluation of the existing parcel and as it would be upon completion of the proposed project with a characterization of the change to drainage onto adjacent properties, into drainage tile, or into surface water ways.
    - ix. Design cross-section of recreation ponds.

5. *Deadline:* Eight (8) hard copies of the Application for Development Plan Approval; eight (8) hard copies of all supporting information; one (1) digital copy of the Application for Development Plan Approval and supporting information in .pdf (portable document format); and one (1) digital copy of any drawings or plans in .dwg file format (if available) shall be submitted to the Plan Commission at least twenty-eight (28) days prior to the public meeting at which it is first to be considered by the Plan Commission.
6. *Fees:* Applicable fees shall be paid at the time the Application for Development Plan Approval is filed. Fees shall include reimbursement for any cost borne by the Plan Commission or Zoning Administrator to hire a professional engineer, professional planner, or other professional technician necessary to subsidize the Zoning Administrator's capabilities for review of the petition or proposed project.

D. Review Procedure:

1. *Assignment:* Development Plans which are determined to be substantially complete and in proper form by the Zoning Administrator, shall be assigned a case number and placed on the first available Plan Commission agenda that occurs at least twenty-eight (28) days after the substantially complete petition for Development Plan was submitted. The Zoning Administrator shall notify the petitioner in writing of the date of the meeting and provide the petitioner with a legal notice.
2. *Internal Review:* Upon assignment of a case number and hearing date, the applicable agencies and departments will be notified of the proposed Development Plan and asked to review and comment. The Zoning Administrator may submit a written report to the Plan Commission stating any facts concerning the physical characteristics of the area involved in the Development Plan, the surrounding land use, public facilities available to service the area, or other pertinent facts. The written report may also contain opinions of the Zoning Administrator concerning the Development Plan and information from other agencies that have reviewed the Development Plan. A copy of such report shall be made available to the petitioner and all remonstrators.
3. *Public Notice:* The following public notice standards apply to an Application for Development Plan Approval. All costs associated with providing public notice shall be borne by the petitioner.
  - a. The Zoning Administrator shall notify all interested parties of the public hearing in accordance with the Plan Commission Rules of Procedure.
  - b. The Zoning Administrator shall prepare a legal notice to be published in a newspaper of general circulation a minimum of ten (10) days before the public hearing.
  - c. The Zoning Administrator shall be responsible for providing proof of published notice to the Plan Commission and including proof in the case file.
4. *Attendance:* The petitioner shall be present at the Plan Commission meeting to address and discuss comments and concerns posed by the Plan Commission. Failure to appear shall result in the dismissal of the Application for Development Plan Approval.
5. *Public Hearing:* A public hearing shall be held in accordance with the Plan Commission Rules of Procedure.
6. *Review:* At their regularly scheduled public meeting, the Plan Commission shall review:
  - a. The Application for Development Plan Approval.
  - b. All supporting information including the site plan, site access and circulation plan, elevations, etc.
  - c. The testimony of the petitioner.
  - d. Information presented in writing or verbally by the Zoning Administrator or other applicable departments or agencies.
  - e. Input from the public during the public hearing.
  - f. Any applicable provisions of this Unified Development Ordinance.
  - g. Any applicable requirements of the *Town of Clear Lake Construction Standards*.
  - h. Any other information as may be required by the Plan Commission to evaluate the petition.

7. *Decision:* The Plan Commission shall make findings of fact and take final action or continue the Application for Development Plan Approval to a defined future meeting date.
  - a. *Findings of Fact:* The Plan Commission shall make the following findings of fact. Approval of findings may be in the form of a general statement. Disapproval of findings shall specify the portion of this Unified Development Ordinance or *Town of Clear Lake Construction Standards* with which there is not compliance.
    - i. The development plan is consistent with the *Town of Clear Lake Comprehensive Plan*.
    - ii. The development plan satisfies the development requirements of *Article 02: Zoning Districts*.
    - iii. The development plan satisfies the standards of *Article 05: Development Standards*.
    - iv. The development plan satisfies any other applicable provisions of this Unified Development Ordinance.
    - v. The development plan satisfies the construction requirements of the *Town of Clear Lake Construction Standards*.
  - b. *Final Action:* Based on the findings of fact, the Plan Commission shall approve, approve with conditions, or deny the Application for Development Plan Approval.
  - c. The findings of fact and final action shall be signed by the President of the Plan Commission.
  - d. The Zoning Administrator shall provide the petitioner a copy of the decision.
- E. *Duration:* An approved Development Plan shall be valid for a time frame consistent with *IC 36-7-4-1109* from the date the Plan Commission granted approval. If development of the project has not begun within a time frame consistent with *IC 36-7-4-1109*, the approval expires and a new Application for Development Plan Approval shall be submitted.
- F. *Modification:*
  1. *Minor Amendments:* Minor amendments to approved Development Plans which do not involve an increase in height, area, bulk or intensity of land uses; the designation of additional land uses; a reduction in yards; the addition of driveways or access points; or a reduction in the amount of parking may be authorized by the Zoning Administrator without a public hearing, if the requested minor amendments do not adversely impact the purpose or intent of the overall development. Minor amendments authorized by the Zoning Administrator shall be reported, in writing, to the Plan Commission at the next regular meeting of the Plan Commission.
  2. *Major Amendments:* If the Zoning Administrator determines that the proposed modification may adversely impact the purpose or intent of the overall development; or if the proposed modification includes an increase in intensity of any land use; or if the proposed modification includes the designation of an additional land use, the petitioner shall be required to file a new Application for Development Plan Approval.



## 9.09 Planned Development; General

### A. Purpose and Intent:

1. *Generally:* A Planned Development zoning district may be used to provide for:
  - a. Greater flexibility in applying the ordinances to mixed zoning classifications.
  - b. Innovative approaches to meet the demands of the housing, commercial, and business markets.
  - c. The recognition of the interdependency of the housing, commercial, and business markets.
  - d. The establishment of creative and unique developments that would not otherwise be able to be developed under the provisions of the Town's standard zoning district regulations.
  - e. The planning and development of mixed zoning classifications to be consistent with the best interest of the jurisdictional area of the Plan Commission, and the applicable ordinances.
2. *Process Outline:* The three (3) steps of the Planned Development process are listed below and explained in detail in the following Sections.
  - a. The Planned Development District Ordinance and Establishment Plan.
  - b. The Planned Development Detailed Development Plan.
  - c. The Planned Development Final Development Plan.



## 9.10 Planned Development; District Ordinance and Establishment Plan

### A. Purpose and Intent:

1. *Planned Development District Ordinance:* The purpose of the Planned Development District Ordinance is to:
  - a. Designate, or rezone, a parcel of land as a Planned Development District.
  - b. Specify uses or a range of uses permitted in the Planned Development District.
  - c. Specify development requirements in the Planned Development District.
  - d. Specify the plan documentation and supporting documentation that may be required.
  - e. Specify any limitation applicable to the Planned Development District.
  - f. Meet the requirements of *IC 36-7-4-1500 et seq.*
2. *Establishment Plan:* The purpose of an Establishment Plan is to delineate basic elements such as land uses, vehicular and pedestrian traffic patterns, drainage, perimeter buffer yards, and the like.

### B. Project Applicability: Proposals for new Planned Developments shall meet the standards of this Section.

### C. Prerequisites:

1. *Ownership:* Planned Developments shall be initiated by the owners of the land involved in the development or the owner's authorized agent. If an authorized agent files a petition, a signed and notarized consent form from all owners shall accompany the petition.
2. *Pre-petition Meeting:* Prior to submitting an Application for a Planned Development, the petitioner shall meet with the Zoning Administrator to review the zoning classification of the site, review regulatory ordinances and materials, review the procedures and examine the proposed use and development of the property.
3. *Base Zoning:* The property shall be zoned AG, RE, or SR prior to applying for a Planned Development.

### D. Filing Requirements:

1. *Application:* Application for a Planned Development shall be made on a form provided by the Zoning Administrator.
2. *Supporting Information:* The Application for a Planned Development shall be accompanied by the following information.
  - a. A list of names and mailing addresses of all known property owners within 300 feet of the boundary of the proposed site. The measurement shall include any property that is wholly or partially within the 300 foot boundary regardless if a road, river, railroad, or other physical barrier exists. This information may be obtained from the Steuben County Auditor's Office.
  - b. Survey and legal description of the proposed site of the Planned Development.
  - c. The Establishment Plan that conceptually delineates the basic physical elements of the Planned Developments including land use, circulation, and perimeter buffers.
  - d. A draft of the Planned Development District Ordinance that includes proposed development standards for all land uses within the Planned Development.
  - e. Any other information requested in writing by the Plan Commission or Zoning Administrator.
3. *Deadline:* Eight (8) hard copies of the Application for a Planned Development; eight (8) hard copies of all supporting information; one (1) digital copy of the Application for a Planned Development and all supporting information in .pdf (portable document format); and one (1) digital copy of any drawings in .dwg file format (if available) shall be submitted twenty-eight (28) days prior to the public meeting at which it is first to be heard by the Plan Commission.
4. *Fees:* Applicable fees shall be paid at the time the Application for a Planned Development is filed. Fees shall include reimbursement for any cost borne by the Plan Commission or Zoning Administrator to hire a professional engineer, professional planner, or other professional technician necessary to subsidize the Zoning Administrator's capabilities for review of the petition or proposed project.

E. Formal Procedure:

1. *Assignment:* An Application for a Planned Development, which is determined to be complete and in proper form by the Zoning Administrator, shall be assigned a case number and placed on the first Plan Commission agenda that occurs twenty-eight (28) days after the Planned Development was submitted in its entirety. The Zoning Administrator shall notify the petitioner in writing of the date of the meeting.
2. *Internal Review:* Upon assignment of a case number and hearing date, the Zoning Administrator shall review the Application for a Planned Development and all supporting information. While the Establishment Plan is conceptual, the Zoning Administrator may forward the Establishment Plan and any other relevant information to the Plan Commission legal counsel and applicable agencies and departments. The Zoning Administrator may submit a written report to the Plan Commission stating facts concerning the physical characteristics of the area involved in the Planned Development, the surrounding land use, public facilities available to service the area, or other pertinent facts. The written report may also contain opinions of the Zoning Administrator concerning the Planned Development and information from any other agencies that reviewed the Planned Development. A copy of such report shall be made available to the petitioner and all remonstrators.
3. *Public Notice:* The following public notice standards apply to an Application for a Planned Development. All costs associated with providing public notice shall be borne by the petitioner.
  - a. The Zoning Administrator shall notify all interested parties of the public hearing in accordance with the Plan Commission's Rules.
  - b. The Zoning Administrator shall publish legal notice in a newspaper of general circulation a minimum of ten (10) days before the public hearing.
  - c. The Zoning Administrator shall be responsible for providing proof of published notice to the Plan Commission and including proof in the case file.
4. *Attendance:* The petitioner shall be present at the Plan Commission meeting to explain the proposed Planned Development and address and discuss comments and concerns posed by the Plan Commission. Failure to appear shall result in the dismissal of the Application for a Planned Development.
5. *Public Hearing:* A public hearing shall be held in accordance with the Plan Commission Rules of Procedure.
6. *Review:* At their regularly scheduled public meeting, the Plan Commission shall review:
  - a. Application for a Planned Development.
  - b. Planned Development District Ordinance draft.
  - c. Establishment Plan.
  - d. *The Town of Clear Lake Comprehensive Plan.*
  - e. Current conditions and the character of current structures and uses in the area.
  - f. The most desirable use for which the land in the area is adapted.
  - g. The conservation of property values throughout the jurisdiction.
  - h. Responsible development and growth.
  - i. The testimony of the petitioner.
  - j. Relevant evidence presented by other persons.
  - k. The limitations, standards, and requirements of *Article 04: Planned Development District.*
  - l. Any applicable provisions of this Unified Development Ordinance.
  - m. The Zoning Administrator's report or any other documents provided by other departments or agencies.
  - n. Any other additional information as may be required by the Plan Commission to evaluate the petition.

7. *Decision*: The Plan Commission shall take final action or continue the Application for a Planned Development to a defined future meeting date.
  - a. *Final Action*: The Plan Commission shall certify and forward the Application for a Planned Development to the Town Council with:
    - i. A favorable recommendation.
    - ii. A favorable recommendation and with recommendations for commitments and/or conditions.
    - iii. An unfavorable recommendation.
    - iv. No recommendation.
  - b. *Revisions*: If the certified version of the Planned Development District Ordinance or Establishment Plan was revised during the process of Plan Commission review, the Zoning Administrator shall make the revisions to the Planned Development District Ordinance and the petitioner shall make the revisions to the Establishment Plan so the Town Council receives the certified versions of the Planned Development District Ordinance and Establishment Plan.
8. *Commitments and Conditions*: In conjunction with its recommendation to the Town Council, the Plan Commission may recommend written commitments and/or conditions for approval. Commitments and/or conditions shall be recorded in the Office of the Steuben County Recorder within thirty (30) days of the Town Council's approval of the Planned Development District Ordinance and Establishment Plan. The petitioner shall deliver a copy of the recorded commitments and/or conditions to the Zoning Administrator before proceeding with Step 2 and filing a Planned Development Detailed Development Plan.
- F. *Duration*: If Step 2, a Planned Development Detailed Development Plan, has not been filed within a time frame consistent with IC 36-7-4-1109 from the date the Town Council approved the Planned Development District Ordinance and the Establishment Plan, the approval expires and a new Application for a Planned Development shall be submitted.
- G. *Modification*:
  1. *Planned Development District Ordinance*: An amendment to the text of the Planned Development District Ordinance shall follow the process in Section 9.18: *Unified Development Ordinance; Text Amendment*.
  2. *Establishment Plan*: Modification to an Establishment Plan shall be explained and illustrated during a Planned Development Detailed Development Plan review and approval process, unless the Zoning Administrator determines the modification is significant enough to change the character and intent of the Planned Development. In such cases, a new Application for a Planned Development shall be required.
  3. *Commitments and Conditions*: Commitments and conditions associated with a Planned Development District Ordinance and Establishment Plan shall only be modified or terminated by a decision of the Town Council made at a public hearing.

## 9.11 Planned Development; Detailed Development Plan

- A. Purpose and Intent: The Planned Development Detailed Development Plan shall provide the Plan Commission with the opportunity to review the details of the site plan and determine compliance with the Planned Development District Ordinance. If the Planned Development involves the subdivision of land, this step also serves as the Primary Plat.
- B. Project Applicability: Proposals for new Planned Developments shall meet the standards of this Section.
- C. Prerequisites:
  1. *Planned Development District Ordinance and Establishment Plan*: The Planned Development District Ordinance and Establishment Plan shall be approved by the Town Council prior to submitting a Planned Development Detailed Development Plan. If approval included commitments and/or conditions, those commitments and/or conditions shall be recorded in the Office of the Steuben County Recorder.
- D. Filing Requirements:
  1. *Application*: Application for a Planned Development should be on file with the Zoning Administrator from the Planned Development District Ordinance and the Establishment Plan.
  2. *Supporting Information*: The following information shall be submitted for the Planned Development Detailed Development Plan review process.
    - a. An updated list of names and mailing addresses of all known property owners within 300 feet of the boundary of the proposed site. The measurement shall include any property that is wholly or partially within the 300 foot boundary regardless if a road, river, railroad, or other physical barrier exists. This information may be obtained from the Steuben County Auditor's Office.
    - b. A Site Plan, drawn to a scale no greater than one inch equals one hundred feet (1"=100'), that includes the following items:
      - i. North arrow.
      - ii. Graphic scale.
      - iii. Address of the site.
      - iv. Proposed name of the development.
      - v. Area map insert showing the general location of the site referenced to major streets.
      - vi. Boundary lines of the site including all dimensions of the site.
      - vii. Names, center lines, and right-of-way widths of all streets, alleys, and easements.
      - viii. Layout, number, dimension, and area of all lots.
      - ix. Location and dimensions of all existing and proposed structures, including paved areas, entryway features, and signs.
      - x. Location of all floodway, floodway fringe areas, and wetlands within the boundaries of the site.
      - xi. Use of each structure by labeling including approximate density or size of all proposed uses and structures on the site (e.g. parking - number of parking spaces provided; office - floorarea).
      - xii. Distance of all structures from front, rear, and side lot lines.
      - xiii. Areas reserved for park, recreation, conservation, wetland, common area, lake, trails, or other similar uses.
      - xiv. Proposed landscaping buffers or landscaped areas.
      - xv. Any other information necessary to support a thorough review of the project and as requested in writing by the Plan Commission or the Zoning Administrator.
    - c. Representative building elevations for facades of residential and non-residential primary structures shall be drawn to scale and include the following items:
      - i. Proposed name of the development.
      - ii. Graphic scale.
      - iii. Specification of the type and color of building materials to be used for wall, window, roof, and other architectural features.
      - iv. Placement, size, color, and illumination details for any proposed wall sign.
      - v. Any other information necessary to support a thorough review of the project and as requested in writing by the Plan Commission or the Zoning Administrator.

- d. Site Access and Circulation Plan shall be required, but may be incorporated into the required Site Plan or may be submitted as a separate plan. It shall be drawn to a scale no greater than one inch equals one hundred feet (1"=100').
  - i. North arrow.
  - ii. Graphic scale.
  - iii. Address of site.
  - iv. Proposed name of the development.
  - v. Names, center lines, and right-of-way widths of all existing and proposed streets, alleys, and easements within 100 feet of the site.
  - vi. Location of any proposed or existing driveways onto a street or alley and its width at the lot line.
  - vii. All improvements to the street system on-site and off-site.
  - viii. Measurement of curb radius and/or flares.
  - ix. Location of proposed and existing sidewalk or sidepath.
  - x. Any other information necessary to support a thorough review of the project and as requested in writing by the Plan Commission or the Zoning Administrator.
- e. A Utility Plan shall be drawn to a scale no greater than one inch equals one hundred feet (1"=100'), and shall include the following items:
  - i. Location of all existing and proposed utility easements.
  - ii. Location and size of all existing and proposed utility components including, but not limited to sanitary sewer components, water components, storm water components, electric, gas, telephone, and cable.
  - iii. Location and illumination capacity of all lights.
  - iv. Names of legal ditches and streams in or adjacent to the site.
  - v. Contours sufficient to illustrate storm water runoff.
  - vi. Storm water drainage plan including estimated runoff.
  - vii. Any other information necessary to support a thorough review of the project and as requested in writing by the Plan Commission or the Zoning Administrator.
- f. Traffic Impact Study.
  - i. A Traffic Impact Study shall be required when a proposed development meets or exceeds the warrants of the Indiana Department of Transportation Traffic Impact Study Guidelines (150 or more dwelling units; 15,000 square feet or more of retail space; 35,000 or more square feet of office space; 70,000 square feet or more square feet of industrial space; 30,000 square feet or more of educational space; 120 or more occupied rooms; 46,000 or more square feet of medical space; or any mixed-use development which generates 100 or more peak hour trips in the peak direction).
  - ii. A registered professional engineer shall prepare and certify the Traffic Impact Study. The Traffic Impact Study shall evaluate the impact of present and future traffic generated by the proposed development on the adjacent roadway system. Prior to commencement, the petitioner shall meet with the Zoning Administrator to determine an appropriate scope for the Traffic Impact Study.
- g. Statement of Development Build-out: The petitioner shall indicate, either on the required Site Plan or in writing, a statement of:
  - i. The order of development of the major infrastructure elements of the project.
  - ii. Project phase boundaries, if any.
  - iii. The order and content of each phase.
  - iv. An estimate of the time frame for build-out of the project.
- h. Landscape Plan: The petitioner shall indicate, either on the required Site Plan or on a separate landscape plan, existing and proposed green space and landscaping on the site showing how the proposed landscaping meets or exceeds the standards detailed in *Section 7.17: Perimeter Landscaping Standards* and *Section 5.35 through Section 5.41 (Landscaping Standards)*.

3. *Deadline:* Eight (8) hard copies of the Application for a Planned Development; eight (8) hard copies of all supporting information; one (1) digital copy of the Application for a Planned Development and all supporting information in .pdf (portable document format); and one (1) digital copy of any drawings in .dwg file format (if available) shall be submitted twenty-eight (28) days prior to the public meeting at which it is first to be heard by the Plan Commission.
4. *Fees:* Applicable fees shall be paid at the time when the Planned Development Detailed Development Plan is filed. Fees shall include reimbursement for any cost borne by the Plan Commission or Zoning Administrator to hire a professional engineer, professional planner, or other professional technician necessary to subsidize the Zoning Administrator's capabilities for review of the petition or proposed project.

E. Formal Procedure:

1. *Assignment:* A Planned Development Detailed Development Plan, which is determined to be complete and in proper form by the Zoning Administrator, shall be assigned a case number and placed on the first Plan Commission agenda that occurs twenty-eight (28) days after the Planned Development Detailed Development Plan was submitted in its entirety. The Zoning Administrator shall notify the petitioner in writing of the meeting date.
2. *Internal Review:* Upon assignment of a case number and hearing date, the applicable agencies will be notified of the proposed Planned Development Detailed Development Plan and asked to review and comment. Following a thorough review, the Zoning Administrator may submit a written report to the Plan Commission stating any facts concerning the physical characteristics of the area involved in the Planned Development Detailed Development Plan, the surrounding land use, public facilities available to service the area, or other pertinent facts. The written report may also contain opinions of the Zoning Administrator concerning the Planned Development Detailed Development Plan and information from the other agencies that have reviewed the Planned Development Detailed Development Plan. A copy of such report shall be made available to the petitioner and all remonstrators.
3. *Public Notice:* The following public notice standards apply to a Planned Development Detailed Development Plan. All costs associated with providing public notice shall be borne by the petitioner.
  - a. The Zoning Administrator shall notify all interested parties of the public hearing in accordance with the Plan Commission Rules of Procedure.
  - b. The Zoning Administrator shall prepare a legal notice to be published in a newspaper of general circulation a minimum of ten (10) days before the public hearing.
  - c. The Zoning Administrator shall be responsible for providing proof of published notice to the Plan Commission and including proof in the case file.
4. *Attendance:* The petitioner shall be present at the Plan Commission meeting to address and discuss comments and concerns posed by the Plan Commission. Failure to appear may result in the dismissal of the Planned Development.
5. *Public Hearing:* A public hearing shall be held in accordance with the Plan Commission Rules of Procedure.
6. *Review:* At their regularly scheduled public meeting, the Plan Commission shall review:
  - a. The original Application for a Planned Development.
  - b. Approved Planned Development District Ordinance.
  - c. Approved Establishment Plan.
  - d. All supporting information including the site plan, site access and circulation plan, elevations, utility plan, statement of development build out, landscape plan, and, if applicable the traffic impact study.
  - e. The testimony of the petitioner.
  - f. Information presented in writing or verbally by the Zoning Administrator or applicable departments and agencies.
  - g. Input from the public during the public hearing.
  - h. Any applicable requirements of the *Town of Clear Lake Construction Standards*.
  - i. The limitations, standards, and requirements of *Article 04: Planned Development District*.
  - j. Any applicable provisions of this Unified Development Ordinance.
  - k. The Zoning Administrator's report or any other documents provided by other departments or agencies.
  - l. Any other additional information as may be required by the Plan Commission to evaluate the petition.



7. *Decision:* The Plan Commission shall make findings of fact and take final action or continue the Planned Development Detailed Development Plan to a defined future meeting date.
  - a. *Findings of Fact:* The Plan Commission shall make the following findings of fact. Approval of findings may be in the form of a general statement. Disapproval of findings shall specify the portion of the Planned Development District Ordinance, this Unified Development Ordinance, or *Town of Clear Lake Construction Standards* with which there is not compliance.
    - i. The Planned Development Detailed Development Plan is consistent with the *Town of Clear Lake Comprehensive Plan*.
    - ii. The Planned Development Detailed Development Plan is consistent with *Article 04: Planned Development District*.
    - iii. The Planned Development Detailed Development Plan satisfies the development standards of the approved Planned Development District Ordinance.
    - iv. The Planned Development Detailed Development Plan satisfies the construction requirements of the *Town of Clear Lake Construction Standards*.
  - b. *Final Action:* Based on the findings of fact, the Plan Commission shall approve, approve with conditions, or deny the Planned Development Detailed Development Plan. If conditions are required, the conditions shall be recorded in the Office of the Steuben County Recorder within thirty (30) days of the Plan Commission's approval of the Planned Development Detailed Development Plan. The petitioner shall deliver a copy of the recorded conditions to the Zoning Administrator before filing a Planned Development Final Development Plan.
  - c. The findings and final decision shall be signed by the President of the Plan Commission.
  - d. The Zoning Administrator shall provide the petitioner a copy of the final decision.
- F. *Duration:* An approved Planned Development Detailed Development Plan shall be valid for a time frame consistent with *IC 36-7-4-1109* from the date the Plan Commission granted approval. If development of the project has not commenced within a time frame consistent with *IC 36-7-4-1109* the approval expires and an Application for a Planned Development (District Ordinance and Establishment Plan) shall be required.
- G. *Modification:*
  1. *Minor Amendments:* A minor amendment to an approved Planned Development Detailed Development Plan which does not involve an increase in height, area, bulk or intensity of land uses; the designation of additional land uses; a reduction in yards; the addition of driveways or access points; or a reduction in the amount of parking may be authorized by the Zoning Administrator without a public hearing, if the requested minor amendment does not adversely impact the purpose or intent of the overall development. Minor amendments authorized by the Zoning Administrator shall be reported, in writing, to the Plan Commission at the next regular meeting of the Plan Commission.
  2. *Major Amendments:* If the Zoning Administrator determines that the proposed modification may adversely impact the purpose or intent of the overall development; or if the proposed modification includes an increase in intensity of any land use; or if the proposed modification includes the designation of an additional land use, the petitioner shall be required to file a new Planned Development Detailed Development Plan.

## 9.12 Planned Development; Final Development Plan

- A. Purpose and Intent: The Planned Development Final Development Plan shall clearly define all construction matters and special conditions such as construction techniques, materials and the like, as well as prepare the plans and documents for recording. If the Planned Development involves the subdivision of land, this step also serves as the Secondary Plat Approval.
- B. Project Applicability: Proposals for new Planned Developments shall meet the standards of this Section.
- C. Prerequisites:
  1. *Planned Development Detailed Development Plan*: The Planned Development Detailed Development Plan shall be approved by the Plan Commission prior to submitting a Planned Development Final Development Plan. If Planned Development Detailed Development Plan approval included conditions, those conditions shall be recorded in the Office of the Steuben County Recorder.
  2. *Infrastructure*: A Planned Development shall have all of the infrastructure improvements proposed in the Planned Development Detailed Development Plan that are intended to be dedicated to the Town installed to meet the *Town of Clear Lake Construction Standards*, or the petitioner shall have financial security for the cost of the infrastructure improvements in compliance with *Section 7.26: Surety Standards*.
- D. Filing Requirements:
  1. *Application*: The petitioner shall submit a letter stating the status of infrastructure improvements and requesting Planned Development Final Development Plan Approval. The original Application for a Planned Development should be on file with the Zoning Administrator from the Planned Development District Ordinance and the Establishment Plan.
  2. *Supporting Information*: The following information shall accompany the petitioner's letter requesting Planned Development Final Development Plan Approval.
    - a. Accurate location of all monuments, if applicable.
    - b. If infrastructure improvements are complete, the supporting information shall include as-built drawings of each infrastructure system, and copies of any required inspections or certifications.
    - c. If infrastructure improvements intended to be dedicated to the Town are not complete, the supporting information shall include detailed descriptions and locations of infrastructure to be installed, estimates from contractors for all infrastructure improvements, and a performance bond for the total amount of the infrastructure improvements.
    - d. Any other information necessary to support a thorough review of the project that is requested, in writing, by the Zoning Administrator or Plan Commission.
  3. *Deadline*: Planned Development Final Development Plan Approval shall be requested within a time frame consistent with *IC 36-7-4-1109* from the date the Plan Commission approved the Planned Development Detailed Development Plan.
  4. *Fees*: Applicable fees shall be paid at the time the request for Planned Development Final Development Approval is filed. Fees shall include reimbursement for any cost borne by the Plan Commission or Zoning Administrator to hire a professional engineer, professional planner, or other professional technician necessary to subsidize the Zoning Administrator's capabilities for review of the petition or proposed project.



E. Formal Procedure:

1. *Assignment:* The Zoning Administrator shall review the letter requesting Planned Development Final Development Plan Approval and all supporting information. Based on the history and the complexity of the project, the Zoning Administrator shall determine if the Planned Development Final Development Plan should be presented to the Plan Commission. Should the Zoning Administrator determine Plan Commission review is necessary, the Zoning Administrator shall assign the Planned Development Final Development Plan a case number and place it on the first Plan Commission agenda that occurs twenty-eight (28) days after the request for Planned Development Final Development Plan approval was submitted in its entirety. The Zoning Administrator shall notify the petitioner in writing if Plan Commission review is necessary and the date of the meeting, if applicable.
  2. *Review:* The Zoning Administrator shall provide the letter requesting Planned Development Final Development Plan approval, the supporting information, and a comment sheet to all applicable departments and agencies. Each department shall determine if the infrastructure improvements installed or proposed to be installed meet the *Town of Clear Lake Construction Standards* and establish adequate connection to the existing and future systems. If applicable, each department shall also review applicable cost estimates for reasonableness. Each department shall return the comment sheet with any comments or concerns concerning the infrastructure or the project. If it has been determined that Plan Commission review is required, the comment sheets shall be forwarded to the Plan Commission for review at the meeting.
  3. *Public Notice:* Notice and public hearing shall not be required for Planned Development Final Development Plan.
  4. *Decision:* Based on comments from departments, the Zoning Administrator or the Plan Commission shall approve, approve with conditions, or deny Planned Development Final Development Plan.
- F. Duration: An approved Planned Development Final Development Plan and any conditions shall be recorded in the Office of the Steuben County Recorder within three (3) months of the date of approval or become null and void.

## 9.13 Special Exception


- A. Purpose and Intent: A special exception use is a use for which certain conditions must be met before it can be established at a specific location. The use may be permitted by the Board of Zoning Appeals if certain conditions are met.
- B. Project Applicability: Only uses listed as "special exceptions" in the two-page layouts in *Article 02: Zoning Districts* shall be considered for approval by the Board of Zoning Appeals.
- C. Prerequisites: An Application for a Special Exception shall be filed by the owner, the owner's agent, or any person having a legal or equitable interest in the subject property, but the written authorization of any owner who is not a petitioner shall be required.
- D. Filing Requirements:
  - 1. Application: An Application for a Special Exception shall be made on forms provided by the Board of Zoning Appeals.
  - 2. Supporting Information: The following items shall accompany a completed Application for a Special Exception.
    - a. A list of names and mailing addresses of all known property owners within 300 feet of the boundary of the proposed site. The measurement shall include any property that is wholly or partially within the 300-foot boundary regardless if a road, river, railroad, or other physical barrier exists. This information may be obtained from the Steuben County Auditor's Office.
    - b. Detailed description of the proposed use and applicable plans and drawings of structure and the proposed site shall accompany the Application for a Special Exception. All submitted drawings shall be to scale. Any other information necessary to support a thorough review of the project and as requested in writing by the Board of Zoning Appeals or the Zoning Administrator.
  - 3. Deadline: An Application for a Special Exception shall be filed at least twenty-eight (28) days prior to the public meeting at which it is first to be considered by the Board of Zoning Appeals.
  - 4. Fees: Applicable fees shall be paid at the time the Application for a Special Exception is filed. Fees shall include reimbursement for any cost borne by the Board of Zoning Appeals or Zoning Administrator to hire a professional engineer, professional planner, or other professional technician necessary to subsidize the Zoning Administrator's capabilities for review of the petition or proposed project.

E. Formal Procedure:

1. *Assignment:* An Application for a Special Exception, which is determined to be complete and in proper form by the Zoning Administrator, shall be assigned a case number and placed on the first Board of Zoning Appeals agenda that occurs twenty-eight (28) days after the Application for a Special Exception was submitted in its entirety. The Zoning Administrator shall notify the petitioner in writing of the meeting date.
2. *Internal Review:* Upon assignment of a number and hearing date, the Zoning Administrator may ask applicable departments to review and comment. The Zoning Administrator may submit a written report to the Board of Zoning Appeals stating any facts concerning the physical characteristics of the area involved, the surrounding land use, public facilities available to service the area, or other pertinent facts. The written report may also contain opinions of the Zoning Administrator concerning the Application for a Special Exception and/or information from other departments that have reviewed the Application for a Special Exception. A copy of such report shall be made available to the petitioner and all remonstrators.
3. *Public Notice:* The following public notice standards apply to an Application for a Special Exception. All costs associated with providing public notice shall be borne by the petitioner.
  - a. The Board of Zoning Appeals shall notify all interested parties of the public hearing in accordance with the Board of Zoning Appeals Rules of Procedure.
  - b. The Board of Zoning Appeals shall publish legal notice in a newspaper of general circulation a minimum of ten (10) days before the public hearing.
4. *Attendance:* The petitioner shall be present at the Board of Zoning Appeals meeting to present the Application for a Special Exception and to address and discuss comments and concerns. Failure to appear shall result in the dismissal of the Application for a Special Exception.
5. *Public Hearing:* A public hearing shall be held in accordance with the Board of Zoning Appeals Rules of Procedure.
6. *Review:* At their regularly scheduled public meeting, the Board of Zoning Appeals shall review
  - a. The Application for a Special Exception.
  - b. Supporting information.
  - c. Presentation by the petitioner.
  - d. Information presented in writing or verbally by the Zoning Administrator or other applicable department or agency.
  - e. Input from the public during the public hearing.
  - f. Applicable provisions of this Unified Development Ordinance.
  - g. Any other additional information as may be required by the Board of Zoning Appeals to evaluate the petition.

7. *Decision*: The Board of Zoning Appeals shall make findings of fact and take final action or continue the Application for a Special Exception to a defined future meeting date.
  - a. Findings of Fact: The Board of Zoning Appeals shall make the following findings of fact. Approval of findings may be in the form of a general statement. Disapproval of findings shall specify the reason for non-compliance.
    - i. The proposed Special Exception is consistent with the purpose of the zoning district and the *Town of Clear Lake Comprehensive Plan*.
    - ii. The proposed Special Exception will not be injurious to the public health, safety, morals and general welfare of the community.
    - iii. The proposed Special Exception is in harmony with all adjacent land uses.
    - iv. The proposed Special Exception is in harmony with nearby and adjacent environmental features and Clear Lake.
    - v. The proposed Special Exception will not alter the character of the district; and
    - vi. The proposed Special Exception will not substantially impact property value in an adverse manner.
  - b. Final Action:
    - i. If the Board of Zoning Appeals finds all of the findings of fact in the affirmative, it shall approve or approve with conditions and/or commitments the Application for a Special Exception.
    - ii. If the Board of Zoning Appeals does not find all of the findings of fact in the affirmative, it shall deny the Application for a Special Exception.
  - c. Commitments and Conditions:
    - i. Commitments: The Board of Zoning Appeals may require the owner to make a written commitment. Commitments shall be recorded in the Office of the Steuben County Recorder. A recorded commitment is binding on the owner of the land, any subsequent owner of the land, and any person who acquires interested in the land.
    - ii. Conditions: The Board of Zoning Appeals may require certain conditions for approval.
- F. Duration: The granting of a Special Exception authorizes the use to run with the land unless conditions to the contrary are placed on the approval. If construction of structures or occupancy of existing structures has not commenced within a time frame consistent with IC 36-7-4-1109 from the date the Special Exception was granted by the Board of Zoning Appeals, the approval shall be null and void.
- G. Modification: If the Zoning Administrator determines a proposed modification or intensification represents an alteration in the essential character of the original Special Exception use as approved by the Board of Zoning Appeals, a new approval of the Special Exception use shall be required. The operator of the Special Exception use shall provide the Zoning Administrator with all the necessary information to render this determination.

## 9.14 Subdivision of Land; Minor Subdivision Plat

- A. Purpose and Intent: A Minor Subdivision Plat shall provide the Plan Commission with the opportunity to expedite a subdivision approval when the major subdivision process requires excessive scrutiny. A Minor Subdivision Plat is streamlined by requiring less support material and by allowing final plat approval to be conducted administratively following the primary plat approval.
- B. Project Applicability: A Minor Subdivision Plat can be used to subdivide property within the jurisdictional area of the Plan Commission, but only if the proposed division meets the "Applicable Districts" and "Prerequisites" standards written below.
1. Applicable Districts: The minor subdivision of land shall occur only in the following zoning districts:  

  2. Replats: A replat shall consist of two (2) processes. First, the plat, or the portion of the plat, shall be vacated in accordance with IC 36-7-3-10 and IC 36-7-3-11. Then, the property shall be platted using the Minor or Major Subdivision Plat process.
  3. Exemptions: Condominiums regulated by IC 32-25 are exempt from this subdivision process outlined in this Unified Development Ordinance.
- C. Prerequisites:
1. Eligible Petitioner: A petition for a Minor Subdivision Primary Plat shall be initiated by the owner of the land involved in the development or the owner's authorized agent. If an authorized agent files a petition, a signed and notarized consent form from the owner shall accompany the petition.
  2. Restrictions: A proposed division of land that includes one (1) or more of the following shall not be permitted to utilize the Minor Subdivision Plat process:
    - a. A new roads or improvements to existing roads,
    - b. Divisions of land that result in three (3) or more total parcels (i.e. splitting one lot into three),
    - c. Divisions of land that result in new or modified easements,
    - d. A subdivision that requires more than one (1) waiver from the applicable design standards or allowable procedural prerequisites; see Section 9.14(D)(4)(a), or
    - e. Common area is required in Article 06: Subdivision Types or Article 07: Design Standards; excluding a shared driveway.
- D. Primary Plat Filing Requirements:
1. Application: A petition for a Minor Subdivision Primary Plat shall be made on forms provided by the Zoning Administrator.
  2. Supporting Information: The following supporting information shall accompany a completed petition for a Minor Subdivision Primary Plat. The Zoning Administrator may waive, in writing, the submittal of clearly unnecessary information relative to the petition.
    - a. A list of names and mailing addresses of all known property owners within 300 feet of the boundary of the parent tract. The measurement shall include any property that is wholly or partially within the 300-foot boundary regardless if a road, river, railroad, or other physical barrier exists. This information may be obtained from the Steuben County Auditor's Office.
    - b. Legal description of the subject site.
  3. Site Plan: A Site Plan, drawn to a scale no greater than one inch equals one hundred feet (1"=100'), that includes the following items:
    - a. Name and address of the petitioner,
    - b. North arrow and graphic scale,
    - c. Proposed address for each lot,
    - d. Adjacent streets, sidewalks, and easements,
    - e. Boundary lines of the site including all lot dimensions of the site proposed to be subdivided,
    - f. Proposed subdivision lines, all lot dimensions, lot area, and building setback lines on the proposed lots,
    - g. Footprint and dimensions of existing structures with measurements to property lines,
    - h. Stamp of registered professional engineer, surveyor, landscape architect or architect, and
    - i. Any other information necessary to support a thorough review of the project and as requested in writing by the Plan Commission or the Zoning Administrator.

4. *Request For Waivers:*

- a. *Procedural Prerequisites:* The Plan Commission shall consider a request for waiver for divisions of land that result in more than three (3) parcels when no public streets are being constructed (See Section 9.14(C)(2)(b)). All other procedural prerequisites shall be non-waivable.
  - b. *Design Standards:* The Plan Commission shall consider a request for waiver to amend any applicable design standard in Article 6: Subdivision Types or Article 7: Design Standards that imposes a hardship on the proposed development.
  - c. *Waiver Decisions:* Granting a waiver shall be subject to the following findings of fact.
    - i. *Comprehensive Plan:* The proposed waiver is consistent with the content and intent of the *Town of Clear Lake Comprehensive Plan*.
    - ii. *Unified Development Ordinance:* The proposed waiver is consistent with the intent of the *Town of Clear Lake Unified Development Ordinance*.
    - iii. *Contextual Impact:* The proposed waiver will not cause notable loss to nearby property values.
    - iv. *Hardship:* The proposed waiver will grant the minimum necessary relief from a design standard that, if applied to the proposed development, will result in a hardship. The hardship test does not apply to proposed waivers from procedural prerequisites.
5. *Deadline:* Eight (8) hard copies of the petition for a Minor Subdivision Primary Plat; eight (8) hard copies of all supporting information; one (1) digital copy of the petition for Minor Subdivision Plat and all supporting information in .pdf (portable document format); and one (1) digital copy of any drawings in .dwg file format (if available) shall be submitted twenty-one (21) days prior to the public meeting at which it is first to be heard by the Plan Commission.
6. *Fees:* The applicable fees from the Town of Clear Lake's fee schedule shall be paid at the time the petition for a Minor Subdivision Primary Plat is filed. A petition without the appropriate petition fees shall not be considered substantially complete. When specific technical expertise is necessary, the Town of Clear Lake may hire a professional consultant to conduct portions of the review at the expense of the petitioner and as per the Town of Clear Lake's fee schedule.


E. Primary Plat Procedure:

1. *Assignment:* A petition for Minor Subdivision Primary Plat, which is determined to be complete and in proper form by the Zoning Administrator, shall be assigned a case number and placed on the first Plan Commission agenda that occurs at least ten (10) days after the date the legal notice was published or notices were mailed. The Zoning Administrator shall notify the petitioner in writing of the meeting date.
2. *Zoning Administrator Review:* The Zoning Administrator may review the proposed subdivision and submit a written report to the Plan Commission stating the facts concerning physical characteristics of the area involved in the subdivision of land, deficiencies in meeting provisions of the Unified Development Ordinance, public facilities available to service the area, and/or other pertinent facts. A copy of such report shall be made available to the petitioner and all interested persons prior to or at the public hearing.
3. *Public Notice:* The following public notice standards apply to an Application for Minor Subdivision Primary Plat. All costs associated with providing public notice shall be paid by the petitioner.
  - a. The Zoning Administrator shall notify all interested parties of the public hearing in accordance with the Plan Commission Rules of Procedure.
  - b. The Zoning Administrator shall prepare a legal notice to be published in a newspaper of general circulation a minimum of ten (10) days before the public hearing.
  - c. The Zoning Administrator shall be responsible for providing proof of a published notice to the Plan Commission which will then be archived in the case file.
4. *Attendance:* The petitioner shall be present at the Plan Commission meeting to present and explain the petition for a Minor Subdivision Primary Plat, and address and discuss comments and concerns posed by the Plan Commission. Failure to appear shall result in the dismissal of the petition for a Minor Subdivision Primary Plat.
5. *Public Hearing:* A public hearing shall be held in accordance with the Plan Commission Rules of Procedure.



6. *Review:* At their regularly scheduled public meeting, the Plan Commission shall review:
  - a. The petition, supporting information, and the Site Plan for a Minor Subdivision Primary Plat,
  - b. Testimony of the petitioner,
  - c. Information presented in writing or verbally by the Zoning Administrator,
  - d. Input from the public during the public hearing,
  - e. Applicable provisions of this Unified Development Ordinance, and
  - f. Any other information as may be required by the Plan Commission to evaluate the petition.
7. *Decision:*
  - a. The Plan Commission shall make findings of fact and take final action, or continue the petition for a Minor Subdivision Primary Plat to a defined future meeting date.
  - b. The Plan Commission shall make the following findings of fact. Findings, or lack of findings, may be in the form of a general statement.
    - i. The subdivision of land is consistent with the *Town of Clear Lake Comprehensive Plan*.
    - ii. The subdivision of land satisfies the standards of *Article 06: Subdivision Types*.
    - iii. The subdivision of land satisfies the standards of *Article 07: Design Standards*.
    - iv. The subdivision of land satisfies all other applicable provisions of this Unified Development Ordinance.
  - c. Final Action:
    - i. If the Plan Commission by vote finds all of the findings of fact in the affirmative, it shall approve or approve with commitments the petition for a Minor Subdivision Primary Plat.
    - ii. If the Plan Commission by vote does not find all of the findings of fact in the affirmative, it shall deny the petition for a Minor Subdivision Primary Plat.
  - d. The Plan Commission may require the petitioner to put in writing commitment concerning the Minor Subdivision Primary Plat. Written commitments, if applicable, shall be packaged with the Minor Subdivision Secondary Plat.
  - e. The petitioner and Zoning Administrator shall work collaboratively to package the Minor Subdivision Plat including the findings, final action, a print of the site plan with all required or approved amendments, and all applicable commitments. Each component of the Minor Subdivision Plat shall include a "signature" and "date" line for the Plan Commission President and Zoning Administrator to sign and date. The signature line for the Plan Commission President shall clearly state "Primary Plat Approval" and the signature line for the Zoning Administrator shall clearly state "Secondary Plat Approval." Once packaged it shall be reviewed by the Zoning Administrator to confirm consistency with what was approved. Once the Zoning Administrator confirms the package is fully consistent with what was approved he/she shall deliver it to the Plan Commission President for signature. Signature by the Plan Commission President formalizes and completes the Primary Plat approval process.
  - f. Electronic Submittal: The final site plan shall also be submitted in .dwg file format (if available) for ease of archiving and use with the county GIS system.
- F. Secondary Plat Approval: After the Primary Plat has been approved, the Minor Subdivision Plat shall then be signed by the Zoning Administrator to complete the Secondary Plat process.
- G. Recording Plat: The petitioner is responsible for recording the approved Minor Subdivision Plat and filing it with the Steuben County Recorder within thirty (30) days of the date of signature. One (1) copy of the recorded package, and proof of its recording shall be submitted to the Zoning Administrator for the Town's records.
- H. Improvement Location Permits: No building permit shall be issued until proof of recording has been demonstrated.

## 9.15 Subdivision of Land; Primary Plat

- A. Purpose and Intent: A Primary Plat shall provide the Plan Commission with the opportunity to review the details of a subdivision of land to determine compliance with the provisions of this Unified Development Ordinance. A Primary Plat shall also ensure the statutory requirements established in Indiana Code for the subdivision of land are met.
- B. Project Applicability: A Primary Plat shall be prepared in conjunction with any proposal to subdivide or plat property within the jurisdictional area of the Plan Commission.
1. *Applicable Districts*: The subdivision of land shall occur only in the following zoning districts:  
The image shows eight colored boxes representing zoning districts: AG (green), IA (dark green), RE (yellow), SR (orange), LA (brown), MR (dark brown), IS (light blue), and NC (dark blue).
  2. *Replats*: A replat shall consist of two processes. First, the plat or the portion of the plat shall be vacated in accordance with IC 36-7-3-10 and 36-7-3-11. Then, the property shall be platted using the Primary Plat process in this section and the Secondary Plat process in Section 9.16: *Subdivision of Land; Secondary Plat*.
  3. *Exemptions*: Condominiums regulated by IC 32-25 are exempt from this subdivision process outlined in this Unified Development Ordinance.
- C. Prerequisites:
1. *Eligible Petitioner*: An Application for Primary Plat shall be initiated by the owner of the land involved in the development or the owner's authorized agent. If an authorized agent files a petition, a signed and notarized consent form from the owner shall accompany the petition.
  2. *Pre-petition Meeting*: Prior to submitting an Application for Primary Plat, the petitioner shall meet with the Zoning Administrator to review the zoning classification of the site, review regulatory ordinances and materials, review the procedures, and examine the proposed use and development of the site.
- D. Filing Requirements:
1. *Application*: An Application for Primary Plat shall be made on forms provided by the Zoning Administrator.
  2. *Supporting Information*: The following supporting information shall accompany a completed Application for Primary Plat. The Zoning Administrator may waive, in writing, the submittal of clearly unnecessary information relative to the petition.
    - a. A list of names and mailing addresses of all known property owners within 300 feet of the boundary of the proposed site. The measurement shall include any property that is wholly or partially within the 300-foot boundary regardless if a road, river, railroad, or other physical barrier exists. This information may be obtained from the Steuben County Auditor's Office.



- b. A Site Plan, drawn to a scale no greater than one inch equals one hundred feet (1"=100'), that includes the following items:
  - i. North arrow and graphic scale.
  - ii. Proposed address for each lot.
  - iii. Proposed name of the subdivision.
  - iv. Area map insert showing the general location of the site referenced to major streets.
  - v. Legal description of the site.
  - vi. Boundary lines of the site including all dimensions of the site.
  - vii. Names, center lines, and right-of-way widths of all streets, alleys, and easements.
  - viii. Layout, number, dimension, area, building setback lines on all lots.
  - ix. Location and dimensions of any existing structures.
  - x. Location of all floodway, floodway fringe areas, and wetlands within the boundaries of the site.
  - xi. Areas reserved for park, recreation, conservation, wetland, common area, lake, trails, or other similar uses.
  - xii. Proposed perimeter landscaping areas.
  - xiii. Proposed entryway feature signs.
  - xiv. Stamp of Registered Professional Engineer.
  - xv. Any other information necessary to support a thorough review of the project and as requested in writing by the Plan Commission or the Zoning Administrator.
- c. Representative building elevations for each facade of primary structures including the following information.
  - i. Permitted building materials to be used for wall, window, roof, and other architectural features.
  - ii. Placement, size, color, and illumination details for any proposed wall sign.
  - iii. Any other information necessary to support a thorough review of the project and as requested in writing by the Plan Commission or the Zoning Administrator.
- d. A Site Access and Circulation Plan shall be required, but may be incorporated into the required Site Plan or may be submitted as a separate plan. It shall be drawn to a scale no greater than one inch equals one hundred feet (1"=100'), and shall include the following items:
  - i. North arrow and graphic scale.
  - ii. Proposed name of the subdivision.
  - iii. Names, center lines, and right-of-way widths of all existing and proposed streets, alleys, and easements within 100 feet of the site.
  - iv. All improvements to the street system on-site and off-site.
  - v. Measurement of curb radius and/or flares.
  - vi. Location of proposed and existing sidewalks and sidepaths.
  - vii. Location and details of all proposed wayfinding signs.
  - viii. Any other information necessary to support a thorough review of the project and as requested in writing by the Plan Commission or the Zoning Administrator.
- e. A Utility Plan, drawn to a scale no greater than one inch equals one hundred feet (1"=100'), including the following items:
  - i. Location of all existing and proposed utility easements.
  - ii. Location and size of all existing and proposed utility components including, but not limited to sanitary sewer components, water components, storm water components, electric, gas, telephone, and cable.
  - iii. Location and illumination capacity of all lights.
  - iv. Names of legal ditches and streams in or adjacent to the site.
  - v. Contours sufficient to illustrate storm water runoff.
  - vi. Storm water drainage plan including estimated runoff.
  - vii. Any other information necessary to support a thorough review of the project and as requested in writing by the Plan Commission or the Zoning Administrator.

- f. **Traffic Impact Study:**
    - i. A Traffic Impact Study shall be required when a proposed development meets or exceeds the warrants of the Indiana Department of Transportation Traffic Impact Study Guidelines (150 or more dwelling units; 15,000 square feet or more of retail space; 35,000 or more square feet of office space; 70,000 square feet or more square feet of industrial space; 30,000 square feet or more of educational space; 120 or more occupied rooms; 46,000 or more square feet of medical space; or any mixed-use development which generates 100 or more peak hour trips in the peak direction).
    - ii. A registered professional engineer shall prepare and certify the Traffic Impact Study. The Traffic Impact Study shall evaluate the impact of present and future traffic generated by the proposed development on the adjacent roadway system. Prior to commencement, the petitioner shall meet with the Zoning Administrator to determine an appropriate scope for the Traffic Impact Study.
  - g. **Statement of Development Build-out:** The petitioner shall indicate, either on the required Site Plan or in writing, a statement of:
    - i. The order of development of the major infrastructure elements of the project.
    - ii. Future section boundaries, if any.
    - iii. The order and content of each section.
    - iv. An estimate of the time frame for build-out of each section.
  - h. **Landscape Plan:** The petitioner shall indicate, either on the required Site Plan or on a separate landscape plan, existing and proposed perimeter landscaping and other landscaping that meet or exceeds the standards detailed in *Section 5.35 through Section 5.41 (Landscaping Standards)* and *Section 7.17: Perimeter Landscaping Standards*.
  - i. **Restrictive Covenants:** The petitioner shall provide a copy of the restrictive covenants that will apply to each lot within the subdivision.
- 3. **Deadline:** Eight (8) hard copies of the Application for Primary Plat; eight (8) hard copies of all supporting information; one (1) digital copy of the Application for Primary Plat and all supporting information in .pdf (portable document format); and one (1) digital copy of any drawings in .dwg file format (if available) shall be submitted twenty-eight (28) days prior to the public meeting at which it is first to be heard by the Plan Commission.
  - 4. **Fees:** Applicable fees shall be paid at the time the Application for Primary Plat is filed. Fees shall include reimbursement for any cost borne by the Plan Commission or Zoning Administrator to hire a professional engineer, professional planner, or other professional technician necessary to subsidize the Zoning Administrator's capabilities for review of the petition or proposed project.

E. **Request For Waivers:**

- 1. **Design Standards:** The Plan Commission shall consider a request for waiver to amend any applicable design standard in *Article 6: Subdivision Types* or *Article 7: Design Standards* that imposes a hardship on the proposed development.
- 2. **Waiver Decisions:** Granting a waiver shall be subject to the following findings of fact.
  - a. **Comprehensive Plan:** The proposed waiver is consistent with the content and intent of the *Town of Clear Lake Comprehensive Plan*.
  - b. **Unified Development Ordinance:** The proposed waiver is consistent with the intent of the *Town of Clear Lake Unified Development Ordinance*.
  - c. **Contextual Impact:** The proposed waiver will not cause notable loss to nearby property values.
  - d. **Hardship:** The proposed waiver will grant the minimum necessary relief from a design standard that, if applied to the proposed development, will result in a hardship.

F. Formal Procedure:

1. *Assignment:* An Application for Primary Plat, which is determined to be complete and in proper form by the Zoning Administrator, shall be assigned a case number and placed on the first Plan Commission agenda that occurs twenty-eight (28) days after the Application for Primary Plat is submitted in its entirety. The Zoning Administrator shall notify the petitioner in writing of the meeting date.
2. *Internal Review:* Upon assignment of a case number and hearing date, the applicable agencies and departments will be notified of the proposed subdivision of land and asked to review and comment. The Zoning Administrator may submit a written report to the Plan Commission stating any facts concerning the physical characteristics of the area involved in the subdivision of land, the surrounding land use, public facilities available to service the area, or other pertinent facts. The written report may also contain opinions of the Zoning Administrator concerning the subdivision of land and information from the other agencies and departments that have reviewed the subdivision of land. A copy of such report shall be made available to the petitioner and all remonstrators.
3. *Public Notice:* The following public notice standards apply to an Application for Primary Plat. All costs associated with providing public notice shall be borne by the petitioner.
  - a. The Zoning Administrator shall notify all interested parties of the public hearing in accordance with the Plan Commission Rules of Procedure.
  - b. The Zoning Administrator shall prepare a legal notice to be published in a newspaper of general circulation a minimum of ten (10) days before the public hearing.
  - c. The Zoning Administrator shall be responsible for providing proof of published notice to the Plan Commission and including proof in the case file.
4. *Attendance:* The petitioner shall be present at the Plan Commission meeting to present and explain the Application for Primary Plat and address and discuss comments and concerns posed by the Plan Commission. Failure to appear shall result in the dismissal of the Application for Primary Plat.
5. *Public Hearing:* A public hearing shall be held in accordance with the Plan Commission Rules of Procedure.
6. *Review:* At their regularly scheduled public meeting, the Plan Commission shall review:
  - a. The Application for Primary Plat.
  - b. All supporting information including the site plan, site access and circulation plan, elevations, etc.
  - c. The testimony of the petitioner.
  - d. Information presented in writing or verbally by the Zoning Administrator or other applicable agencies or departments.
  - e. Input from the public during the public hearing.
  - f. Any applicable provisions of this Unified Development Ordinance.
  - g. Any applicable requirements of the *Town of Clear Lake Construction Standards*.
  - h. Any other information as may be required by the Plan Commission to evaluate the petition.

7. Decision:

- a. The Plan Commission shall make findings of fact and take final action or continue the Application for Primary Plat to a defined future meeting date.
- b. Findings of Fact: The Plan Commission shall make the following findings of fact. Approval of findings may be in the form of a general statement. Disapproval of findings shall specify the provision of this Unified Development Ordinance or *Town of Clear Lake Construction Standards* with which there is not compliance or the manner in which the project is not consistent with the *Town of Clear Lake Comprehensive Plan*.
  - i. The subdivision of land is consistent with the *Town of Clear Lake Comprehensive Plan*.
  - ii. The subdivision of land satisfies the development requirements of *Article 06: Subdivision Types*.
  - iii. The subdivision of land satisfies the standards of *Article 07: Design Standards*.
  - iv. The subdivision of land satisfies any other applicable provisions of this Unified Development Ordinance.
  - v. The subdivision of land satisfies the construction requirements of the *Town of Clear Lake Construction Standards*.
- c. Final Action
  - i. If the Plan Commission finds all of the findings of fact in the affirmative, it shall approve or approve with commitments the Application for Primary Plat.
  - ii. If the Plan Commission does not find all of the findings of fact in the affirmative, it shall deny the Application for Primary Plat.
- d. Commitments: The Plan Commission may require the petitioner to make a written commitment concerning the Primary Plat. Any written commitments shall be recorded in the Office of the Steuben County Recorder within ninety (90) days of the Plan Commission's final action.
- e. The findings, final action, and any conditions shall be signed by the President of the Plan Commission.
- f. The Zoning Administrator shall provide the petitioner a copy of the decision.

G. Duration: An approved Primary Plat shall be valid for a time frame consistent with IC 36-7-4-1109 from the date the Plan Commission granted approval.

H. Modification:

1. *Minor Amendments:* Minor amendment to an approved Primary Plat which does not involve an increase in the number of lots or intensity of land uses; the designation of additional land uses; the reduction in perimeter yards; changes to circulation; the addition of driveways or access points; or reduction in the amount of parking may be authorized by the Zoning Administrator without a public hearing, if the requested minor amendments do not adversely impact the purpose or intent of the overall development. An example of a minor amendment could be the relocation of an easement. A minor amendment authorized by the Zoning Administrator shall be reported, in writing, to the Plan Commission at the next regular meeting of the Plan Commission.
2. *Major Amendments:* If the Zoning Administrator determines that the proposed modification may adversely impact the purpose or intent of the overall development; or if the proposed modification includes an increase in the number of lots, or intensity of any land use; or if the proposed modification includes the designation of an additional land use, the petitioner shall be required to file a new Application for Primary Plat.

## 9.16 Subdivision of Land; Secondary Plat

- A. Purpose and Intent: The Secondary Plat shall clearly define all construction matters and special conditions such as construction techniques, materials and the like, as well as prepare the plans and documents for recording.
- B. Project Applicability: Proposals for new subdivisions of land shall meet the standards of this Section.
- C. Prerequisites:
  - 1. *Primary Plat*: The Application for Primary Plat shall be approved by the Plan Commission prior to submitting a Secondary Plat. If the Primary Plat approval included commitments, those commitments shall be recorded in the Office of the Steuben County Recorder.
  - 2. *Infrastructure*: A subdivision that is the subject of a Secondary Plat shall have all of the infrastructure improvements proposed in the Primary Plat installed to meet the *Town of Clear Lake Construction Standards*, or the petitioner shall have posted a performance bond for the cost of the infrastructure improvements that complies with *Section 7.26 Surety Standards*.
- D. Filing Requirements:
  - 1. *Application*: The petitioner shall submit a letter stating the status of infrastructure improvements and requesting Secondary Plat. The original Application for Primary Plat should be on file with the Zoning Administrator.
  - 2. *Supporting Information*: The following information shall accompany the petitioner's letter requesting Secondary Plat.
    - a. Plans showing the precise location of all installed monuments.
    - b. Plans showing final dimensions for lots, rights-of-way, and easements.
    - c. If infrastructure improvements are complete, the supporting information shall include as-built drawings of each infrastructure system and any required inspections or certifications by engineers or surveyors.
    - d. If infrastructure improvements are not complete, the supporting information shall include detailed descriptions and locations of infrastructure to be installed, estimates from contractors for all infrastructure improvements, and a performance bond for the total amount of the infrastructure improvements.
    - e. Any other information necessary to support a thorough review of the project that is requested, in writing, by the Zoning Administrator or Plan Commission.
  - 3. *Deadline*: Eight (8) hard copies of the letter requesting Secondary Plat; eight (8) hard copies of all supporting information; one (1) digital copy of the letter requesting Secondary Plat and all supporting information in .pdf (portable document format); and one (1) digital copy of any drawings in .dwg file format (if available) shall be filed within two (2) years of the approval of Primary Plat by the Plan Commission.
  - 4. *Fees*: Applicable fees shall be paid at the time the request for Secondary Plat is filed. Fees shall include reimbursement for any cost borne by the Plan Commission or Zoning Administrator to hire a professional engineer, professional planner, or other professional technician necessary to subsidize the Zoning Administrator's capabilities for review of the petition or proposed project.


E. Formal Procedure:

1. *Assignment:* The Zoning Administrator shall review the letter requesting Secondary Plat and all supporting information. Based on the history and the complexity of the project, the Zoning Administrator shall determine if the Secondary Plat should be presented to the Plan Commission. Should the Zoning Administrator determine Plan Commission review is necessary, the Zoning Administrator shall assign the Secondary Plat a case number and place it on the first Plan Commission agenda that occurs twenty-eight (28) days after the Secondary Plat was submitted in its entirety. The Zoning Administrator shall notify the petitioner in writing if Plan Commission review is necessary and the date of the meeting, if applicable.
2. *Review:* The Zoning Administrator shall provide the letter requesting Secondary Plat, the supporting information, and a comment sheet to all applicable departments and agencies. Each department shall determine if the infrastructure improvements installed or proposed to be installed meet the *Town of Clear Lake Construction Standards* and if the improvements include adequate connection to existing and future systems. If applicable, each department shall also review applicable cost estimates for reasonableness. Each department shall return the comment sheet with any comments or concerns concerning the infrastructure or the project to the Zoning Administrator. If it has been determined that Plan Commission review is required, the Zoning Administrator shall forward the comment sheets to the Plan Commission for review at the meeting.
3. *Public Notice:* Notice and public hearing shall not be required for Secondary Plat.
4. *Review and Decision:* The Zoning Administrator shall, based on comments from departments, approve, approve with conditions, or deny Secondary Plat. In cases where the Secondary Plat is being heard by the Plan Commission, the Plan Commission shall review the comments from departments at a regularly scheduled public meeting and approve, approve with conditions, or deny Secondary Plat.

- F. Duration: An approved Secondary Plat and any conditions shall be recorded in the Office of the Steuben County Recorder within six (6) months of the date of approval or become null and void.



## 9.17 Subdivision of Land; Administrative

- A. Purpose and Intent: An Administrative Subdivision shall provide the Town of Clear Lake with the opportunity to expedite adjustments to property lines when no new lots are created or when mergers of two (2) to ten (10) are made into fewer buildable lots (e.g. merging two (2) lots into one (1) developable lot for the purpose of constructing across the middle of the lot where the property line used to be).
- B. Project Applicability: An Administrative Subdivision can be used to modify the division of property within the jurisdictional area of the Plan Commission, but only if the proposed modification meets the "Applicable Districts," "Applicable Actions," and "Prerequisites" standards listed below. All other divisions of land or alterations to property lines must be processed as a Minor Subdivision or Major Subdivision.
1. *Applicable Districts*: An Administrative Subdivision of land shall be permitted in the following zoning districts:  

  2. *Applicable Actions*:
    - a. *Merging Common Ownership Lots*: The owner of two (2) to ten (10) lots may merge them together as fewer buildable lots when the resulting lot(s) do(es) not create any new or an escalation in nonconformance; and when there is no change to public services, roads, or utilities.
    - b. *Splitting a Lot and Merging its Pieces with Two or More Adjacent Lots*: Two (2) or more owners adjacent to a vacant lot may jointly purchase the lot, divide it, and merge all of the pieces with their buildable lot. If the lot is not vacant, the primary structure would have to be demolished and/or primary use dissolved, prior to petition for an Administrative Subdivision.
    - c. *Adjusting Lot Lines*: The owners of contiguous properties mutually agree to adjust a lot line separating their two (2) properties due to survey errors or when the owners mutually desire an adjustment; as long as the adjustment does not result in any new or an escalation in nonconformance, or does not reduce either's lot area by more than twenty percent (20%).
- C. Prerequisites:
1. *Eligible Petitioner*: A petition for an Administrative Subdivision shall be initiated by the owner(s) of all applicable lots or the owner's authorized agent. If an authorized agent files a petition, a signed and notarized consent form from the owner(s) shall accompany the petition.
  2. *Removing Unnecessary Driveway(s)*: Under the actions listed in *Section 9.17(B)(2)(a)* and *Section 9.17(B)(2)(b)*, pre-existing driveway(s) established for the dissolved lots shall be vacated and removed, including the apron within the right-of-way.
  3. *Restrictions*: An Administrative Subdivision that includes one (1) or more of the following shall not be permitted to utilize the Administrative Subdivision process:
    - a. An additional driveway.
    - b. A new or modified easement.
    - c. A platted subdivision that was platted on or after September 1, 2009.
- D. Administrative Subdivision Filing Requirements:
1. *Application*: A petition for an Administrative Subdivision shall be made on forms provided by the Zoning Administrator with the notarized signature of the petitioner.
  2. *Supporting Information*: The following supporting information shall accompany a completed petition for an Administrative Subdivision. The Zoning Administrator may waive, in writing, the submittal of clearly unnecessary information relative to the petition.
    - a. Address for each lot involved;
    - b. A metes and bounds legal description of each lot with the merging or adjusting of lot lines included; and
    - c. A deed transferring the property from the owner to himself using the new metes and bounds legal description.
  3. *Site Plan*: A site plan, drawn to a scale on legal or letter size paper, that includes the following items:
    - a. North arrow and graphic scale.
    - b. Adjacent streets, rights-of-way, public sidewalks, and easements.
    - c. Boundary lines of each lot including all lot dimensions.
    - d. Proposed adjustments with lot dimensions, lot area, and building setback lines on the resulting lots.



- e. Footprint and dimensions of existing structures with measurements to property lines pre and post adjustments.
- f. Stamp of registered professional engineer, surveyor, landscape architect, or architect.
- g. Approval signature block.
- h. Any other information necessary to support a thorough review of the project and as requested in writing by the Plan Commission or the Zoning Administrator.
- 4. *Deadline*: Not applicable.
- 5. *Submittal Material*: Three (3) hard copies of the petition for an Administrative Subdivision, of all supporting information, and the site plan shall be submitted. If available one (1) digital copy of the supporting information in .pdf (portable document format) and one (1) digital copy of the site plan in .dwg file format shall be submitted.
- 6. *Fees*: The applicable fees from the Town of Clear Lake's fee schedule shall be paid at the time the petition for an Administrative Subdivision is filed. A petition without the appropriate petition fees shall not be considered substantially complete. When specific technical expertise is necessary, the Town of Clear Lake may hire a professional consultant to conduct portions of the review at the expense of the petitioner and as per the Town of Clear Lake's fee schedule.

E. Request For Waivers:

- 1. *Procedural Prerequisites*: The Plan Commission shall consider a waiver request to grant relief from applicable actions (See *Section 9.17(B)(2)(a): Merging Common Ownership Lots*).
- 2. *Waiver Decisions*: Granting a waiver shall be subject to the following findings of fact.
  - i. *Comprehensive Plan*: The proposed waiver is consistent with the content and intent of the *Town of Clear Lake Comprehensive Plan*.
  - ii. *Unified Development Ordinance*: The proposed waiver is consistent with the intent of the *Town of Clear Lake Unified Development Ordinance*.
  - iii. *Contextual Impact*: The proposed waiver will not cause notable loss to nearby property values.

F. Procedure and Approval:

- 1. *Review of Material*: A petition for an Administrative Subdivision, which is determined to be complete and in proper form shall be reviewed by the Zoning Administrator. Upon review of the petition, the Zoning Administrator shall either transfer the petition to the Plan Commission for additional review or determine the petition complies with the "Applicable Districts," "Applicable Actions," and "Prerequisites" standards listed in *Section 9.17(B): Project Applicability* and *Section 9.17(C): Prerequisites*. If the petition is found to be in compliance, the Zoning Administrator shall approve the petition by signing each copy.
- 2. *Acceptance*: A petition for an Administrative Subdivision which has been approved and signed by the Zoning Administrator shall be reviewed for acceptance by one member of the Plan Commission Executive Committee. That Executive Committee member shall sign each copy of the petition as the Plan Commission's acceptance of the petition or defer acceptance of the petition to the Plan Commission.
- 3. *Distribution*: A signed copy of the approved and accepted petition for an Administrative Subdivision shall be retained for Town's records and two (2) copies conveyed to the petitioner: one (1) for personal records and one (1) for recording in the Steuben County Recorder's Office.
- 4. *Report to Plan Commission*: After approved, at the first regularly schedule Plan Commission meeting, the approval of any Administrative Subdivisions shall be reported.
- 5. *Proof of Recording*: To officially complete the process the petitioner shall record the Administrative Subdivision Application, site plan, and new deed with the Steuben County Recorder's Office and provide proof to the Zoning Administrator.
- 6. *Failure to Record*: If an approved Administrative Subdivision is not recorded within thirty (30) days from the date of approval and signature, the petition and approval shall be deemed void. The Zoning Administrator shall report any failures to record to the Plan Commission at the first regularly scheduled Plan Commission meeting after discovering default occurred; and shall notify the petitioner, and shall clearly note failure to record in the Town's records.

- G. Improvement Location Permits: An improvement location permit shall not be issued until proof of recording has been provided.

## 9.18 Unified Development Ordinance; Text Amendment

- A. Purpose and Intent: It may become necessary to amend the text of this Unified Development Ordinance from time to time. The Plan Commission has the authority to hear a proposal to amend the text of this Unified Development Ordinance. The Plan Commission shall make a recommendation to the Town Council concerning a proposal to amend the text of this Unified Development Ordinance. The Town Council has the power to approve or reject a proposal to amend the text of this Unified Development Ordinance.
- B. Project Applicability: Any proposal to add, remove, or alter a provision of this Unified Development Ordinance shall follow the process outlined in this Section.
- C. Prerequisites:
  1. *Eligible Petitioners*: Members of the Town Council or members of the Plan Commission shall initiate a proposal to amend the text of this Unified Development Ordinance. Persons who wish to propose an amendment to the text of this Unified Development Ordinance and who are not members of the Town Council or Plan Commission shall find a sponsor among the Town Council or the Plan Commission to introduce the proposal.
- D. Filing Requirements:
  1. *Application*: A proposal for an amendment to the text of this Unified Development Ordinance shall be prepared by the Zoning Administrator upon the direction of either the Town Council or the Plan Commission.
  2. *Deadline*: A proposal for an amendment to the text of this Unified Development Ordinance may be filed any time.
- E. Formal Procedure:
  1. *Assignment*: The Zoning Administrator shall assign a case number and place the proposed amendment to the text of this Unified Development Ordinance on the first Plan Commission agenda that occurs twenty-eight (28) days after the proposal is prepared.
  2. *Internal Review*: The Zoning Administrator shall be responsible for introducing the proposed amendment to the text of this Unified Development Ordinance to the applicable departments and agencies that may have an interest in the proposed amendment. The Zoning Administrator shall also notify the other applicable departments and agencies of the date of the Plan Commission meeting where the proposed amendment to the text of this Unified Development Ordinance will be heard.
  3. *Public Notice*: The following public notice standards apply for a proposal to amend the text of this Unified Development Ordinance.
    - a. The Zoning Administrator shall notify interested parties of the public hearing in accordance with the Plan Commission Rules of Procedure.
    - b. The Zoning Administrator shall prepare a legal notice to be published in a newspaper of general circulation a minimum of ten (10) days before the public hearing.
    - c. The Zoning Administrator shall be responsible for providing proof of published notice to the Plan Commission and including proof in the case file.
  4. *Public Hearing*: A public hearing shall be held in accordance with the Plan Commission Rules of Procedure.
  5. *Review*: In preparing and considering proposals to amend the text of this Unified Development Ordinance, the Plan Commission and the Town Council shall pay reasonable regard to:
    - a. The *Town of Clear Lake 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.
    - e. Responsible development and growth.

F. Decision:

1. *Final Action:* The Plan Commission shall certify the amendment to the text of this Unified Development Ordinance and forward the proposal to the Town of Clear Lake Town Council with a favorable recommendation, an unfavorable recommendation, or no recommendation.
2. *Effective Date:*
  - a. Unless an amendment to the text of this Unified Development Ordinance provides for a later effective date, the amendment shall be effective when it is adopted under *IC 36-7-4-607*.
  - b. When a provision prescribing a penalty or forfeiture for a violation is approved, it may not take effect until fourteen (14) days after the final day on which notice of its adoption is published; or the day on which it is filed in the Office of the Clerk Treasurer, whichever is later.

## 9.19 Variance

- A. Purpose and Intent: The Board of Zoning Appeals may vary the regulations of this Unified Development Ordinance for projects that meet the findings of fact set forth in this Section. Variances may be a "development standards variance" granting relief from a development standard such as height, bulk, or area; or a "use variance" allowing a use that is not listed as a permitted or special exception use in a district.
- B. Project Applicability:
  1. *Jurisdiction:* Projects within the jurisdictional area of the Plan Commission that are unable to meet the provisions of this Unified Development Ordinance may apply for a variance.
  2. *Previously Denied Applications:* The Zoning Administrator shall refuse to accept an Application for a Variance that has been denied by the Board of Zoning Appeals within the last twelve (12) months. However, the Zoning Administrator shall have the authority and discretion to determine that an Application for a Variance containing major changes may justify re-filing within the aforementioned twelve (12) month period.
- C. Prerequisites:
  1. *Eligible Petitioners:* An Application for a Variance shall be filed by the owner, his agent, or any person having a legal or equitable interest in the subject property, but the written authorization of any owner who is not a petitioner shall be required.
  2. *Out of Compliance Projects:* The Zoning Administrator shall not accept a petition for a post construction variance.
  3. *New Sanitary Sewer Connection:* In projects where a new sanitary sewer connection is necessary, written approval of the new connection from the Town Council shall be required.
- D. Filing Requirements:
  1. *Application:* Application for a Variance shall be made on a form provided by the Board of Zoning Appeals.
  2. *Supporting Information:* Refer to the Board of Zoning Appeals' Rules of Procedure for all supporting information requirements.
  3. *Deadline:* An Application for a Variance shall be filed at least twenty-eight (28) days prior to the public meeting at which it is first to be considered by the Board of Zoning Appeals.
  4. *Fees:* Applicable fees shall be paid at the time the Application for a Variance is filed. Fees shall include reimbursement for any cost borne by the Board of Zoning Appeals or Zoning Administrator to hire a professional engineer, professional planner, or other professional technician necessary to subsidize the Zoning Administrator's capabilities for review of the petition or proposed project.
- E. Formal Procedure:
  1. *Assignment:* An Application for a Variance, which is determined to be complete and in proper form by the Zoning Administrator, shall be assigned a case number and placed on the first Board of Zoning Appeals agenda that occurs twenty-eight (28) days after the Application for a Variance is submitted in its entirety. The Zoning Administrator shall notify the petitioner, in writing, of the date of the meeting.
  2. *Internal Review:* Upon assignment of a number and hearing date, the Zoning Administrator may ask applicable departments to review and comment on the proposed project. The Zoning Administrator may submit a written report to the Board of Zoning Appeals stating any facts concerning the physical characteristics of the area involved, the surrounding land use, public facilities available to service the area, or other pertinent facts. The written report may also contain opinions of the Zoning Administrator concerning the Application for a Variance and/or information from other departments that have reviewed the Application for a Variance. A copy of such report shall be made available to the petitioner and all remonstrators.
  3. *Public Notice:* The following public notice standards apply to an Application for a Variance. All costs associated with providing public notice shall be borne by the petitioner.
    - a. The Board of Zoning Appeals shall notify all interested parties of the public hearing in accordance with the Board of Zoning Appeals Rules of Procedure.
    - b. The Board of Zoning Appeals shall publish legal notice in a newspaper of general circulation a minimum of ten (10) days before the public hearing.

4. *Attendance:* The petitioner shall be present at the Board of Zoning Appeals meeting to present the Application for a Variance and address and discuss comments and concerns. Failure to appear shall result in the dismissal of the Application for a Variance.
5. *Public Hearing:* A public hearing shall be held in accordance with the Board of Zoning Appeals Rules of Procedure.
6. *Review:* At their regularly scheduled public meeting, the Board of Zoning Appeals shall review.
  - a. The Application for a Variance.
  - b. Supporting information.
  - c. Presentation by the petitioner.
  - d. Information presented in writing or verbally by the Zoning Administrator or other applicable department or agency.
  - e. Input from the public during the public hearing.
  - f. Applicable provisions of this Unified Development Ordinance.
  - g. Any other additional information as may be required by the Board of Zoning Appeals to evaluate the petition.
7. *Decision:* The Board of Zoning Appeals shall make findings of fact and take final action or continue the Application for a Variance to a defined future meeting date.
  - a. *Development Standards Variance Findings of Fact:* The Board of Zoning Appeals shall make the following findings of fact for Development Standards Variances. Approval of findings may be in the form of a general statement. Disapproval of findings shall specify the reason for non-compliance.
    - i. The approval of the development standards variance will not be injurious to the public health, safety, morals and general welfare of the community.
    - ii. The use and value of the areas adjacent to the property included in the development standards variance will not be affected in a substantially adverse manner.
    - iii. The strict application of the terms of the ordinance will result in practical difficulties in the use of the property.
  - b. *Use Variance Findings of Fact:* The Board of Zoning Appeals shall make the following findings of fact for Use Variances. Approval of findings may be in the form of a general statement. Disapproval of findings shall specify the reason for non-compliance.
    - i. The approval of the use variance will not be injurious to the public health, safety, morals and general welfare of the community.
    - ii. The use and value of the area adjacent to the property included in the use variance will not be affected in a substantially adverse manner.
    - iii. That the need for the use variance arises from some condition peculiar to the property involved.
    - iv. The strict application of the terms of the ordinance will constitute an unnecessary hardship if applied to the property for which the use variance is sought.
    - v. The approval does not interfere substantially with the *Town of Clear Lake Comprehensive Plan*.

- c. Final Action:
  - i. If the Board of Zoning Appeals finds all of the findings of fact in the affirmative, it shall approve or approve with conditions and/or commitments the Application for a Variance.
  - ii. If the Board of Zoning Appeals does not find all of the findings of fact in the affirmative, it shall deny the Application for a Variance.
- d. Commitments and Conditions:
  - i. Commitments: The Board of Zoning Appeals may require the owner to make a written commitment. Commitments shall be recorded in the Office of the Steuben County Recorder. A recorded commitment is binding on the owner of the land, any subsequent owner of the land, and any person who acquires interest in the land.
  - ii. Conditions: The Board of Zoning Appeals may require certain conditions for approval.
- F. Duration:
  - 1. *Development Standards Variance*: A development standards variance granted by the Board of Zoning Appeals shall run with the land until such time as the property conforms with this Unified Development Ordinance.
  - 2. *Use Variance*: A use variance granted by the Board of Zoning Appeals may be subject to a commitment or condition for duration, but otherwise use variances shall run with the land until such time as:
    - a. The use is vacated for one (1) year consecutively;
    - b. The use conforms with the Unified Development Ordinance as written.
- G. Modification: Modifications authorized by the Zoning Administrator shall be reported, in writing, to the Board of Zoning Appeals at the next regular meeting of the Board of Zoning Appeals.
  - 1. *Development Standard Variance*: A modification to a development standards variance that alters the location, setbacks, massing, or roof lines of the primary structure shall require the approval of the Board of Zoning Appeals at a publicly noticed meeting. The Board of Zoning Appeals shall determine if the modification is significant enough to require re-filing for a new variance. At the discretion of the Zoning Administrator, a modification to a development standards variance that does not alter the location, setbacks, massing, or roof lines of the primary structure may be authorized by the Zoning Administrator or forwarded to the Board of Zoning Appeals for approval. Any modifications authorized by the Zoning Administrator shall be reported, in writing, to the Board of Zoning Appeals at its next regularly scheduled meeting.
  - 2. *Use Variance*: A modification to a use variance shall not be permitted.



## 9.20 Zoning Map Amendment (Rezoning)

- A. Purpose and Intent: It may become necessary to change the zoning of an area or a lot, thereby amending the Official Zoning Map. The Plan Commission has the authority to hear a proposal to amend the Official Zoning Map. This process is typically known as a "rezoning" of land. The Plan Commission shall make a recommendation to the Town Council concerning a proposal to amend the Official Zoning Map. The Town Council has the power to approve or deny a proposal to amend the Official Zoning Map.
- B. Project Applicability:
  - 1. *Jurisdiction*: Areas or lots shall be located within the jurisdictional area of the Plan Commission.
  - 2. *Previously Denied Applications*: The Zoning Administrator shall refuse to accept an Application for a Rezoning that has been denied by the Town Council within the last twelve (12) months. However, the Zoning Administrator shall have the authority and discretion to determine that an Application for a Rezoning containing major changes may justify re-filing within the aforementioned (12) month period.
- C. Prerequisites:
  - 1. *Eligible Petitioners*:
    - a. The Plan Commission may act as a petitioner and initiate a zoning map amendment.
    - b. Unless the Plan Commission has initiated a zoning map amendment, an Application for a Rezoning shall be filed by the owner, his agent, or any person having a legal or equitable interest in the subject property, but the written authorization of any owner who is not a petitioner shall be required.
  - 2. *Pre-petition Meeting*: Prior to submitting an Application for a Rezoning the petitioner shall meet with the Zoning Administrator to review the current zoning district, the proposed zoning district, adjacent zoning districts and land uses, applicable ordinance provisions, the petition packet, and the procedure involved.
- D. Filing Requirements:
  - 1. *Application*: An Application for a Rezoning shall be made on a form provided by the Zoning Administrator.
  - 2. *Supporting Information*: An Application for a Rezoning shall be accompanied by the following supporting information:
    - a. A list of names and mailing addresses of all known property owners within 300 feet of the boundary of the proposed site. The measurement shall include any property that is wholly or partially within the 300 foot boundary regardless if a road, river, railroad, or other physical barrier exists. This information may be obtained from the Steuben County Auditor's Office.
    - b. A Site Plan, drawn to a scale no greater than one inch equals one hundred feet (1"=100'), that includes the following items.
      - i. North arrow and graphic scale.
      - ii. Address of the site.
      - iii. Boundary lines of the site including all dimensions of the site.
      - iv. Names, center lines, and right-of-way widths of all adjacent streets, alleys, and easements.
      - v. Layout, number, dimension, and area of all lots.
      - vi. Location and dimensions of all existing and proposed structures.
      - vii. Location of all floodway, floodway fringe areas, and wetlands within the boundaries of the site.
      - viii. Use of each structure by labeling.
      - ix. Distance of all structures from front, rear, and side lot lines.
      - x. Proposed landscaping buffers or landscaped areas.
      - xi. Any other information necessary to support a thorough review of the project and as requested in writing by the Plan Commission or the Zoning Administrator.



3. *Deadline:* An Application for a Rezoning shall be filed at least twenty-eight (28) days prior to the public meeting at which it is first to be considered by the Plan Commission.
  4. *Fees:* Applicable fees shall be paid at the time the Application for a Rezoning is filed. Fees shall include reimbursement for any cost borne by the Plan Commission or Zoning Administrator to hire a professional engineer, professional planner, or other professional technician necessary to subsidize the Zoning Administrator's capabilities for review of the petition or proposed project.
- E. Formal Procedure:
1. *Assignment:* An Application for a Rezoning, which is determined to be complete and in proper form by the Zoning Administrator, shall be assigned a case number and placed on the first Plan Commission agenda that occurs twenty-eight (28) days after the Application for a Rezoning was submitted in its entirety. The Zoning Administrator shall notify the petitioner in writing of the date of the meeting and provide the petitioner with a legal notice.
  2. *Internal Review:* Upon assignment of a case number and hearing date, the Zoning Administrator shall review the Application for a Rezoning and all supporting information. The Zoning Administrator may forward the Application for a Rezoning and any other relevant information to other applicable agencies and departments. The Zoning Administrator may submit a written report to the Plan Commission stating facts concerning the physical characteristics of the area involved in the Application for a Rezoning, adjacent zoning, the surrounding land use, facilities available to service the area, or other pertinent facts. The written report may also contain opinions of the Zoning Administrator concerning the Application for a Rezoning and information from any other agency that reviewed the Application for a Rezoning. A copy of such report shall be made available to the petitioner and all remonstrators.
  3. *Public Notice:* The following public notice standards apply to an Application for a Rezoning. All costs associated with providing public notice shall be borne by the petitioner.
    - a. The Zoning Administrator shall notify all interested parties of the public hearing in accordance with the Plan Commission Rules of Procedure.
    - b. The Zoning Administrator shall prepare a legal notice to be published in a newspaper of general circulation a minimum of ten (10) days before the public hearing.
    - c. The Zoning Administrator shall be responsible for providing proof of published notice to the Plan Commission and including proof in the case file.
  4. *Attendance:* The petitioner shall be present at the Plan Commission meeting to explain the Application for a Rezoning and address and discuss comments and concerns posed by the Plan Commission. Failure to appear shall result in the dismissal of the Application for a Rezoning.
  5. *Public Hearing:* A public hearing shall be held in accordance with the Plan Commission Rules of Procedure.
  6. *Review:* At their regularly scheduled public meeting, the Plan Commission shall review:
    - a. The Application for Rezoning.
    - b. All supporting information.
    - c. Information presented in writing or verbally by the Zoning Administrator or other applicable department.
    - d. Input from the public during the public hearing.
    - e. Any applicable provisions of this Unified Development Ordinance;
    - f. Any other information as may be required by the Plan Commission to evaluate the petition.

7. *Decision:*

- a. The Plan Commission shall take final action or continue the Application for a Rezoning to a defined future meeting date. The Plan Commission shall pay reasonable regard to the following factors before taking final action.
  - i. The *Town of Clear Lake Comprehensive Plan*.
  - ii. Current conditions and the character of current structures and uses in each district.
  - iii. The most desirable use for which the land in each district is adapted.
  - iv. The conservation of property values throughout the jurisdiction.
  - v. Responsible development and growth.
- b. Final Action: The Plan Commission shall certify the amendment to the Official Zoning Map and forward the petition to the Town Council with a favorable recommendation, an unfavorable recommendation, or no recommendation. The Plan Commission may also recommend commitments concerning the use and/or development of the land in connection with the Application for Rezoning. The Town Council makes the final determination regarding an Application for Rezoning and any recommended commitments by ordinance.

F. Duration: A rezoning shall be effective from the date of its final approval by the Town Council.

G. Modification: Modification to an approved Zoning Map Amendment shall not be permitted.

## Article

# 10

## Enforcement and Penalties

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### Town of Clear Lake Unified Development Ordinance

## 10.01 Actionable Violations

It shall be an actionable violation of this Unified Development Ordinance to:

- A. Non-permitted Structures: Construct, place, or modify a structure in a manner that is not expressly permitted by this Unified Development Ordinance;
- B. Permitted Structures: Construct, place, or modify a structure in a manner permitted by this Unified Development Ordinance without first being issued all permits and/or other approvals required by this Unified Development Ordinance;
- C. Exempt Permitted Structures: For structures that are exempt from needing a permit; construct, place, or modify a structure in a manner that is not expressly permitted by this Unified Development Ordinance;
- D. Non-permitted Uses: Utilize a property for a use that is not expressly permitted by this Unified Development Ordinance in the applicable zoning district; or by a use variance or other approval permitted under this Unified Development Ordinance;
- E. Permitted Uses: Utilize a property for a use expressly permitted by this Unified Development Ordinance without first being issued a permit and/or other approvals required by this Unified Development Ordinance;
- F. Non-compliance with Approvals: Fail to fully comply with procedural requirements, payment of fees, conditions, enforceable covenants, or commitments associated with any approval; or
- G. Other Violations: Otherwise fail to comply with any component of this Unified Development Ordinance.

## 10.02 Enforcement Official

Enforcement of this Unified Development Ordinance shall be conducted by an enforcement official. When a type of enforcement action or role is assigned to a specific board, body or individual by Indiana Code or applicable rules of procedure, then that board, body, or individual shall participate as specified.

## 10.03 Discovery of Violations

An enforcement official may survey the jurisdiction or may investigate alleged violations in order to discover whether a violation occurred or exists.

## 10.04 Inspection of Property

- A. Standard Inspections: Inspections of property or structures may be conducted by the enforcement official from the property where the violation or alleged violation is located with permission from the violator at the time of the inspection; from a public right-of-way, or from an adjacent property with permission from its property owner. If requested, the enforcement official shall present identification and describe the purpose of the inspection.
- B. Denial of Access to Property: In the event the enforcement official is denied entry to a property or structure where there is a violation or alleged violation, the enforcement official may apply to a court of jurisdiction to secure a search warrant authorizing inspection of the property or structure.
- C. Surrender of Right to Deny Access: A property owner surrenders his right to deny an enforcement official access to his property or structure upon filing for any approval. The surrender to deny access shall commence upon filing and shall cease upon the Zoning Administrator issuing a zoning compliance certificate or other required final inspection.

## 10.05 Responsibility for Violations

The owner or possessor (e.g. tenant or occupant) of the structure, land, and/or premises shall be liable for violations of this Unified Development Ordinance. If the possessor of the property or structure is determined to be liable for the violation but fails to comply or otherwise cannot be sufficiently pursued, the owner shall be held liable for the violation.

## 10.06 New Permits at Location Where a Violation Exists

When a violation or alleged violation of this Unified Development Ordinance has been identified on a property and notice of the violation or alleged violation has been conveyed in writing to the violator, any new filing for any approval shall be held by the Zoning Administrator until the violation or alleged violation is resolved, provided that the desired approval would complicate, escalate, or add to the violation or alleged violation. All other filings for an approval shall be processed as described in this Unified Development Ordinance.

## 10.07 Enforcement Options

When a violation or alleged violation exists and when it is determined that enforcement is necessary, the type of enforcement action will be at the discretion of the enforcement official and generally should reflect what is warranted by the evidence, severity of the violation or alleged violation, and history of violations on the same property or by the same violator. The following options, as described in subsequent sections, may be used to enforce this Unified Development Ordinance:

1. Request to stop work;
2. Stop work order;
3. Enforcement as a common nuisance;
4. Request to remedy;
5. Bring action to local court to invoke any legal, equitable or special remedy;
6. Bring action to local court to enforce a condition, covenant or commitment;
7. Bring action to local court to request a prohibitory or permanent injunction to restrain;
8. Bring action to local court to request a mandatory injunction to remove a structure;
9. Impose a fine for violations;
10. Bring action to a local court to invoke a fine for violations; or
11. Any remedy or actions set forth in Indiana Code, common law, or other applicable State regulations.

## 10.08 Request to Stop Work

- A. Authority: The enforcement official may issue a request to stop work.
- B. Cause: A request to stop work may be issued for any violation or alleged violation of this Unified Development Ordinance when one (1) or more of the following statements apply:
  1. The violation or alleged violation is in regard to an active project, such that if work is not stopped, the cost to remedy the violation will likely increase;
  2. The violation or alleged violation is in regard to an active project, such that if work is not stopped, the violation will likely escalate in non-compliance;
  3. The violation or alleged violation is in regard to an active project, such that if work is not stopped, the number of violations will likely increase; or
  4. The violation or alleged violation is in regard to an active project, such that if work is not stopped, the continuance will put the health, safety, or welfare of the public at risk.
- C. General Procedure:
  1. The request to stop work (i.e. notice) shall, in writing, describe the violation or alleged violation and request the immediate cessation of work until the matter is resolved.
  2. The request to stop work shall be posted in a conspicuous place on the property. A copy may also be delivered or mailed to the property owner, developer, builder, property manager, tenant, occupant, or other interested parties.
  3. The request to stop work shall become effective upon posting on the property.
  4. An enforcement official may describe the conditions under which the request to stop work will be lifted on the notice. Otherwise, it is the responsibility of the violator to schedule a meeting with the enforcement official.
  5. To lift a request to stop work, a memorandum of agreement identifying the process and steps necessary to resolve the violation shall be signed by the property owner and the enforcement official; or a court of jurisdiction shall rule on the matter; or the enforcement official shall rescind the request to stop work.
  6. An enforcement official may seek a court of jurisdiction to issue a temporary or preliminary injunction (i.e. stop work order) to the violator if he fails to abide by the request to stop work.
  7. An enforcement official may seek a court of jurisdiction to issue a temporary or preliminary injunction (i.e. stop work order) to the violator if he refuses to sign the terms of the memorandum of agreement, giving the enforcement official time necessary to pursue other enforcement options without furtherance of the violation or alleged violation.

## 10.09 Stop Work Order

- A. Authority: The enforcement official may bring action to a court of jurisdiction. A court of jurisdiction may issue a stop work order.
- B. Cause: A temporary or preliminary injunction may be issued when one or more of the following statements apply:
  - 1. The violation or alleged violation is in regard to an active project, such that if work is not stopped, the cost, time, or challenge to remedy the violation will likely increase;
  - 2. The violation or alleged violation is in regard to an active project, such that if work is not stopped, the violation will likely escalate in non-compliance;
  - 3. The violation or alleged violation is in regard to an active project, such that if work is not stopped, the number of violations will likely increase; or
  - 4. The violation or alleged violation is in regard to an active project, such that if work is not stopped, the continuance will put the health, safety, or welfare of the public at risk.
- C. General Procedure:
  - 1. Before or after filing with the court, the enforcement official shall mail a notice letter to the violator, the property address, or to the tax record address if mail is undeliverable to the property (e.g. a vacant site) describing the violation or alleged violation.
  - 2. Before or after filing with the court, the enforcement official shall make a reasonable attempt to investigate an alleged violation to determine if there is a violation.
  - 3. The enforcement official shall file for an action for temporary or preliminary injunction, or temporary restraining order (i.e. stop work order) in the court of jurisdiction to restrain a person from violating or further violating this Unified Development Ordinance.
  - 4. If the court grants the stop work order, the stop work order shall be posted in a conspicuous place on the property. A copy may also be delivered or mailed to the property owner, developer, builder, property manager, tenant, occupant, or other interested parties.
  - 5. The stop work order shall become effective upon court issuance and either phone notification to the violator or posting the notice on site.
  - 6. The court of jurisdiction may determine and describe the conditions and terms under which the stop work order will be lifted. Otherwise, it is the responsibility of the violator to schedule a meeting with the enforcement official and/or court of jurisdiction to resolve the violation.

## 10.10 Enforcing a Violation as a Common Nuisance

- A. Authority: The enforcement official may initiate enforcement action and prepare a formal conveyance to legal counsel. Legal counsel may then prosecute.
- B. Cause: According to Indiana Code, a structure that is erected, raised, or converted, or land or premises are used in violation of this Unified Development Ordinance is a common nuisance and the owner or possessor of the structure or land is liable for maintaining a common nuisance.
- C. General Procedure:
  - 1. Before or after formal conveyance, the enforcement official shall mail a notice letter to the violator, the property address, or to the tax record address if mail is undeliverable to the property (e.g. a vacant site) describing the violation or alleged violation.
  - 2. Legal counsel shall, upon formal conveyance of information in regard to an alleged violation of this Unified Development Ordinance, make an investigation of the alleged violation. If acts elicited by the investigation are sufficient to establish a reasonable belief that a violation has occurred on the part of the owner or possessor, the attorney representing the Town may file a complaint against the person and prosecute the alleged violation.

## 10.11 Request to Remedy

- A. Authority: The enforcement official may initiate a request to remedy.
- B. Cause: A violation or alleged violation exists on a property.
- C. General Procedure:
  - 1. Before or after sending a notice letter, the enforcement official shall make reasonable attempt to investigate an alleged violation to determine if there is a violation.
  - 2. The enforcement official shall mail a notice letter to the violator, the property address, or to the tax record address if mail is undeliverable to the property (e.g. a vacant site) describing the violation or alleged violation.
  - 3. The enforcement official shall grant the violator an opportunity to provide evidence that there is not a violation or to bring the violation into compliance; including a time frame of at least one (1) day but not more than twenty-one (21) days. The time frame granted shall be reasonably tied to the time necessary to remedy the violation (e.g. the time to remove an A-frame portable sign could be one day).
  - 4. A time frame extension may be granted upon request by the enforcement official if the violator is making satisfactory progress.
  - 5. If corrective measures have not been initiated in a timely manner, or corrective measures are not effectively being conducted, or corrective measures are significantly behind schedule, or the violation remains after the time frame given for remedy, then the enforcement official may choose another enforcement option. If the violator is making satisfactory progress and will likely meet the time frame for remedy, the enforcement official shall not begin another enforcement option until the time frame has expired and a violation remains unresolved.
- D. Safety from Fines: The enforcement official shall not impose a fine to a violator if a request to remedy is the first enforcement action and the violation is remedied within the granted time frame.

## 10.12 Invoke a Legal, Equitable, or Special Remedy

- A. Authority: The Plan Commission may bring action to a court of jurisdiction as an independent enforcement action or concurrent to another enforcement action; except as stated in *Section 10.11: Request to Remedy*. A court of jurisdiction may issue a legal, equitable, or special remedy.
- B. Cause: A violation or alleged violation exists on a property.
- C. General Procedure:
  - 1. Before or after bringing an action to the court of jurisdiction, the Plan Commission shall mail a notice letter to the violator, the property address, or to the tax record address if mail is undeliverable to the property (e.g. a vacant site) describing the violation or alleged violation.
  - 2. Before or after bringing an action to the court of jurisdiction, the Plan Commission shall make reasonable attempt to investigate an alleged violation to determine if there is a violation.
  - 3. The Plan Commission shall bring an action to the court of jurisdiction to invoke a legal, equitable or special remedy for a violation or alleged violation.
  - 4. Any violator found liable for a violation shall be subject to any court-imposed legal, equitable or special remedy. The legal, equitable or special remedy shall force compliance with this Unified Development Ordinance or be a unique court ruling that fulfills the intent of the *Town of Clear Lake Comprehensive Plan* and Unified Development Ordinance. The severity of the court ruling may consider the severity of the violation, impact to property values in the area, impact to quality of life in the area, impact to the health, safety and welfare of the public, repetitiveness of similar violations by the same violator, and/or the precedent that may be set by the ruling.



## 10.13 Enforce a Condition, Covenant, or Commitment

- A. Authority: The Plan Commission may bring action to a court of jurisdiction as an independent enforcement action or concurrent to another enforcement action; except as stated in *Section 10.11: Request to Remedy*. A court of jurisdiction may enforce compliance with a condition, covenant, or commitment.
- B. Cause: A condition, covenant, or commitment is not in compliance with terms of an approval.
- C. General Procedure:
  - 1. Before or after bringing an action to the court of jurisdiction, the Plan Commission shall mail a notice letter to the violator, the property address, or to the tax record address if mail is undeliverable to the property (e.g. a vacant site) describing the non-compliance.
  - 2. Before or after bringing an action to the court of jurisdiction, the Plan Commission shall make reasonable attempt to investigate an alleged violation to determine if there is non-compliance.
  - 3. The Plan Commission shall bring an action to a court of jurisdiction to enforce a condition, covenant (in connection to a plat, planned development or development plan), or commitment.
  - 4. Any non-compliance shall be subject to any court-imposed remedy. The court-imposed remedy may include enforcing the condition, covenant, or commitment, or be a unique court ruling that fulfills the intent of the *Town of Clear Lake Comprehensive Plan* and Unified Development Ordinance. The severity of the court ruling may consider the severity of the non-compliance, impact to property values in the area, impact to quality of life in the area, impact to the health, safety and welfare of the public, repetitiveness of similar violations by the same violator, and/or the precedent that may be set by the ruling.

## 10.14 Request a Prohibitory or Permanent Injunction to Restrain

- A. Authority: The enforcement official may bring action to a court of jurisdiction as an independent enforcement action or concurrent to another enforcement action; except as stated in *Section 10.11: Request to Remedy*. A court of jurisdiction may issue a prohibitory or permanent injunction against a violator or potential violator.
- B. Cause: A violation, alleged violation, or intent to violate exists.
- C. General Procedure:
  - 1. Before or after bringing an action to the court of jurisdiction, the enforcement official shall mail a notice letter to the violator, the property address, or to the tax record address if mail is undeliverable to the property (e.g. a vacant site) describing the violation, alleged violation, or intent to violate.
  - 2. Before or after bringing an action to the court of jurisdiction, the enforcement official shall make reasonable attempt to investigate an alleged violation to determine if there is a violation, an alleged violation, or an intent to violate.
  - 3. The enforcement official shall bring an action to a court of jurisdiction to request a prohibitory or permanent injunction to restrain a violation of this Unified Development Ordinance.
  - 4. Any violator found liable for a violation or intending to violate this Unified Development Ordinance shall be subject to prohibitory or permanent injunction to restrain. The court-imposed restraint may instead result in a unique court ruling that fulfills the intent of the *Town of Clear Lake Comprehensive Plan* and Unified Development Ordinance. The severity of the court ruling may consider the severity of the violation, impact to property values in the area, impact to quality of life in the area, impact to the health, safety and welfare of the public, repetitiveness of similar violations by the same violator, and the precedent that may be set by the ruling.

## 10.15 Request a Mandatory Injunction to Remove a Structure

- A. Authority: The Board of Zoning Appeals may bring action to a court of jurisdiction as an independent enforcement action or concurrent to another enforcement action; except as stated in *Section 10.11: Request to Remedy*. A court of jurisdiction may issue a mandatory injunction against a violator.
- B. Cause: A structure was constructed, modified or installed in violation or alleged violation.
- C. General Procedure:
  - 1. Before or after bringing an action to the court of jurisdiction, the Board of Zoning Appeals shall mail a notice letter to the violator, the property address, or to the tax record address if mail is undeliverable to the property (e.g. a vacant site) describing the violation or alleged violation.
  - 2. Before or after bringing an action to the court of jurisdiction, the Board of Zoning Appeals shall make reasonable attempt to investigate an alleged violation to determine if there is a violation.
  - 3. The Board of Zoning Appeals may bring an action to a court of jurisdiction to request a mandatory injunction to remove a structure in violation of this Unified Development Ordinance.
  - 4. If a structure is found in violation, the violator shall be subject to a mandatory injunction to remove the structure and all costs associated with the action. The court-imposed remedy may instead result in a unique court ruling that fulfills the intent of the *Town of Clear Lake Comprehensive Plan* and Unified Development Ordinance. The severity of the court ruling may consider the severity of the violation, impact to property values in the area, impact to quality of life in the area, impact to the health, safety and welfare of the public, repetitiveness of similar violations by the same violator, and/or the precedent that may be set by the ruling.

## 10.16 Impose a Fine for Violation

- A. Authority: The enforcement official may impose a fine for violation as an independent enforcement action or concurrent to another enforcement action; except the "Invoke a Fine for Violation" or *Section 10.11: Request to Remedy*.
- B. Cause: A violation exists.
- C. General Procedure:
  - 1. Before imposing a fine, the enforcement official shall collect evidence to conclude there is a violation.
  - 2. The enforcement official shall mail a notice letter to the violator or the property address (or to the tax record address if mail is undeliverable to the property (e.g. a vacant site) describing the violation. The notice letter shall also include the terms of the fine, including the fine amount and the date payment is due.
  - 3. If not addressed in a concurrent enforcement action, the enforcement official shall grant the violator an opportunity to provide evidence that there is not a violation or to bring the violation into compliance, including a time frame of at least one (1) day but not more than twenty-one (21) days. The time frame granted shall be reasonably tied to the necessary time to remedy the violation (e.g. the time to remove an A-frame portable sign in violation could be one day).
  - 4. A time frame extension may be granted upon request by the enforcement official if the violator is making satisfactory progress.
  - 5. The enforcement official may impose a fine in an amount not less than \$50.00 or higher than \$2,500 for the first violation and not less than \$50.00 or higher than \$7,500 for the second or subsequent violations. Each unique violation from the day it was confirmed as a violation is subject to a fine; and each new day the violation persists, excluding days granted to remedy the violation, shall constitute another fine. The fine for a violation shall be reasonably in proportion to the severity of the violation, repetitiveness of similar violations by the same violator, and the costs associated with enforcing, mitigating, administering, researching, inspecting the violation, court fees, legal fees, and the like.
  - 6. Fines imposed by the enforcement official may be appealed to the Board of Zoning Appeals.

## 10.17 Invoke a Fine for Violation

- A. Authority: The enforcement official may bring action to a court of jurisdiction as an independent enforcement action or concurrent to another enforcement action; except "Imposing a Fine for Violation" or as stated in *Section 10.11: Request to Remedy*. A court of jurisdiction may issue a fine for violation.
- B. Cause: A violation exists.
- C. General Procedure:
  - 1. Before or after bringing an action to the court of jurisdiction, the enforcement official shall collect evidence to conclude there is a violation.
  - 2. Before or after bringing an action to the court of jurisdiction, the enforcement official shall mail a notice letter to the violator or the property address; or to the tax record address if mail is undeliverable to the property (e.g. a vacant site) describing the violation.
  - 3. The enforcement official shall bring an action to a court of jurisdiction to invoke a fine for a violation.
  - 4. A violator found liable for a violation shall be subject to a court-imposed fine. The fine for a violation shall be reasonably in proportion to the severity of the violation, repetitiveness of similar violations by the same violator, and the costs associated with enforcing, mitigating, administering, researching, inspecting the violation, court fees, legal fees, and the like. Fines imposed by the court of jurisdiction shall be no higher than \$2,500 for the first violation, and no higher than \$7,500 for the second or subsequent violations according to *IC 36-1-3-8*.

## 10.18 Other Remedy

Any action permitted by Indiana Code, common law, or other applicable State regulations may be used to force a violation to be in compliance with this Unified Development Ordinance, remedy, or compliance with the terms of an approval.

# Article

# 11

## Definitions

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### Town of Clear Lake Unified Development Ordinance

## 11.01 General

The definitions contained in *Article 11: Definitions* shall be observed and applied in the interpretation of all Articles in this Unified Development Ordinance, except where the context clearly indicates otherwise. Words used in the present tense shall include the future; words used in the singular number shall include the plural and the plural the singular; words used in the masculine gender shall include the feminine.

## 11.02 Defined Words

The terms used in the Unified Development Ordinance shall have the following meanings:

**Accessory Dwelling (or Dwelling Unit):** A dwelling subordinate to a primary dwelling on the same lot. This use is typically referred to as a “Granny Flat” or “In-law Apartment.”

**Accessory Structure:** A structure which:

1. Is subordinate to a primary structure in area, intent, and/or purpose;
2. Contributes to the comfort, convenience, or necessity of occupants of the primary structure or primary use;
3. Does not alter or change the character of the premises;
4. Is located on the same lot as the primary structure or use;
5. Conforms to the setback, height, bulk, lot coverage, and other requirements of this Unified Development Ordinance unless otherwise provided for;
6. Is separate from a primary structure (see note below);
7. Is not designed for human occupancy as a dwelling or commercial use; and
8. In the case of a telecommunications tower, antenna, or other radio or cellular communications or equipment, a subordinate structure detached from but located on the same site, the use of which is incidental and accessory to that of the primary telecommunications tower, antenna, or other radio or cellular communications equipment.

(Note: A roof, sidewalk, deck, unenclosed breezeway, enclosed breezeway without climate control, or the like connecting an accessory structure to a primary structure shall not result in the accessory structure being designated as a part of the primary structure.)

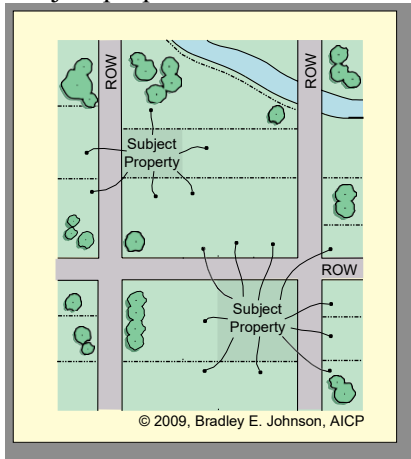
**Accessory Structure, Occupiable:** An accessory structure used as a habitable space that is clearly complementary and incidental to a primary structure's use (e.g. recreation room, artist studio, woodworking shop or guest quarters). An occupiable accessory structure shall not include residential units, studio apartments, and businesses. An occupiable accessory structure may be combined with a storage-based accessory structure.

**Accessory Structure, Recreation-based:** An accessory structure used for recreation, entertainment, and lounging (e.g. a sport court or play set). Generally, recreation-based accessory structures do not include enclosed structures, partially enclosed structures, roofed structures, or portions thereof.

**Accessory Structure, Storage-based:** An accessory structure used to store, keep, shelter, or contain material items (e.g. a shed or carport). Generally, storage-based accessory structures are enclosed, roofed, and/or partially enclosed structures. Storage-based accessory structures do not include play sets with roofs.

**Accessory Structure, Support-based:** An accessory structure used to provide essential services to a primary structure, primary land use, or another type of accessory structure. Examples of support-based accessory structures include maintenance facility, mechanical structure, freestanding canopy, stand-alone bathroom facilities, enclosed vending, kiosk, or structures used in support of the primary structure.

**Adjacent Property:** Any property adjacent to or directly diagonal to the subject property. Properties across a public right-of-way (ROW), access easement, drainage easement, or utility easement are also considered adjacent. The illustration below notes the properties that would be considered adjacent to two (2) different subject properties.



**Administrator:** See "Zoning Administrator."

**Advisory Plan Commission:** See "Plan Commission."

**Agricultural District:** Refers to the AG and IA districts.

**Agriculture:** The use of land for agriculture purposes, including farming, dairying, pasturage, apiculture, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any accessory uses shall be secondary to that of the normal agricultural activities. "Agriculture" does not include feed lots, stock yards, or the commercial feeding of garbage or offal to swine or other animals.

**Airport:** Any area which is used or intended to be used for the taking off and landing of aircraft, including helicopters, and any appurtenant areas which are used or intended to be used for airport structures or facilities, including open spaces, taxiways, and tie-down areas.

**Alley:** A public right-of-way, other than a street, crosswalk, or easement, that provides secondary access for the special accommodation of abutting property.

**Antenna:** Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic or radio waves.

**Applicant:** The owner, owners, or legal representative of real estate who makes application to the Zoning Administrator for an Improvement Location Permit.

**Arterial Street:** See "Street, Arterial."

**ATM:** See "Automated Teller Machine."

**Attached Structure:** A structure that is structurally connected to another structure by a foundation, wall, bridge, or roof line, or appears to be connected. Carports, garages, porch awnings, and the like are considered attached structures and must abide by all regulations pertaining to primary structures.

**Attic:** A non-habitable, non-insulated and non-finished space above the ceiling joists in a building that is either unutilized, inaccessible, and/or used for unconditioned storage (i.e. no heating or air conditioning in or supplied to the attic). When used for storage, an attic may have temporary or permanent decking, one (1) light per 144 square feet, and one (1) 110 volt electric receptacle for convenience. Any escalation or exceeding of the maximum allowable lighting or receptacle shall disqualify a space as an attic.

**Automated Teller Machine (ATM):** An electronically operated device used to conduct financial transactions on site, by means of direct computerized access.

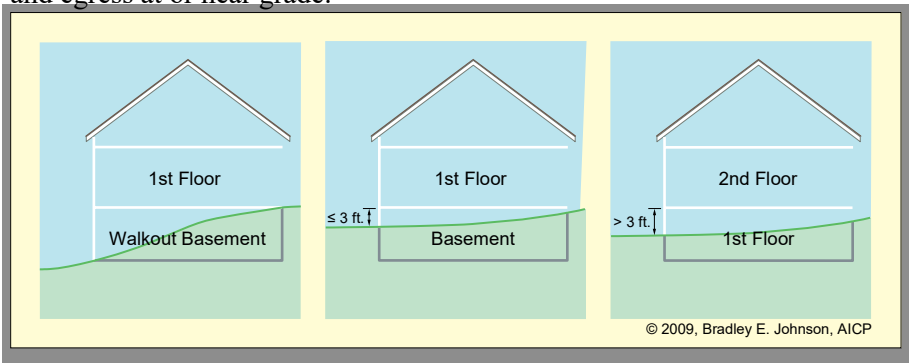
**Average Setback:** See "Setback, Average."

**Base Zoning District:** See "Underlying District."



**Basement:** An area within a building dominantly below the finished grade, having its ceiling elevation (bottom of the floor joists of the floor above) no more than three (3) feet above any finished grade surrounding the building (See graphic for Basement, Walkout).

**Basement, Walkout:** An area within a building with its perimeter (exterior) walls partially below finished grade, and having 1/4 or less of its perimeter (i.e. exterior) walls fully above finished grade allowing ingress and egress. To be considered a walkout basement it must have another habitable floor above it that also has ingress and egress at or near grade.

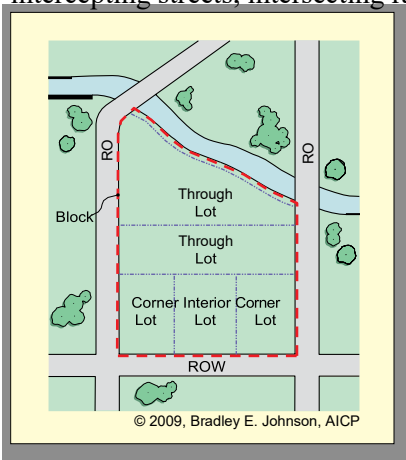


**Bathroom, Full:** A finished room or rooms used in combination with at least one (1) toilet and one (1) sink, and either a shower or bathtub for bathing and personal hygiene.

**Bathroom, Half:** A finished room or rooms used in combination with at least one (1) toilet and one (1) sink, and does not allow for a shower or bathtub for bathing and personal hygiene.

**Berm:** A man-made, formed, earth mound of definite height and width used for landscaping and screening purposes, the intent of which is to provide a transition between uses of differing intensity or to screen uses from sight.

**Block:** Property abutting on one (1) side of a street and lying between the two (2) nearest intersecting or intercepting streets, intersecting railroad, intersecting waterway, or the end of a dead end street.



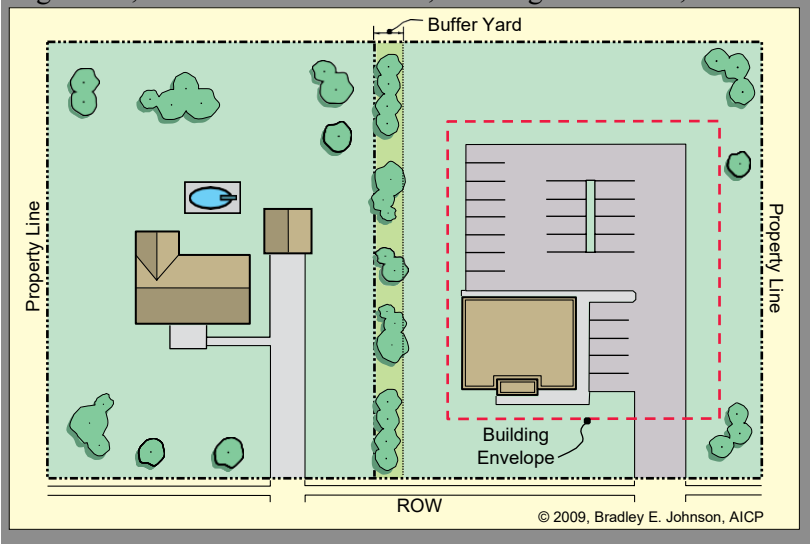
**Board:** See "Board of Zoning Appeals."

**Board of Zoning Appeals:** The Town of Clear Lake Board of Zoning Appeals or any division thereof.

**Bond:** Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Plan Commission. All bonds shall be approved by the Plan Commission wherever a bond is required by this Unified Development Ordinance.

**Buffer Landscaping:** Any trees, shrubs, decorative fences, berms, space, or related landscaping features required under this Unified Development Ordinance for buffering lots from adjacent properties or public rights-of-way for the purpose of increasing visual shielding or other aspects of privacy and/or aesthetics.

**Buffer Yard:** An area adjacent to front, side, and rear property lines, measured perpendicularly from adjacent property lines and/or right-of-way lines, intended to provide attractive spaces or natural features to (a) reduce the impacts of a proposed or existing use from the subject property, (b) screen incompatible uses from each other, or (c) screen the subject property from a right-of-way. Buffer yards help to maintain existing trees or natural vegetation, to block or reduce noise, reduce glare or odor, and to maintain privacy.



**Buildable Lot:** See "Lot, Improved."

**Building:** A structure having a roof supported by columns or walls, for the shelter, support, or enclosure of persons, property, or the like; and when separated by division walls from the ground up and without openings, each portion of such building shall be deemed as a separate building.

**Building, Accessory:** An accessory structure having a roof supported by columns or walls, for the purpose of shelter, support, or enclosure of persons or property.

**Building Code:** The Indiana Building Code which establishes and controls the standards for constructing all forms of permanent structures and related matters.

**Building, Detached:** See "Detached Structure."

**Building Height:** See "Structure Height."

**Building Envelope:** See "Envelope, Building."

**Business:** The engaging in the purchase, sale, barter, or exchange of goods, wares, merchandise, or services, or the maintenance or operation of office, recreation, or amusement enterprises.

**BZA:** See "Board of Zoning Appeals."

**Caliper:** A tree trunk diameter measured in inches at a height of four and one-half (4 ½) feet above the ground. If a tree splits into multiple trunks below four and one-half (4 ½) feet, the trunk is measured at its most narrow point beneath the split.

**Canopy Tree:** A deciduous tree that grows to at least forty (40) feet in height and that has a branch system (i.e. a canopy) that is round or oval in shape (e.g. red oak, tulip poplar, sycamore, or sugar maple). Conical or tubular shaped trees are not canopy trees.

**Central Sewer System:** A community sewer system including all or portions of a collection and/or treatment facility owned and maintained by the Town of Clear Lake.

**Central Water System:** A community water supply system including all or portions of existing and new public wells and/or surface water sources, treatment facilities, and/or distribution lines.

**Certificate of Occupancy:** A certificate stating that the occupancy and use of a structure complies with all applicable Unified Development Ordinance provisions.

**Child Care Home:** An establishment providing non-overnight care, supervision, and protection of children in private residences which is ancillary to the primary use as residential. A residential structure in which at least six (6) children (not including the children for whom the provider is parent, stepparent, guardian, custodian, or other relative) at any time receive child care from a provider: (a) while unattended by a parent, legal guardian, or custodian; (b) for regular compensation; and (c) 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. The term includes Class I child care home and Class II child care home as defined in *IC 12-7-2-33.7* and *IC 12-7-2-33.8*.

**Church:** See "Places of Worship."

**Club House:** A structure used in association with a golf course, in which may be locker rooms, golf course administration offices, golf cart storage and maintenance, rest rooms, lounges, meeting space, snack bar, banquet facilities, and retail sales of golf related products. Retail sales shall constitute no more than fifteen percent (15%) of the space accessible to the public of the club house.

**Co-location:** A space on an existing or proposed telecommunication tower that can be used for the installation and/or mounting of antennas or radio or cellular communication equipment that operates on a different frequency from the initial user.

**Commercial District:** Refers to the NC district.

**Commercial Storage Facility:** A structure or group of structures containing individual storage units of 200 square feet or less with access to each unit only for the storage and warehousing of personal property. Warehouse storage facilities do not include activities of any kind including wholesaling, retailing, servicing, or repair of household or commercial goods in conjunction with storage.

**Commission:** See "Plan Commission."

**Community Center:** A structure available to the public for community activities, meetings, banquets, projects, gatherings, and the like. A community center may be able to be reserved by the public for private parties and events.

**Comprehensive Plan:** Refers to the *Town of Clear Lake Comprehensive Plan*. The Comprehensive Plan was developed and adopted by the Plan Commission pursuant to the *IC 36-7-4-500* Series and includes any part and/or policies separately adopted and any amendment to the plan and/or the policies.

**Condition of Approval:** Stipulations or provisions set forth by the Board of Zoning Appeals or Plan Commission required as a prerequisite for approval of a petition.

**Condominium:** Real estate lawfully subject to *IC 32-25*, et seq. (the Condominium Law), by the recording of condominium instruments, in which undivided interests in the common areas and facilities are vested in the condominium unit owners.

**Confined Feeding:** The raising of animals for food, fur, or medicinal purposes in lots, pens, ponds, sheds, or buildings, where they are confined, fed, and maintained for at least forty-five (45) days during any year, and where there is no ground cover or vegetation present over at least half of the animals' confinement area.

**Confined Feeding Operation (medium):** Any livestock operation engaged in the confined feeding of between 300-999 cattle, or 750-999 swine, or 3,000-9,999 sheep, or 9,000-29,999 hens, or 10,000-29,999 ducks. All thresholds are defined by the Indiana Department of Environmental Management (IDEM).

**Confined Feeding Operation (small):** Any livestock operation engaged in the confined feeding of less than 300 cattle, or 750 swine, or 3,000 sheep, or 9,000 hens or 10,000 ducks. All thresholds are defined by the Indiana Department of Environmental Management (IDEM).

**Construction Plan(s):** The maps or drawings showing the specific location and design of improvements to be installed in accordance with the requirements of this Unified Development Ordinance and the Indiana Building Code as a condition of approval.

**Continuous Mound:** A landscape feature used for screening in which a continuous raised section of earth is used to block or partially block visibility from one side to the other. In particular, continuous mounds are linear with a top elevation (crest) relatively consistent from one end to the other.

**Corner Lot:** See "Lot, Corner."

**County:** Steuben County, Indiana.

**Covenants:** Private and legal restrictions of various kinds on the usage of lots, typically within a subdivision and applied by the subdivider. In the case of public health, safety, and welfare, covenants may be applied by the Plan Commission, that are recorded with the plat and deed. Covenants can also be placed on commercial developments. Unless specifically agreed to, covenants are not enforceable by the Plan Commission or its designees. However, they are enforceable in civil court by interested or affected parties.

**Cul-De-Sac:** A street having one (1) end open to traffic and being permanently terminated by a vehicular turnaround at the other end.

**Day Care Center:** See "Child Care Center."

**Deck:** A generic term for either a standard deck or elevated deck, as defined.

**Deck, Standard:** A horizontal improved surface (e.g. concrete, paver blocks, or wood decking) and its structural supports used for outdoor living (e.g. surface for outdoor tables and seating, or location for grill) that is greater than six (6) inches above ground level, but no greater than twenty-nine (29) inches above ground level as measured to the top of the horizontal surface's floor.

**Deck, Elevated:** A horizontal improved surface (e.g. concrete, paver blocks, or wood decking) and its structural supports used for outdoor living (e.g. surface for outdoor tables and seating, or location for a grill) that is greater than twenty-nine (29) inches above ground level as measured to the top of the horizontal surface's floor.

**Decorative Fence:** See "Fence, Decorative."

**Dedication:** The setting apart of land or interests in land for use by the municipality or public by ordinance, resolution, or entry in the official minutes as by the recording of a plat.

**Demolition:** The complete or substantial removal or destruction of any structure including or excluding its foundation or portions thereof.

**Detached Building:** See "Detached Structure."

**Detached Structure:** A structure that has no structural connection with the primary structure.

**Developed Lot:** See "Lot, Developed."

**Developer:** The owner or legal representative of land proposed to be subdivided and used for residential or commercial development.

**Development Standards:** Height, bulk, density, environmental performance standards, and other standards for development as set forth in this Unified Development Ordinance, including landscaping, parking, and other required improvements, excluding those provisions which specifically regulate the use, per se, of property.

**Development Standards Variance:** See "Variance, Development Standards."

**District:** Areas within the Town of Clear Lake for which uniform zoning regulations governing use, height, area, size, intensity of use of structures and land, and open spaces about structures, are established by this Unified Development Ordinance. Districts are drawn on the Official Zoning Map and include areas within water bodies where structures associated with adjacent land exist.

**DNR:** Indiana Department of Natural Resources.

**Dock:** Any platform used to gain access to a lake or to secure watercraft, whether attached to or detached from the adjacent shore. The cumulative volume of all dock boxes on a dock shall not exceed seventy-five (75) cubic feet.

**Dock Box:** A storage device located on a permitted dock that is less than three (3) feet tall and less than seventy-five (75) cubic feet in volume. Any storage device on a dock in which the storage compartment is greater in height or volume shall be considered and regulated as an accessory structure.

**Domestic Pets:** Animals commonly used as household pets, protection, companions, and for assistance to disabled persons. Domestic pets shall include animals that are cared for and treated in a manner acceptable for pet dogs, cats, and birds. Domestic pets shall include, but not be limited to, dogs, cats, parakeets, parrots, finches, lizards, spiders, guinea pigs, hamsters, gerbils, rats, mice, rabbits, aquarium fish, ferrets, and snakes if cared for in the manner described above.

**Duplex:** See "Dwelling, Multiple-family."

**Drive, Private:** See "Street, Private."

**Driveway:** Any facility or structure used to convey vehicles to public streets.

**Dwelling:** A structure or portion thereof, conforming to all requirements applicable to the district in which it is located, all Building Codes, and that is used exclusively for residential occupancy, including single-family dwelling units, two-family dwelling units, and multiple-family dwelling units, but excluding hotels, motels, and boarding houses.

**Dwelling, Manufactured Home:** A single-family dwelling unit with eighty percent (80%) or greater percentage built or assembled in a factory; then installed as a permanent residence, which bears a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law (1974 U.S.C. 5401 et seq.), and which also complies with the following specifications:

1. Was constructed after January 1, 1981, and exceeds 950 square feet of occupied space per IC 36-7-4(d),
2. Is attached to a permanent foundation of masonry construction and has a permanent concrete or concrete block perimeter enclosure constructed in accordance with the One and Two Family Dwelling Code,
3. Has transportation related wheels, axles, and towing chassis removed,
4. Has a pitched roof with a minimum of two (2) vertical units to twelve (12) horizontal units (2:12 pitch), and
5. Consists of two (2) or more sections which, when joined, have a minimum dimension of twenty-three (23) feet in width for at least sixty percent (60%) of its length.

**Dwelling, Mobile Home:** A transportable dwelling unit which is a minimum of eight (8) feet in width and which is installed on a permanent foundation or tied down with perimeter skirting when connected to the required utilities, and includes the plumbing, heating, and electrical system contained therein, and which was manufactured either:

1. Prior to June 15, 1976 and bears a seal attached under Indiana Public Law 135, 1971, certifying that it was built in compliance with the standards established by the Indiana Administrative Building Council, or
2. Subsequent to or on June 15, 1976 and bears a seal, certifying that it was built in compliance with the Federal Mobile Home Construction and Safety Standards.

**Dwelling, Multiple-family:** A residential building designed to be occupied by two (2) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

**Dwelling, Primary:** A building containing one (1) residential unit in which the owner of the property is the occupant.

**Dwelling, Single-family:** See "Dwelling, Single-family Detached."

**Dwelling, Single-family Detached:** A detached residential dwelling unit designed to be occupied by one (1) family. A mobile home shall not be considered a Single-family Detached Dwelling. A manufactured home, as defined, shall be considered a Single-family Detached Dwelling.

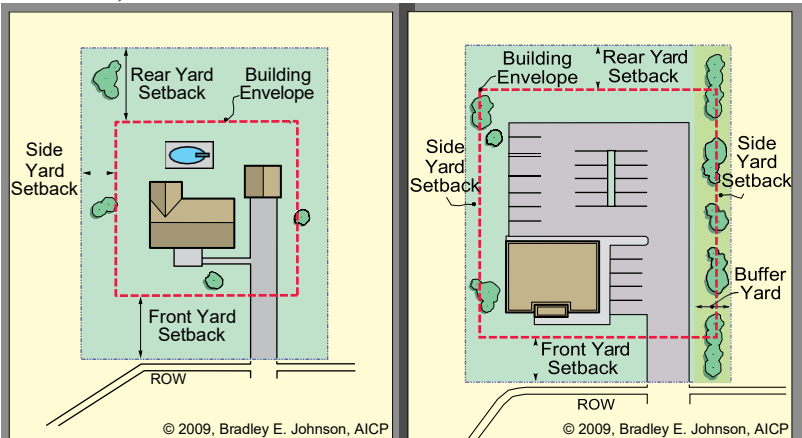
**Dwelling Size:** The overall square footage of a dwelling unit. The dwelling size does not include an attached garage, carport, deck, unfinished storage, patio or open porch.

**Dwelling, Two-Family:** See "Dwelling, Multiple-family."

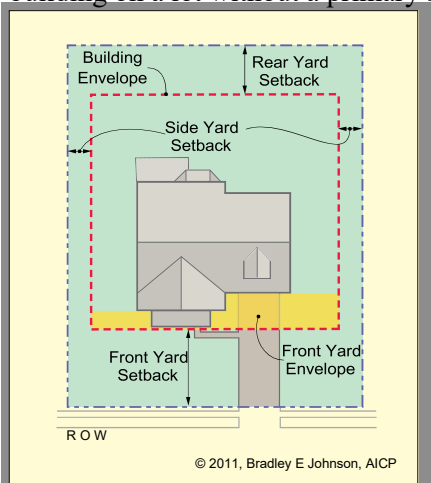
**Dwelling Unit:** A single unit for owner occupancy or for rent/lease, physically separated from any other dwelling units which may be in the same structure, and providing complete and independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, cooking, and sanitation. Examples of a dwelling unit include a single-family dwelling or an apartment.

**Easement:** A grant by a property owner ("grantor") to specific persons, the general public, corporations, utilities, or others ("grantee" or "easement holder") for the purpose of providing services or access to the property.

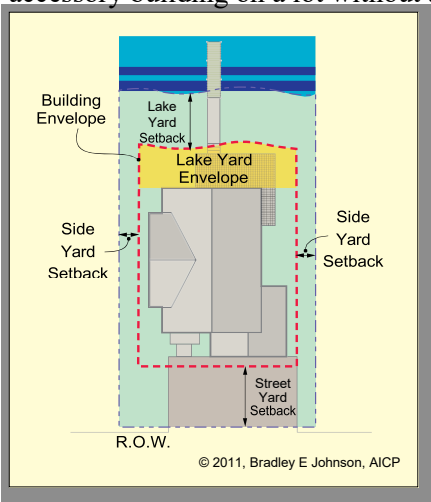
**Envelope, Building:** The setback lines that establish an area on a lot on which structures can be installed, relocated, or constructed.



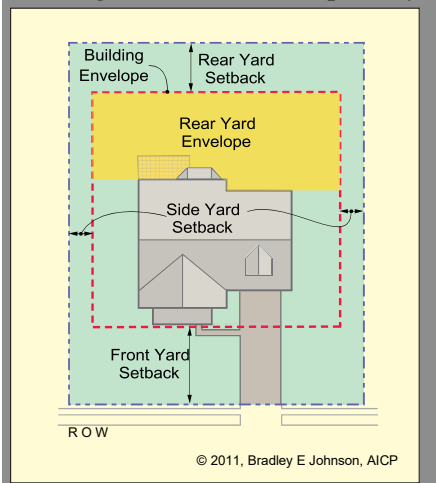
**Envelope, Front Yard:** The horizontal area from the front facade of a primary structure to the applicable front yard setback, extending to the applicable side yard setbacks. This definition also applies to the largest accessory building on a lot without a primary structure (e.g. a detached garage in a Lake Accessory district).



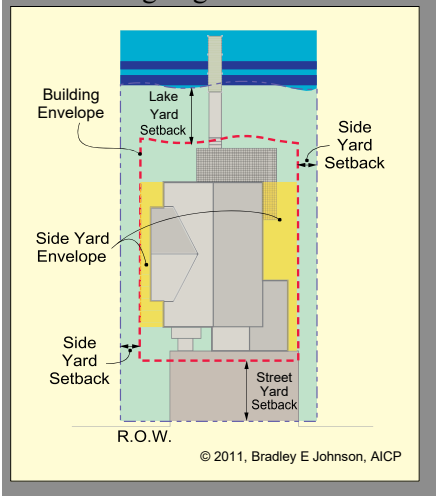
**Envelope, Lake Yard:** The horizontal area from the lake-facing facade of a primary structure to the applicable lake yard setback, extending to the applicable side yard setbacks. This definition also applies to the largest accessory building on a lot without a primary structure (e.g. a detached garage in a Lake Accessory district).



**Envelope, Rear Yard:** The horizontal area from the rear facade of a primary structure to the applicable rear yard setback, extending to the applicable side yard setbacks. This definition also applies to the largest accessory building on a lot without a primary structure (e.g. a detached garage in a Lake Accessory district).

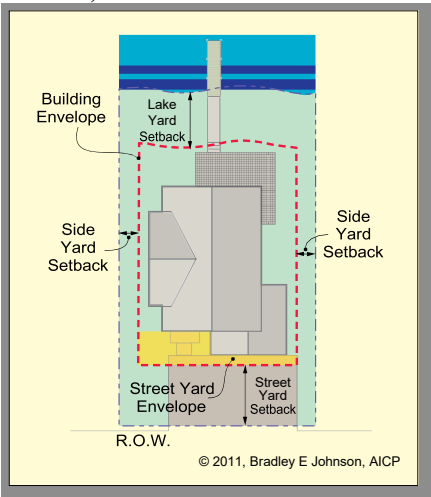


**Envelope, Side Yard:** The horizontal area from the side facade of a primary structure to the applicable side yard setback, extending to the street yard envelope (or front yard envelope) and lake yard envelope (or rear yard envelope). This definition also applies to the largest accessory building on a lot without a primary structure (e.g. a detached garage in a Lake Accessory district).





**Envelope, Street Yard:** The horizontal area from the street-facing facade of a primary structure to the applicable front yard setback, extending to the applicable side yard setbacks. This definition also applies to the largest accessory building on a lot without a primary structure (e.g. a detached garage in a Lake Accessory district).

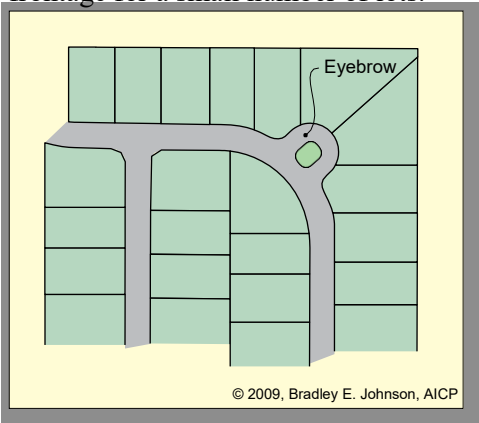


**EPA:** United States Environmental Protection Agency.

**Erosion:** The wearing away of the land surface by water, wind, ice, gravity, or other geological agents.

**Established Building Setback:** See "Setback, Established Building."

**Eyebrow:** A semi-circular extension of a curb on one (1) side of a street designed to provide more street frontage for a small number of lots.



**FAA:** Federal Aviation Administration.

**Fair Housing Facility (large):** To prevent the discrimination of mentally or physically disabled persons, these facilities have been identified as types of housing that are permitted in certain districts, but still must meet "nondiscriminatory" health, fire, safety, and building regulations. These facilities include:

1. Group homes for children in need of service under *IC 31-34-1* or children who have committed a delinquent act under *IC 31-37-2-2*, *IC 31-37-2-3*, or *IC 31-37-2-5*; and specifically a facility that houses more than ten (10) children.
2. Residential Facility for the Developmentally Disabled which provides residential services for more than eight (8) developmentally disabled individuals as described in *IC 12-28-4*.

**Fair Housing Facility (small):** To prevent the discrimination of mentally or physically disabled persons, these facilities have been identified as types of housing that are permitted in any single-family or multiple-family residential zoning district, but still must meet "nondiscriminatory" health, fire, safety, and building regulations. These facilities include:

1. Group homes for children in need of service under *IC 31-34-1* or children who have committed a delinquent act under *IC 31-37-2-2*, *IC 31-37-2-3*, or *IC 31-37-2-5*; and specifically a facility that houses not more than ten (10) children.
2. Residential Facility for the Developmentally Disabled which provides residential services for eight (8) developmentally disabled individuals or less as described in *IC 12-28-4*.
3. Residential Facility for the Mentally Ill which provides residential services for mentally ill individuals as described in *IC 12-28-4*. No two (2) Residential Facilities for the Mentally Ill shall be within 3,000 feet of one another in the planning jurisdiction as stated in Indiana Code.

**Family:** An individual; or two (2) or more persons related by blood, marriage, or adoption; or a group of not more than three (3) persons, not related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit.

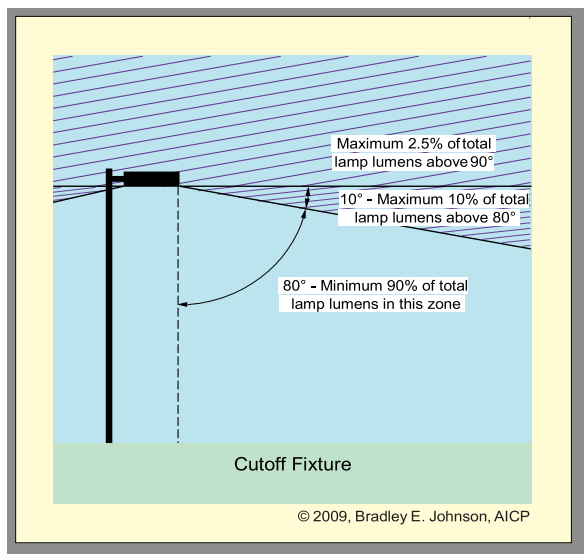
**Farmer's Market:** The assembly of local producers and providers of fruit, vegetables, meat, bread, dairy, herbs, spices, eggs, wine, and other products of local and regional farms; at an interior or exterior location for the public to purchase such products. Ancillary to farm products, non-farm products and products manufactured from farm products may be sold.

**Fence:** A vertical structure used for containment, security, aesthetics, a landscape feature, and the like. Fences are inclusive of permanently affixed (e.g. posts cemented into the ground), temporarily affixed (e.g. staked to the ground) structures, and living material (e.g. a dense hedge row). Fence materials may include wood, composite wood, masonry, stone, metal, plastic, vinyl, wire, glass, or similar material; however, the Town of Clear Lake Unified Development Ordinance may restrict or require some forms and/or materials.

**Fence, Decorative:** A fence that is not primarily used for containment or security, that is used for decorative purposes or screening, that is designed to be aesthetically appealing, and is integrated into the site's landscaping.

**Fixture, Cutoff:** A luminaire that:

1. Projects at least ninety percent (90%) of the total lamp lumens below eighty degrees (80°) from vertical;
2. Does not allow more than ten percent (10%) of the total lamp lumens above eighty degrees (80°) from vertical; and
3. Does not allow more than two and one-half percent (2 ½%) of the total lamp lumens above ninety degrees (90°) from vertical.

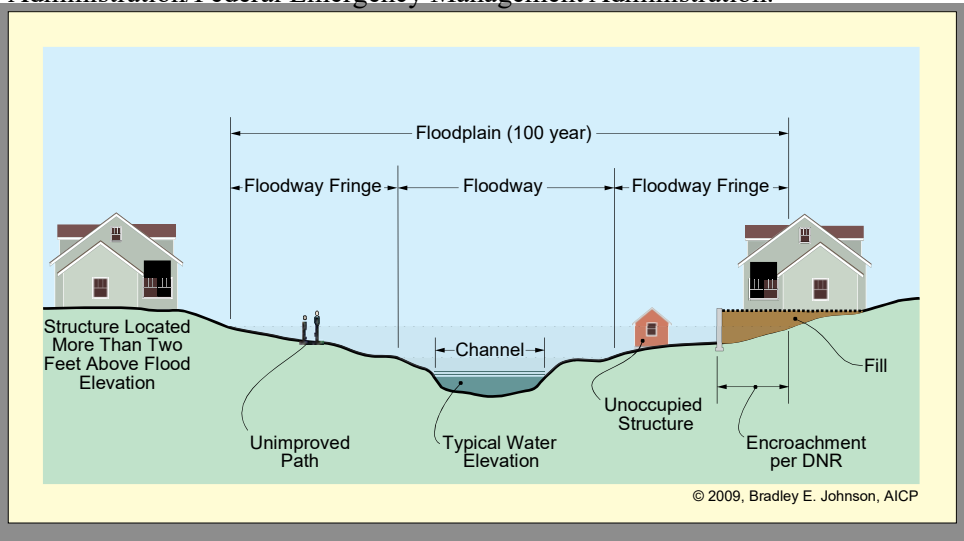


**Flatwork:** Generally, concrete, asphalt or pavers used for on-site sidewalks, patios, and driveways.

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

**Flood, Regulatory:** A flood having a peak discharge which can be equalled or exceeded on the average of once in a 100-year period, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission. Further, this flood is equivalent to a flood having a one percent (1%) probability of occurrence in any given year.

**Floodplain:** The relatively flat area or low land adjoining the channel of a river or stream which has been or may be covered by flood water. The floodplain includes the channel, floodway, and floodway fringe. Floodplain boundaries are to be determined by using the Floodway-Flood Boundary Maps of the Federal Insurance Administration/Federal Emergency Management Administration.



**Floodway Fringe:** Those portions of the floodplain lying outside the floodway.

**Floodway:** The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge peak flow of the regulatory flood of any river or stream and, is that area covered by floodwaters in significant downstream motion or covered by significant volumes of stored water during the occurrence of the regulatory flood.

**Floor:** See "Story."

**Floor Area:** In residential buildings, the cumulative square feet of finished indoor living space including bedrooms, bathrooms, kitchen living room and similar spaces, but not including covered porches or patios, attached garages, and storage only accessible from the exterior. In non-residential buildings, the cumulative square feet of indoor space, including offices, showroom, dining, storage, and the like. In accessory structures, the cumulative square feet of all interior spaces (or space under roof if an unenclosed structure), excluding attics.

**Footprint:** The area on a lot covered by a structure defined by the outside edge of that structure's foundation or dripline of an architectural projection (e.g. cantilevered floor or bay window), including attached garages. Footprint also includes any roof structure which covers 50 square feet or more, with or without a foundation, and attached or detached to another structure. However, footprint does not include eaves that project less than two (2) feet from the structure's facade.

**Foundation:** The supporting member of a wall or structure. Pilings are considered a foundation.

**Front Lot Line:** See "Lot Line, Front."

**Front Yard:** See "Yard, Front."

**Frontage:** See "Lot Frontage."

**Frontage Street:** See "Street, Frontage."

**Garage:** An attached or detached structure whose primary use is to house motor vehicles or personal property for the accommodation of related dwelling units or related business establishments. A detached garage shall always be considered an accessory structure. An attached garage, a garage with an occupiable accessory structure, or a garage with an accessory dwelling shall always be considered part of a primary structure.

**Geographic Information System (GIS):** A computer system that stores and links non-graphic attributes or geographically referenced data with graphic map features to allow a wide range of information processing and display operations, as well as map production, analysis, and modeling.

**GIS:** See "Geographic Information System (GIS)."

**Golf Course:** An area of terrain on which the game of golf is played during daylight hours. A golf course includes greens, fairways, and natural areas. A golf course may also include a driving range when integrated with the golf course operations and hours.

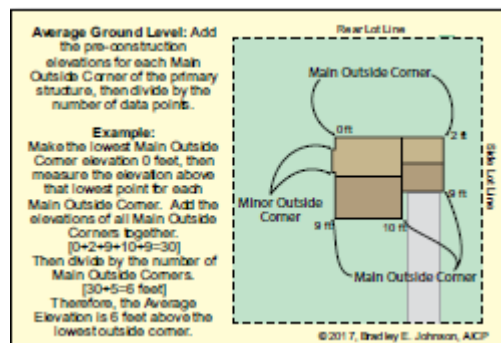
**Grade, Finished:** The average elevation of the finished surface of the ground within ten (10) feet of the structure after final grading.

**Grantee:** A person to whom an interest in property is granted.

**Grass Paver:** A honeycomb (or similar pattern) cell paver that allows grass to grow in the voids between the engineered supporting membranes (e.g. metal). Grass pavers are strong enough to support the weight of vehicles.

**Ground Floor Area:** See "Main Floor Area."

**Ground Level, Average:** The average of the ground elevation surrounding a structure. The average ground level is calculated by first establishing the lowest Main Outside Corner of the structure, making that Main Outside Corner elevation 0 feet. Then measure the elevation of all Main Outside Corners above "elevation 0." Then add the elevations for all Main Outside Corners and then divide by the total number of Main Outside Corners. The resulting number is the Average Ground Level. Note that any artificial mounding or recessions shall not be used as the high or low elevation, especially attempts to manipulate the average ground level to the advantage of a property owner. Specifically, the elevations shall be taken pre-construction.



**Group Home:** A facility that houses not more than ten (10) children that are either:

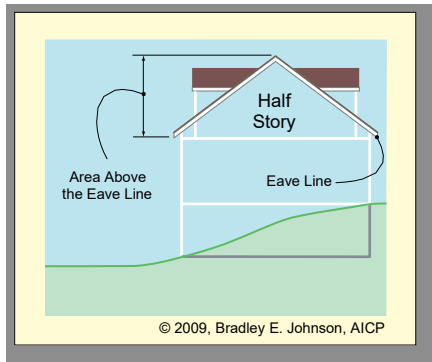
1. In need of service under *IC 31-34-1*; or
2. Children who have committed a delinquent act under *IC 31-37-2-2*, *IC 31-37-2-3*, or *IC 31-37-2-5*.

Group homes are not subject to covenants, deeds, or other instruments pertaining to the transfer, sale, lease, or use of property that would permit the residential use of property but prohibit the use of that property as a group home as a matter of State public policy reasons. Group homes cannot be prohibited on the grounds that they are a business, the persons living in a group home are not related, or any other reason. All group homes must abide by applicable Indiana Code and shall be a licensed facility with the State, meeting fire codes, building codes, and specific group home regulations.

**Guest Quarters:** An accessory structure used for overnight guests (e.g. sleeping room) including a full bathroom, and climate control for cold seasons, but not including a kitchen. Guest quarters are not rental units or boarding houses.

**Habitable Space:** Any space in a structure suitable for living, sleeping, eating or cooking purposes, excluding such enclosed places as closets, pantries, bath or toilet rooms, hallways, laundries, storage spaces, utility rooms and similar spaces.

**Half Story:** A habitable space within a primary structure predominantly located under a sloping roof with a floor elevation no more than one (1) foot below the eave line. A half story must be internally accessible by stairs from the story below. A half story must have windows in gables or dormers.



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

**Height:** See "Structure Height."

**Hobby Farming:** The use of land for purposes, including: dairying, pasturage, apiculture, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry. Processing and storage of harvested produce or other end products shall not be allowed on site. The hobby farming use(s) shall not exceed forty percent (40%) of the land area of the lot and shall abide by all setback regulations. Hobby farming cannot be the primary income source for the owner, operator or household on site. Hobby farming shall not include feed lots, stock yards, or the commercial feeding of garbage or offal to swine or other animals.

**Home Business:** A business activity conducted completely within a dwelling unit, carried on by any lawful resident of the property and is clearly incidental and secondary to the use of the dwelling for residential purposes.

**Hot Tub:** An above ground tub that is designed to hold water and does not exceed eighty-one (81) square feet in area.

**IAC:** Indiana Administrative Code.

**IC:** Indiana Code.

**IDEM:** Indiana Department of Environmental Management.

**Illuminance:** The total amount of visible light illuminating (incident upon) a point on a surface from all directions above the surface (i.e. how brightly a surface is illuminated). Illuminance is measured in lux.

**Impervious Surface:** Any material that prevents absorption of stormwater into the ground such as concrete or asphalt.

**Improved Lot:** See "Lot, Improved."

**Improvement:** Any permanent structure that becomes part of, placed upon, or is affixed to real estate, or any alteration to the land.

**Improvement, Off-site:** Any premises not located within the area of the property to be subdivided, used, or built upon whether or not in the same ownership of the petitioner for subdivision approval.

**Incidental:** A minor occurrence or condition which is customarily associated with a permitted use and is likely to ensue from normal operations.

**INDOT:** Indiana Department of Transportation.

**Initial User:** The petitioner, person, organization, or corporation that originally applies to the Town for approval for the installation of an antenna or other radio or cellular communication equipment or for approval for the construction of a telecommunication tower or facility.

**Institutional District:** Refers to the IS district.

**Interior Lot:** See "Lot, Interior."

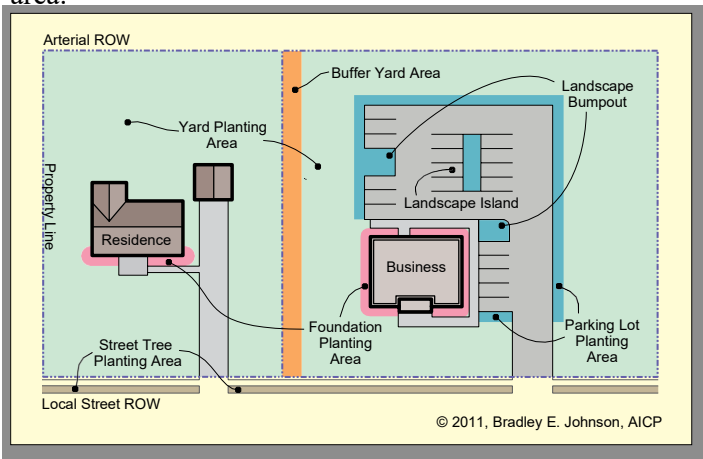
**Junk:** An automobile, truck, other motor vehicle, watercraft, large appliances, furniture or like materials which have been damaged to such an extent that they cannot be operated under their own power or used and/or will require major repairs before being made usable. This also includes such a vehicle which does not comply with State, County, or Town vehicle licensing or other laws or ordinances.

**Jurisdiction:** See "Planning Jurisdiction."

**Kitchen:** An indoor room with either: (1) a dishwasher, or (2) an oven, or (3) a refrigerator, sink, and cooking device (e.g. microwave, stove, or oven) within twenty (20) feet of one another when the distance between each feature is measured and added together (i.e. adding the distance from the refrigerator to the sink to the cooking device back to the refrigerator).

**Kitchen, Outdoor:** See "Outdoor Kitchen."

**Landscape Areas:** Areas on a lot or abutting right-of-way that are identified for application of landscaping regulations. Landscape areas include: street tree planting areas, parking yard planting areas, foundation planting areas, and buffer yard areas. The image below conceptually demonstrates the general location of each landscape area.



**Landscape Buffer:** A continuous landscaped area designed, maintained and used for screening and separation of uses, lots, or structures.

**Landscape Material:** Trees, shrubs, ground cover (not grass), plants, decorative fences, retaining walls, earthen mounds, irrigation systems, flower beds, decorative rocks, edging, mulch, stakes, and the like. Artificial trees, shrubs, ground cover, and flowers are not considered landscape material.

**Landscape Structure:** Decorative fences, retaining walls, edging, and the like.

**Landscaping:** The improvements of a lot with grass, shrubs, trees, and other vegetation and/or ornamental objects. Landscaping may include pedestrian walks, flower beds, berms, fountains, and other similar natural and man-made objects designed and arranged to produce an aesthetically pleasing effect.

**Legal Nonconforming Lot of Record:** Any legally established and recorded lot prior to the effective date of this Unified Development Ordinance, or its subsequent amendments, that no longer meet the lot-specific development standards.

**Legal Nonconforming Structure:** Any continuously occupied, lawfully established structure prior to the effective date of this Unified Development Ordinance, or its subsequent amendments, that no longer meets the development standards.

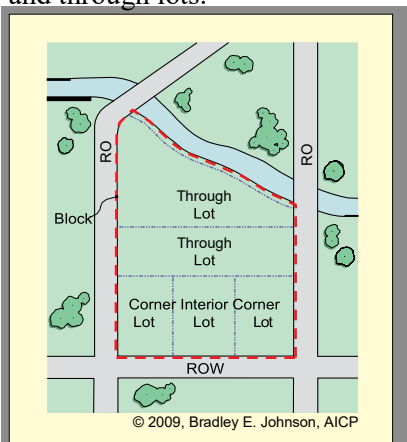
**Legal Nonconforming Use:** Any continuous, lawful use of structures, land, or structures and land in combination established prior to the effective date of this Unified Development Ordinance or its subsequent amendments that is no longer a permitted use in the district where it is located.

**Loading Space:** An off-street space for temporary parking of delivery and pickup vehicles.

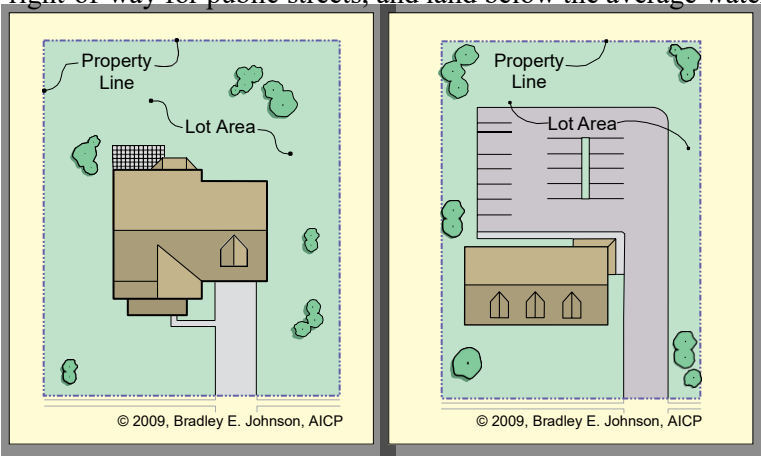
**Local Street:** See "Street, Local."

**Lost Value:** A quantifiable value used to determine which standards apply to a legal nonconforming structure that has been damaged by accidental fire, flood, or act of God. The lost value is the difference between the "reconstruction cost" and the "remaining value." The reconstruction cost is the cost to completely reconstruct the damaged structure starting with a bare lot. The remaining value is the monetary value of the remaining portions of the damaged structure that will be utilized during reconstruction. The reconstruction cost and remaining value are determined by averaging estimates or bids from two (2) contractors.

**Lot:** A piece, parcel, or tract of land designated by its owner or developer to be used, developed, or built upon as a unit under single or multiple ownership or control. Two (2) or more pieces of property used in combination and with a legally established primary structure and/or accessory structure shall be considered a single lot. There are generally three (3) types of lots identified in this Unified Development Ordinance: interior lots, corner lots, and through lots.



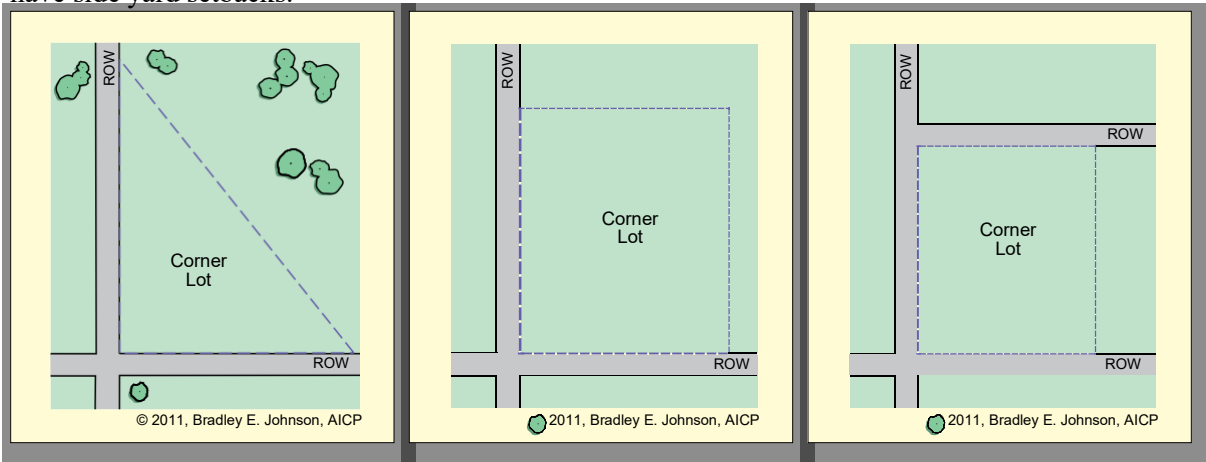
**Lot Area:** The area of a horizontal plane bounded by the front, side, and rear lot lines, excepting any easement, right-of-way for public streets, and land below the average water level of a lake.





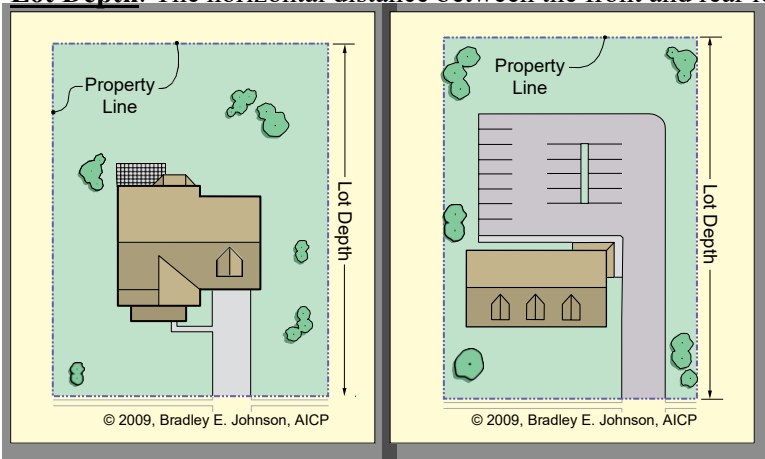
**Lot, Buildable:** See "Lot, Improved."

**Lot, Corner:** A lot situated at the intersection of two (2) streets or which fronts a street on two (2) or more sides forming an interior angle of less than one hundred thirty-five degrees (135°). On corner lots, each yard abutting a street or street right-of-way shall have a front yard setback or street yard setback. The other two yards shall have side yard setbacks.



**Lot Coverage:** The cumulative area on a lot covered by structures, buildings, and other elements which do not, or do not substantively, allow water to permeate into the ground as regulated by the Unified Development Ordinance.

**Lot Depth:** The horizontal distance between the front and rear lot lines.

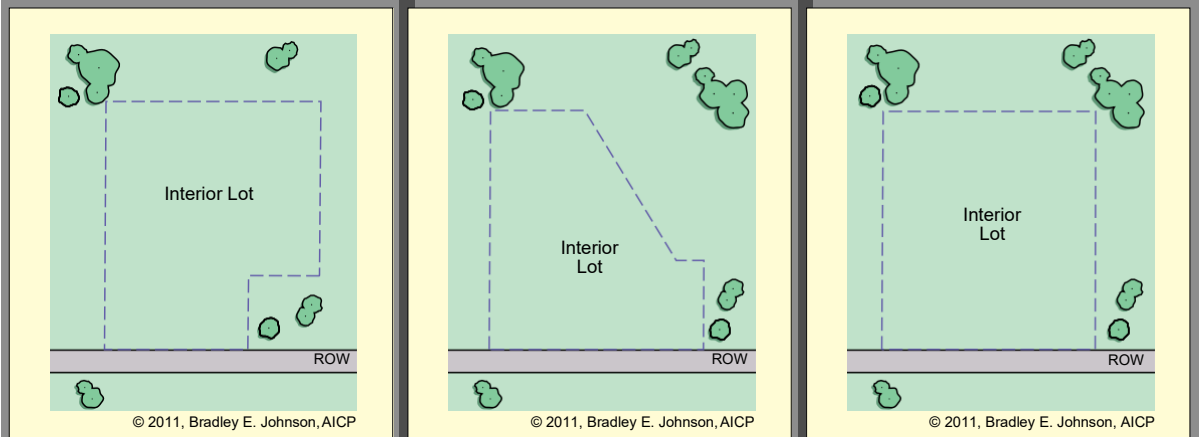


**Lot, Developed:** A lot with a primary or accessory structure situated thereon.

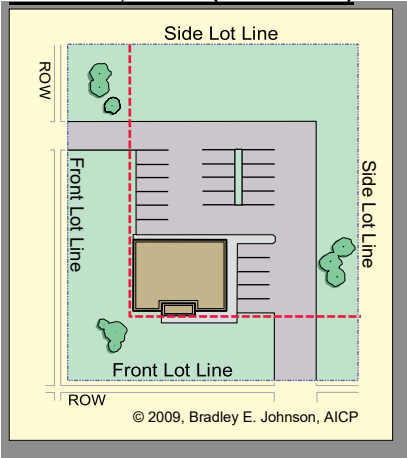
**Lot Frontage:** The length of the front lot line bordering upon a public right-of-way. The lot frontage is determined by measuring the total distance in which the front lot line touches a public right-of-way. Lot frontage requirement for a cul-de-sac lot is one-half (½) the distance required for standard lots.

**Lot, Improved:** A lot upon which a structure may be constructed and occupied as a result of the fact that it has frontage on and access to an improved street, allows minimum setback requirements and reasonable buildable space, and all necessary utilities (e.g. sewer, water, or electricity) are available.

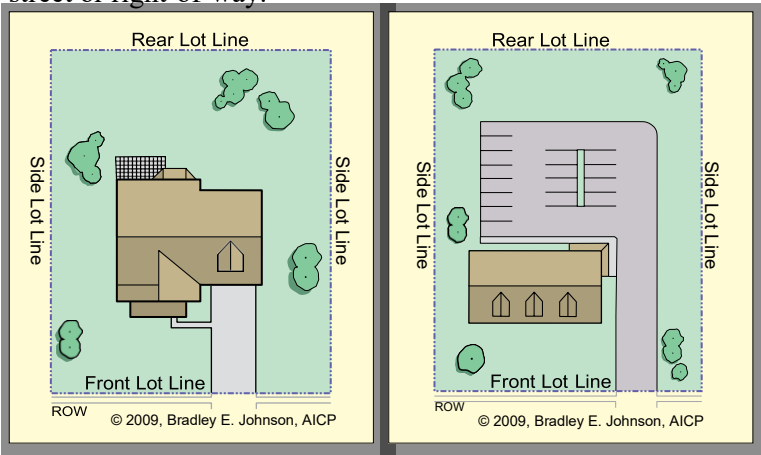
**Lot, Interior:** A lot other than a corner lot or a through lot.



**Lot Line, Front (corner lot):** The line marking the boundary between the lot and each of the abutting streets.



**Lot Line, Front (interior or through lot):** The line marking the boundary between the lot and the abutting street or right-of-way.



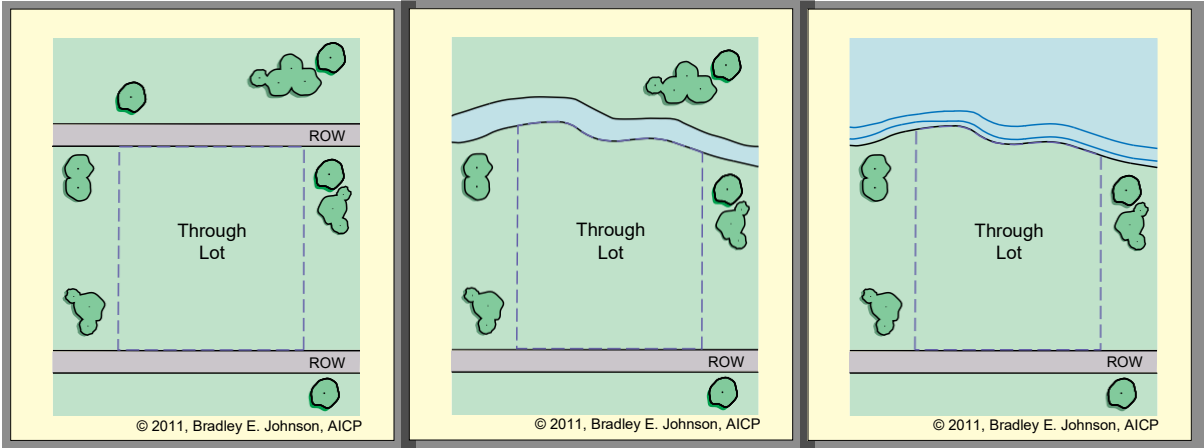
**Lot Line, Lake-side:** For the purposes of zoning, the lake-side lot line shall be the shoreline at normal level and any appurtenances that project into the lake from or for the benefit of the subject property (e.g. a dock, sea wall, or platform).

**Lot Line, Rear:** The lot line that is opposite the front lot line and farthest from it, except that for a triangular or other irregularly-shaped lot, the line ten (10) feet long, parallel to the front lot line, and wholly within the lot, that is farthest from the lot line (See graphic for "Lot Line, Front").

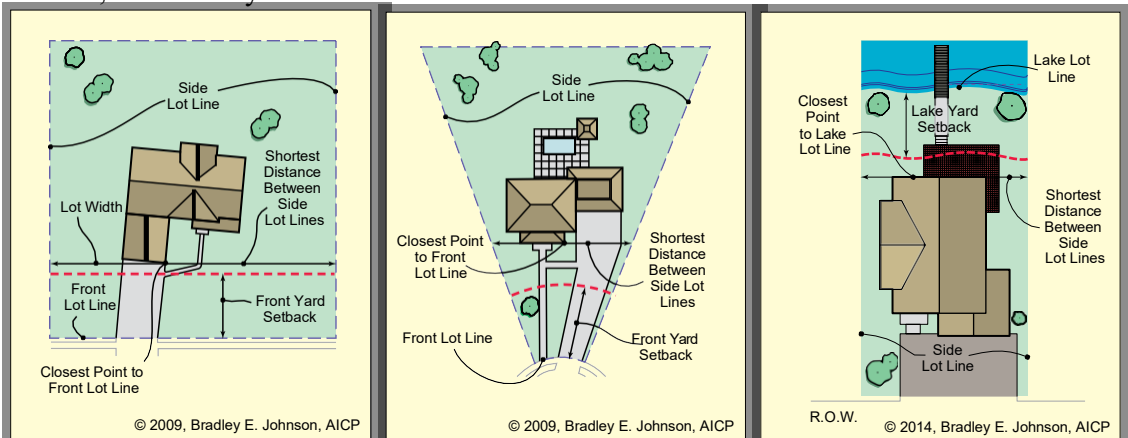
**Lot Line, Side:** A lot boundary line other than a front or rear lot line (See graphic for "Lot Line, Front").

**Lot of Record:** A lot which is part of a subdivision recorded in the office of the County Recorder, or a parcel or lot described by metes and bounds, a description of which has been so recorded.

**Lot, Through:** A lot fronting on two (2) parallel or approximately parallel streets, or abutting two (2) streets which do not intersect at the boundaries of the lot. Also includes lots fronting on both a street and a watercourse or lake.



**Lot Width:** The shortest distance between the side lot lines that intersects with the footprint of an existing or proposed primary structure at a point closest to the front lot line; or lake lot line if a lake lot. For lots without a primary structure or without a proposed primary structure, the lot width shall be measured at the front yard setback; or the lake yard setback if a lake lot.



**Lumens:** Unit of luminous flux in the International System of Units (SI) equal to one (1) candela per steradian. Used to measure the amount of light emitted by lamps.

**Lux:** Unit of illuminance in the International System of Units (SI) equal to one (1) lumen per square meter.

**Main Floor:** Generally the first floor of a building. In residential buildings the main floor contains a kitchen and main living spaces. When the kitchen and main living space is located in a walkout basement, the walkout basement shall be considered the main floor. In non-residential buildings the main floor is the lowest floor, excluding a basement or walkout basement.

**Main Floor Area:** The floor area on the main floor.

**Manufactured Home:** See "Dwelling, Manufactured Home."

**Marina:** A facility adjacent to a body of water providing fuel, maintenance, off-season storage, and parts and accessories for boats. A marina includes new and used boat sales. A marina may also include retail space (e.g. water skis, bait, or packaged food) and/or food service (e.g. cafe or deli) when cumulatively such ancillary uses utilize less than forty percent (40%) of the primary structure.

**Marker (survey):** A stake, pipe, rod, nail, or any other object which is not intended to be a permanent point for record purposes.

**Market Value:** The price at which a structure, building, parcel or combination thereof would be sold for at present day, based on two or more independent appraisals.

**Master Plan:** See "Comprehensive Plan."

**Maximum Lot Coverage:** The highest amount of impervious surface coverage permitted by this Unified Development Ordinance.

**Mechanical Equipment:** Any air conditioning condenser unit, residential-scale generator, natural gas or propane fuel tank, or the like located on a site (i.e. not inside a building). A natural gas or propane tank fully located below grade shall not be regulated as mechanical equipment.

**Mobile Home:** See "Dwelling, Mobile Home."

**Monument (survey):** A permanent physical structure which marks the location of a corner or other survey point.

**Motor Home:** See "Recreational Vehicle."

**Motor Vehicle:** Any passenger vehicle, truck, tractor, tractor-trailer, truck-trailer, trailer, boat, recreational vehicle, semitrailer, or any other vehicle propelled or drawn by mechanical power.

**Mound:** A landscape feature used for screening in which earth is piled up in irregular, round or oblong shapes. Particularly, mounds do not have consistent crest elevations, but are irregular in form and overlapping such to emulate a more natural landscape feature. Mounds in combination with other landscape material are used to block or partially block visibility from one (1) side to the other.

**Multiple-family District:** Refers to the MR district.

**Mural:** See "Sign, Mural."

**Natural Resources Protection Area:** A clearly defined geographical space (may be a portion of a parcel) recognized, dedicated, and managed to achieve the long-term conservation of a functioning natural ecosystem.

**Nonconforming Building:** See "Nonconforming Structure."

**Nonconforming Lot of Record:** A lot which was created such that it does not conform to the regulations of the district in which it is located.

**Nonconforming Structure:** A structure or portion thereof which was designed, erected, or structurally altered such that it does not conform to the regulations of the district in which it is located.

**Nonconforming Use:** A use which does not conform with the use regulations of the district in which it is located.

**Non-livable Space:** Space within or attached to a residential building not intended or designed for human living. An unfinished basement shall be considered livable space under all circumstances. An unfinished attic and crawl spaces shall not be counted as non-livable space. Garages shall always be considered non-livable space. Attached workshops at or near grade of the site with concrete or similar durable floor, or an unimproved floor shall be considered non-livable space.

**Office, General:** A place of work which has very little impact on neighboring properties, traffic generation, and public safety; and that does not involve retail sales. For example, a lawyer's office, consultant's office, accountant's office, real estate office, and insurance agent's office.

**Official Zoning Map:** A map of the Town of Clear Lake that legally denotes the boundaries of zoning districts as they apply to the properties within the planning jurisdiction. There is only one (1) Official Zoning Map, and it is kept up to date by the Plan Commission and the Zoning Administrator.

**Official Zoning Map Copies:** A map of the Town of Clear Lake that legally denotes the boundaries of zoning districts as they apply to the properties within the planning jurisdiction. These maps may be out of date.

**Off-Site Improvement:** See "Improvement, Off-Site."

**Open Space:** An area of land not covered by structures, parking structures, or accessory structures except for recreation structures. Open space may include nature areas, streams, flood plains, meadows or open fields containing baseball fields, football fields, soccer fields, golf courses, swimming pools, bicycle paths, etc. Open space does not include street rights-of-way, platted lot area, private yard, patio areas, or land scheduled for future development.

**Ornamental Tree:** A deciduous tree that does not grow to over thirty (30) feet in height at maturity. Ornamental trees typically are flowering trees.

**Outdoor Fireplace:** A gas or wood-burning structure that is located for use outdoors (e.g. integrated with outdoor living space) and that exceeds five (5) feet in height, measured to the top of the chimney.

**Outdoor Kitchen:** An outdoor facility used for food preparation, not including a portable grill, portable fire pit, or built-in fire pit.

**Outdoor Storage:** See "Storage, Outdoor."

**Overlay District:** A mechanism for adding development standards, subtracting development standards, adding permitted or special exception land uses, or subtracting permitted or special exception land uses from a standard zoning district. Overlays districts function as an additional "layer" that impacts one (1) or more underlying zones that it is applied over.

**Owner:** Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations, or their legal representative.

**Parcel:** See "Lot."

**Parent Tract:** A lot of record as recorded on the effective date of this Unified Development Ordinance. Multiple pieces (lots) owned by one (1) person, persons in partnership, or a company and that are contiguous shall together be considered one (1) parent tract. Roads, rivers, easements, and other built or natural features shall not constitute a separation of two (2) or more pieces of land owned by one (1) person, persons in partnership, or a business.

**Park and Recreation District:** Refers to the PR district.

**Park:** A parcel of land available to the public for passive and active recreation and is maintained and governed by the Town of Clear Lake.

**Parking, Required:** The minimum number of off-street parking spaces specified for a particular use or uses by this Unified Development Ordinance.

**Parking Space, Automobile:** Space within a public or private parking area for the storage of one (1) passenger automobile or commercial vehicle under a one and one-half (1 ½) ton capacity.

**Patio:** A horizontal improved surface (e.g. concrete, paver blocks, or wood decking) no greater than six (6) inches above ground level. Patios are inclusive of integrated knee walls used for seating if not greater than twenty (20) inches in height measured from the patio surface.

**Paved Surface:** A durable surface for parking, driving, riding, or similar activities that utilizes asphalt, concrete, brick, paving blocks, or similar material. Crushed gravel, stone, rock, dirt, sand, or grass are not permitted as a paved surface.

**Performance Bond:** An amount of money or other negotiable security paid by the subdivider, developer, or property owner or his/her surety to the Town of Clear Lake which guarantees that the subdivider will perform all actions required by the Town of Clear Lake regarding an approved plat or in other situations as stated forth in this Unified Development Ordinance and/or as deemed by the Zoning Administrator that provides that if the subdivider, developer, or property owner defaults and fails to comply with the provisions of his/her approval, the subdivider, developer, or property owner or his/her surety will pay damages up to the limit of the bond, or the surety will itself complete the requirements of the approval.

**Permanent Foundation:** A structural system for transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.

**Permitted Use:** See "Use, Permitted."

**Person:** A corporation, firm, partnership, association, organization, unit of government, or any other group that acts as a unit, as well as a natural person.

**Petitioner:** The owner, owners, or legal representative of real estate who makes petition to the Plan Commission and/or Board of Zoning Appeals for action by the Plan Commission or Board of Zoning Appeals affecting the real estate owned or represented by the petitioner.

**Place of Worship:** Church, temple, mosque or other structure, outdoor or indoor, used for public worship, including ancillary educational, cultural, and social activities.

**Plan:** A map of a site, drawn accurately to scale, showing existing and proposed features of the site including but not limited to structures, circulation, grading, trees, and landscaping, sufficient for review. A site plan shall serve as the development plan regulated by *IC 36-7-4-1400*.

**Plan Commission:** A plan commission serving a single local government jurisdiction established as defined under *IC 36-7-1-2* (1983) as amended. The Town of Clear Lake Plan Commission is an Advisory Plan Commission.

**Planned Development (PD):** A large-scale, master planned development meeting the requirements for zoning approval under the provisions of *Article 04: Planned Development District* of this Unified Development Ordinance. Generally a planned development consists of a parcel or parcels of land, controlled by a single landowner, to be developed as a single entity which does not correspond in size of lots, bulk or type of structures, density, lot coverage, and required open space to the regulations established in any district of this Unified Development Ordinance. This may result in more attractive and affordable development than conventional developments would allow. Clustered housing (e.g. dwellings built in innovative lot arrangements around common open space) and zero lot line housing (e.g. dwellings built immediately adjacent to lot lines) are possible as part of planned unit developments. A planned development requires approval through a zoning map amendment.

**Planning Director:** See "Zoning Administrator."

**Planning Jurisdiction:** The Town of Clear Lake, Indiana corporate limits and the contiguous unincorporated extra-territorial jurisdictional area over which the Town exercises planning and zoning authority.

**Plan Commission Staff:** The Zoning Administrator and all employees of the Plan Commission of the Town under the supervision of the Zoning Administrator and subject to the authority of the Zoning Administrator.

**Plat:** A map or chart that shows a division of land and/or the layout for subdivisions that is intended to be filed for record.

**Plat, Primary:** The primary plat, pursuant to the *IC 36-7-4-700 Series*, is the plat and plans upon which the approval of a proposed subdivision are based. The primary plat and plans shall be subject to public notice and public hearing according to law and according to Plan Commission rules. (Under former state statutes, the primary plat was referred to as a "preliminary" plat.)

**Plat, Secondary:** The secondary plat, pursuant to *IC 36-7-4-700 Series*, is the final plat document in recordable form. A secondary plat shall substantially conform with the preceding primary plat, or section thereof. The secondary plat and plans are not subject to public notices and public hearings.

**Playset:** a recreation based accessory structure designed for use by children that includes swings, slides, climbing apparatuses, platforms, forts, and the like.

**Pool, Swimming:** See "Swimming Pool."

**Porch:** A roofed-over structure projecting out from the wall or walls of a main structure and commonly open to the weather in part.

**Practical Difficulty**: A difficulty with regard to one's ability to improve land stemming from regulations of this Unified Development Ordinance. A practical difficulty is not a "hardship," rather it is a situation where the owner could comply with the regulations within this Unified Development Ordinance, but would like a variance from the Development Standards to improve his site in a practical manner. For instance, a person may request a variance from a side yard setback due to a large tree which is blocking the only location that would meet the Development Standards for a new garage location.

**Primary Plat**: See "Plat, Primary."

**Primary Structure**: The structure in which the use of the lot or premises is located or conducted, with respect to residential uses, the primary structure shall be the main dwelling. An occupiable accessory structure, accessory dwelling, and commercial building shall always be considered a primary structure.

**Primary Use**: See "Use, Primary."

**Principal Use**: See "Use, Primary."

**Private Street**: See "Street, Private."

**Prohibited Use**: A use that is not permitted under any circumstances.

**Public Improvements**: Any storm drainage facility, street, highway, parkway, public sidewalk, pedestrian-way, tree, lawn, off-street parking area, lot improvement, utility, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

**Public Place**: Any area on public or private property that is easily accessible and clearly visible to the general public. If located on private property, the area must be open to the general public and clearly visible from adjacent public property such as a street or other public thoroughfare or public sidewalk.

**Public/Private Parking Area**: A group of parking spaces in an open area not including any part of a street or alley, designed or used for temporary parking of motor vehicles.

**Public Street**: See "Street, Public."

**Public Utility**: See "Utility, Public."

**Public Way**: Highways, streets, avenues, boulevards, roads, lanes, or alleys.

**Raising of Farm Animals**: Any livestock operation that falls below the thresholds of a Confined Feeding Operation as defined by the Indiana Department of Environmental Management.

**Rear Lot Line**: See "Lot Line, Rear."

**Rear Yard**: See "Yard, Rear."

**Recreational Vehicle**: A vehicular-type portable structure without permanent foundation that can be towed, hauled, or driven and primarily designed as a temporary living accommodation for recreation, camping, and travel use and including but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes. A recreational vehicle shall not be used as living quarters.

**Recreational Vehicle, Parked**: A recreational vehicle that is in the process of being loaded or unloaded; or a recreational vehicle that is set up for sleeping purposes, camping, or use.

**Recreational Vehicle, Stored**: A recreational vehicle that is not set up for sleeping purposes, camping, or use.

**Registered Land Surveyor**: A land surveyor properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

**Registered Professional Engineer**: An engineer properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.



**Residential District:** Refers to the RE, SR, and LR districts.

**Residential Facility for the Developmentally Disabled (large):** A residential facility which provides residential services for more than eight (8) developmentally disabled individuals as described in *IC 12-28-4*.

**Residential Facility for the Developmentally Disabled (small):** A residential facility which provides residential services for eight (8) developmentally disabled individuals or less as described in *IC 12-28-4*.

**Residential Facility for the Mentally Ill:** A residential facility which provides residential services for mentally ill individuals as described in *IC 12-28-4*. No two (2) Residential Facilities for the Mentally Ill shall be within 3,000 feet of one another in the planning jurisdiction as stated in Indiana Code.

**Residential-Scale Generator:** A generator powered by natural gas or liquid propane, scaled to provide electricity to a single-family residence, in part or full, and that does not exceed fifty-one inches long, twenty-nine inches wide, and thirty-one inches tall (51" L x 29" W x 31" H); not inclusive of its base or foundation that does not exceed six (6) inches of height above ground level. The Zoning Administrator has the discretion to approve slightly larger generator.

**Residential Unit:** Finished space for occupancy within a building, built according to the Residential Building Code, and having at least three (3) rooms (i.e. spaces divided by walls and interior doors) including one (1) bedroom with closet, one (1) full bathroom, and one (1) living space with a kitchen. Typically a studio unit or bunk house would not be considered a residential unit.

**Responsible Party:** For purposes of issuing notice of violation, the following persons shall be considered responsible parties, with liability for fines and responsibility for remedy of the violation: the property owner(s); persons with any possessory interest in the property, and/or any persons and/or their agents who have caused the violation. Any owner, tenant, builder, developer, possessor of interest, architect, designer, property manager, equipment operator known or suspected to be responsible in part or in whole for a violation of this Unified Development Ordinance.

**Retail, Low Intensity:** See "Type 2 Retail, Low Intensity."

**Retaining Wall:** A vertical or near-vertical structure used to prevent earth from eroding or advancing (i.e. able to resist the horizontal pressure of the high-side earth), or used to create tiers or otherwise relatively flat areas on the high-side and low-side of the structure.

**Retail, Very Low Intensity:** See "Type 1 Retail, Very Low Intensity."

**Right-of-way:** A strip of land occupied or intended to be occupied by transportation facilities, public utilities, or other special public uses. A rights-of-way intended for any use involving maintenance by a public agency shall be dedicated to the public use by the maker of the plat on which such right-of-way is established.

**Road:** See "Street."

**Roadside Sales:** Sale of produce grown on-site.

**ROW:** See "Right-of-way."

**Satellite Dish/Antenna:** An apparatus capable of receiving communications from a transmitter relay located in a planetary orbit or broadcasted signals from transmitting towers.

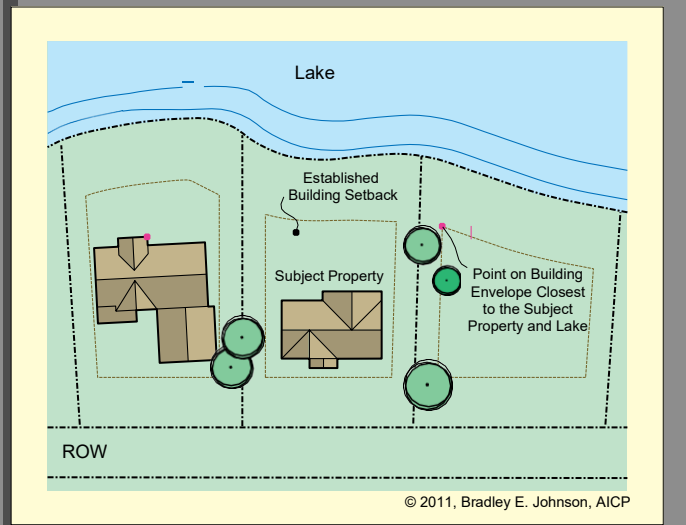
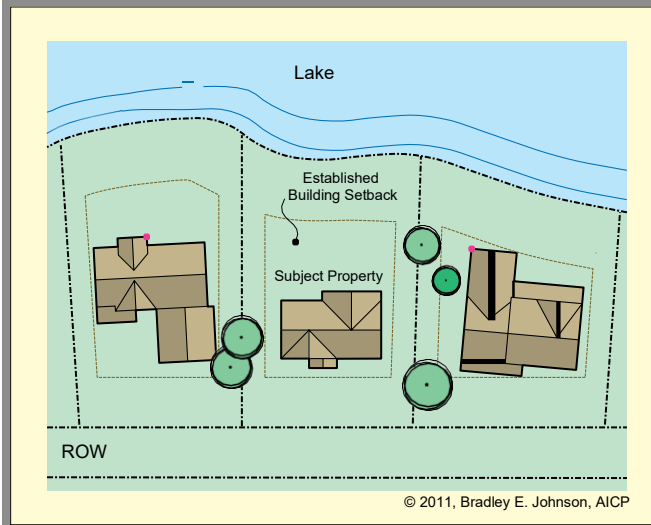
**School:** A public or private institution which offers instruction in any of the branches of learning and study comparable to that taught in the public schools under the Indiana School Laws, including pre-kindergarten, kindergarten, elementary school, and junior and senior high schools, but excluding trade, business, or commercial schools.

**Secondary Plat:** See "Plat, Secondary."

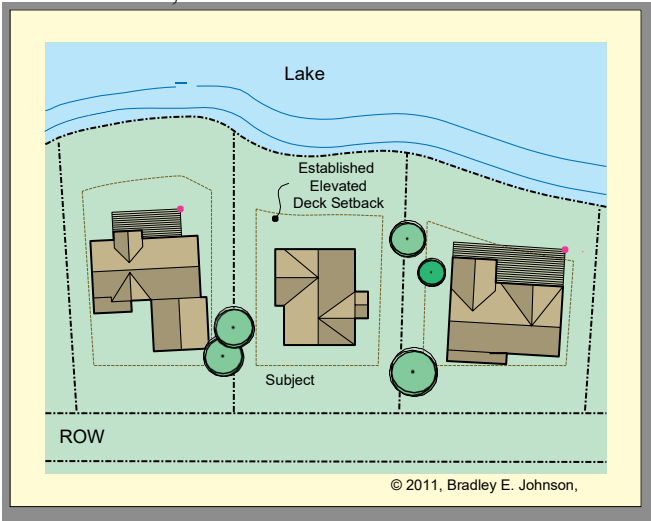
**Setback:** A horizontal distance measured perpendicularly from the property line or edge of pavement, whichever results in a greater distance, resulting in an area that is restrictive of certain development and improvements.

**Setback, Average:** An average of the front yard setbacks of structures on either side of the subject property. If the average setback encroaches into the right-of-way, permission is not required from the Board of Zoning Appeals. If the subject property is a corner lot, the average of the front yard setback of structures adjacent to the subject property, along with the front yard setback of structures directly across the street of the subject property shall be used. Average setback shall not be used to determine setbacks in lake yards.

**Setback, Established Building:** A line drawn from the adjacent primary structure's on neighboring lots across the subject property. The end points of the line shall be the point on each primary structure that creates a line closest to the lake for properties. If a neighboring property does not have an existing structure, the end point shall be placed at the corner of the building envelope closest to the subject property and the lake.



**Setback, Established Elevated Deck:** A line drawn from existing elevated decks on neighboring lots across the subject property. The end points of the established elevated deck setback shall be the point on each deck (excluding stairs) that creates a line closest to the lake. If either of the neighboring lots does not have an existing elevated deck, there is no established elevated deck setback.



**Setback, Tower:** The horizontal distance from the base of the tower to an abutting property line and/or proposed right-of-way.

**SFHA:** Special Flood Hazard Area.

**Shrub:** A plant distinguished from a tree by having several or many woody stems projecting from the ground or a single stem with very low branches which keeps the head of the plant close to the ground (e.g. yew). Other characteristics include heights typically pruned to stay under six (6) feet, but never exceeding twelve (12) feet maturity (e.g. lilac, burning bush, peony, hydrangea, or spirea varieties). Shrubs also include perennial plants with a woody base, multiple-stems projecting from the ground, and which grow to a maximum height of ten (10) feet (e.g. butterfly bush). Shrubs may be deciduous or evergreens.

**Side Lot Line:** See "Lot Line, Side."

**Side Yard:** See "Yard, Side."

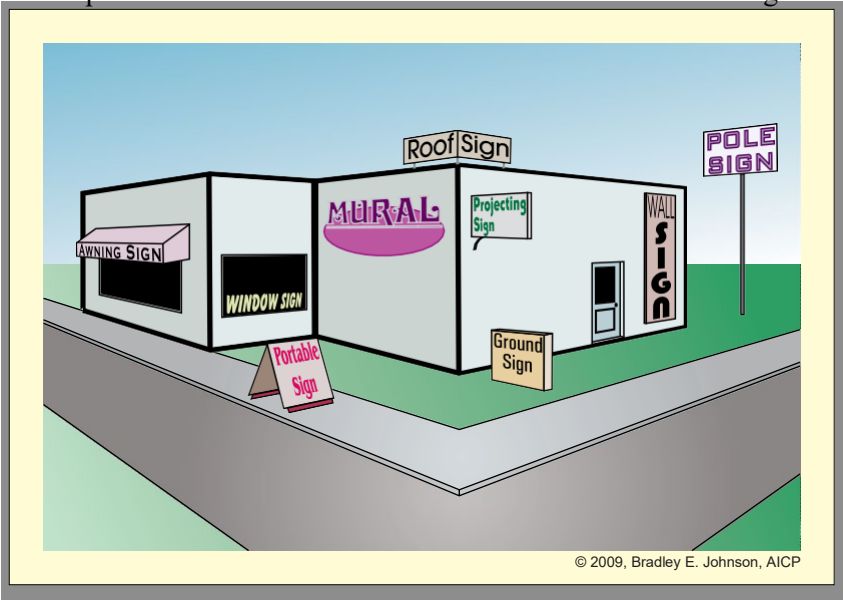
**Sidepath:** A seamless asphalt trail, or concrete trail with saw-cut joints to maintain a smooth continuous surface.

**Sidewalk:** Flatwork used for pedestrian movement or transportation, typically two (2) to five (5) feet in width.

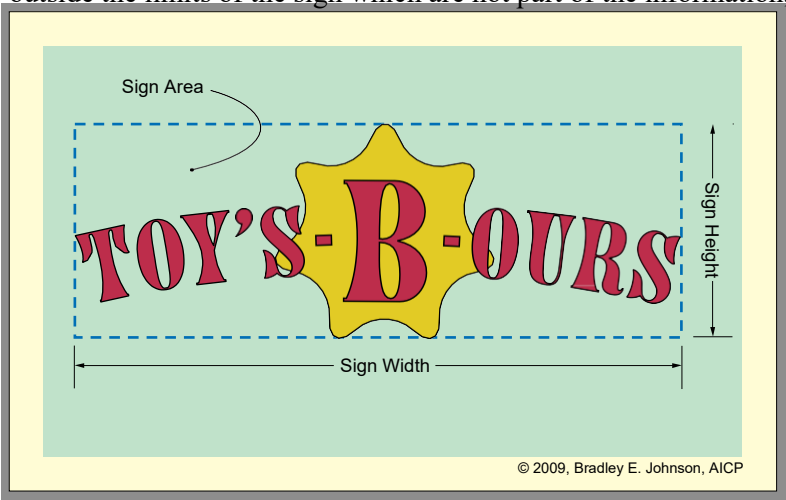
**Sidewalk, Private:** On-site sidewalks in proportion with and customarily installed around a primary structure, to destinations on a lot, and linking the primary structure to the public right-of-way.

**Sidewalk, Public:** Off-site sidewalks, sidewalks placed in a right-of-way or easement and available for public access.

**Sign:** Any name, identification, description, display, or illustration which is affixed to, painted on, or is represented directly or indirectly upon a building, structure, or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization, or business. Religious symbols on places of worship or structures owned and operated by religious organizations are not considered a sign unless accompanied with text. Address numbers are not considered a sign.



**Sign Area:** The entire area within a single continuous perimeter enclosing the extreme limits of a sign, including all background area figures and letters. However, such perimeter shall not include any structural elements lying outside the limits of the sign which are not part of the information, visual attraction or symbolism of the sign.



**Sign, Construction:** A sign directing attention to construction upon the property where the sign is displayed, and bearing the name, address, subplot number, or other identifier of the contractor, subcontractor, and/or architect.

**Sign, Directional Device:** A sign intending to direct the safe flow of vehicular and pedestrian traffic and includes “enter,” “exit,” and “arrow” signs.

**Sign, Display Board:** A permanent device used to post temporary signs (e.g. a permanently installed bulletin board).

**Sign, Entryway Feature:** A ground sign that identifies the entrance to a subdivision installed in common area and typically inclusive of hardscape, landscape, and other built features that portray the character of the subdivision.

**Sign Face:** The surface intended for the display of information on the sign.

**Sign, Flashing:** Any illuminated sign which exhibits changing light or color effects.

**Sign, Freedom of Speech:** A sign used to express one's own ideas and opinions. Any sign that contains or implies a commercial message, or that provides identity for a business or organization shall not be considered a freedom of speech sign.

**Sign, Gateway:** A ground sign that identifies a non-subdivided, commercial development, multi-family development or mobile home community.

**Sign, Ground:** A sign in which the bottom edge of the sign is permanently affixed to the ground. A monument sign is another name for a Ground Sign (See graphic for "Sign").

**Sign, Illuminated:** A sign which has characters, letters, figures, designs, or outline illuminated by electric lights or luminous tubes as a part of the sign, or which is illuminated by reflectors.

**Sign, Monument:** See "Sign, Ground."

**Sign, Mural:** A sign painted onto or otherwise adhered to a wall, the ground, or a structure. A mural sign is regulated as a wall sign in this Unified Development Ordinance. (See graphic for "Sign")

**Sign, Permanent:** A sign that is designed or intended to be used indefinitely, or used indefinitely without change in the same state or place, including, but not limited to business signs, directional signs, residential complex or subdivision signs, and illuminated signs.

**Sign, Pole:** A sign that is supported by one (1) or more poles, posts, or braces upon the ground, not attached to or supported by any structure, with a clear space in excess of six (6) feet from the finished grade to the bottom of the sign face (See graphic for "Sign").

**Sign, Roof:** A sign which is erected, constructed, and maintained above any portion of the roof. (See graphic for "Sign")

**Sign, Temporary:** An on-premise advertising device not fixed to a permanent foundation, for the purpose of conveying information, knowledge, or ideas to the public about a subject related to the activities on the premises upon which it is located.

**Sign, Wall:** A sign attached to and/or integral with exterior wall or window surface of a structure, the face of which is parallel to the surface, no part of which extends above the eaves on the structure (See graphic for "Sign").

**Sign, Wayfinding System:** A device that provides guidance to the public to prevent confusion and encourage efficient and safe directions to a destination.

**Sign, Window:** A device attached to and/or integral with the window surface of a building that is visible outside, the face of which is parallel to the surface.

**Sign, Yard:** An advertising device comprised of a metal frame and one (1) or more legs that are pressed into the ground.

**Soil Scientist:** A soil scientist registered in the State of Indiana. A roster of registered soil scientists may be found at the Indiana State Chemist Office at Purdue University.

**Special Exception:** The authorization of a use that is designated as such by the Unified Development Ordinance as being permitted in the district concerned if it meets special conditions, is found to be appropriate and upon petition, is specifically authorized by the Board of Zoning Appeals.

**Special Flood Hazard Area (SFHA):** Lands within the jurisdiction of the Town of Clear Lake that are subject to inundation by a regulatory flood. The Special Flood Hazard Areas (SFHAs) in the Town of Clear Lake are generally identified as such on the Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency (FEMA).

**State:** The State of Indiana.

**Stepping Stones:** A series of relatively flat stones used to convey persons, similar to a sidewalk, which have stones placed frequent enough to allow a normal walking gate while stepping on the stones, with a maximum stone "coverage" of sixty percent (60%) of the path. Each stepping stone shall not exceed two (2) square feet in area.

**Storage, Outdoor:** The outdoor accumulation of goods, junk, motor vehicles, equipment, products, or materials for permanent or temporary holding.

**Stone:** Rock that is quarried and worked into a specific size and shape. Stone includes limestone, crushed limestone, gravel, pea stone, and the like.

**Story:** A complete horizontal section of a building, having one (1) continuous or practically continuous floor, bound vertically by the floor and the top of the ceiling rafters. A finished or unfinished basement is not considered a story in a primary structure, but shall be considered a story in an accessory structure. The space between an attic floor (i.e. if decking is installed) and the roof rafters shall not be considered a story in a primary structure or an accessory structure.

**Street:** Any vehicular right-of-way that:

1. Is an existing state, county, or municipal roadway;
2. Is shown upon a plat approved pursuant to law;
3. Is approved by other official action; or
4. Is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a Plan Commission and the grant to such Plan Commission to review plats; includes the land between the street lines, whether improved or unimproved.

**Street, Arterial:** A street with access control and that restrict parking, that conveys traffic over long distances or at high rates of speed. State and federal highways are considered primary arterials.

**Street, Collector:** A street that is generally designed to distribute traffic from arterial streets to local streets.

**Street, Interior:** A street within a development that provides access to lots that do not have access to a perimeter street. The hierarchical classification is not relevant.

**Street, Local:** A street designed primarily to provide access to residential properties and neighborhood businesses, generally through traffic is discouraged.

**Street, Perimeter:** A pre-existing street that a new subdivision or development abuts.

**Street, Private:** Vehicular streets and driveways, paved or unpaved, that are maintained by the owner(s) and that are wholly within private property except where they intersect with other streets within a public right-of-way.

**Street, Public:** All property dedicated or intended for public highway, freeway, or roadway purposes or subject to public easements therefore.

**Structural Alteration:** Any change in the supporting members of a structure such as bearing walls, partitions, columns, beams or girders, or any change in the footprint or increase in the size of living space.

**Structure:** Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground, including but not limited to buildings, sheds, detached garages, mobile homes, manufactured homes, above-ground storage tanks, freestanding signs, and other similar items. Flatwork (e.g. sidewalks, driveways, and patios) shall not be considered a structure.

**Structure Coverage:** The cumulative area on a lot covered by buildings, attached and detached, with a permanent foundation. Also, any interior space of said buildings that projects away (e.g. cantilevered space) from a foundation shall count toward structural coverage.

**Structure Height:** For residential primary structures, the vertical distance measured from the average ground level to the highest point of the roof. For all other structures, the vertical distance measured from the top of the structure's main floor surface (i.e. slab, floor decking, dirt) to the highest point of the roof.

**Subdivision:** The division of a parent tract or other piece of land into at least two (2) smaller lots or the combination of two (2) or more smaller lots into one (1) lot so that, either now or in the future, the subdivider can: transfer ownership, construct buildings, or establish a use other than vacant or create new building sites for leasehold, and as further defined in this Unified Development Ordinance.

**Swimming Pool:** A self-contained body of water at least eighteen (18) inches deep and eight (8) feet in diameter or width and used for recreation purposes. A swimming pool shall be considered an accessory structure. Inground swimming pools have at least ninety percent (90%) of the vertical depth of the swimming pool below ground level. All other swimming pools are considered above ground.

**Telecommunication Antenna:** See "Antenna."

**Telecommunications Facility:** A land based facility, consisting of towers, antennae, accessory structures or other structures intended for use in connection with the commercial transmission or receipt of radio or television signals, or any other spectrum-based transmissions/receptions.

**Telecommunications Tower:** Any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas. The term includes radio and television transmission towers, microwave towers, cellular telephone and wireless communication towers, alternative tower structures, and the like.

**Temporary Use/Structure:** See "Use, Temporary."

**Thoroughfare:** A public way or public place that is included in the Thoroughfare Plan. The term includes the entire right-of-way for public use of the thoroughfare and all surface and subsurface improvements on it such as public sidewalks, curbs, shoulders, and utility lines and mains.

**Thoroughfare Plan:** The official plan which includes a street plan, sets forth the location, alignment, dimensions, identification, and classification of existing and proposed streets, and other thoroughfares, as found in the Steuben County Comprehensive Plan.

**Through Lot:** See "Lot, Through."

**Tower:** See "Telecommunications Tower."

**Tower Setback:** See "Setback, Tower."

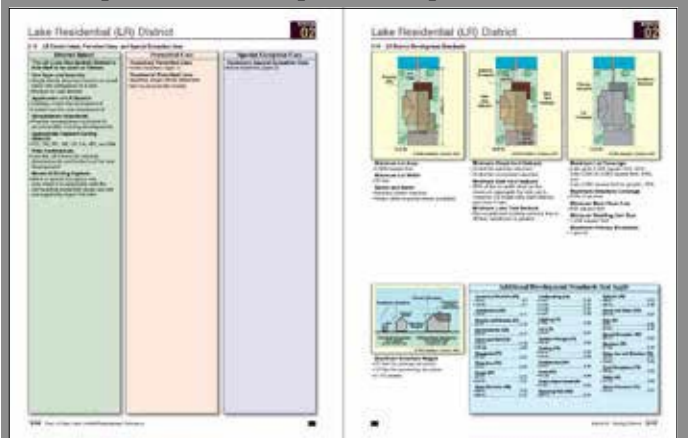
**Town Official:** A member of the Town Council, Plan Commission, Plan Commission staff, Board of Zoning Appeals, or an employee of the Town.

**Townhouse:** A single-family dwelling unit constructed in a group of three (3) or more attached units in which each unit extends from foundation to roof with open space on at least two (2) sides.

**Tree Plot:** That portion of a public right-of-way lying between the back face of the curb (or edge of pavement if no curb is present) and the leading edge of the public sidewalk, not covered by paving, often used to plant street trees.



**Two-page Layout:** Two-page Layout refers to the two-page layout accompanying each zoning district in *Article 02: Zoning Districts* of this Unified Development Ordinance. The two-page layout includes district intents, permitted uses, special exception uses, and basic zoning district information.



**Type 1 Retail, Very Low Intensity:** Retail businesses that have very little impact on neighboring properties, traffic generation, and public safety. Example businesses include an art and craft gallery, flower shop, gift shop (small), jewelry store, and news dealer.

**Type 2 Retail, Low Intensity:** Retail businesses that have a low impact on neighboring properties, traffic generation, and public safety. Example businesses include a bakery, book store (small), convenience store (small), drug store (small), and meat market.

**Underlying District:** A base district zone is the existing zoning district of the subject lot:

1. Prior to the approval of a planned development; or
2. Prior to the effects of an overlay district.

**Use:** The purposes for which land or structure thereon is designed, arranged, or intended, or for which it is occupied, maintained, let, or leased.

**Use, Permitted:** A use which may be lawfully established in a particular district or districts provided it conforms with all applicable requirements, regulations, and standards.

**Use, Primary:** The main use of land or buildings as distinguished from an accessory use. A primary use may be either a permitted use or a special exception.

**Use, Temporary:** A land use or structure established for a limited and fixed period of no more than ninety (90) days with the intent to discontinue such use or structure upon the expiration of the time period.

**Use Variance:** See "Variance, Use."

**Utility:** Every plant or equipment within the State used for:

1. The conveyance of telegraph and telephone messages;
2. The production, transmission, delivery, or furnishing of heat, light, water, or power, either directly or indirectly to the public; or
3. Collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.

The term does not include a municipality that may acquire, own, or operate facilities for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste. A warehouse owned or operated by any person, firm, limited liability company, or corporation engaged in the business of operating a warehouse business for the storage of used household goods is not a public utility within the meaning of *Article 11: Definitions*.



**Utility, Public:** Any person, firm, or corporation duly authorized to furnish under public regulation to the public: electricity, gas, steam, telephone, fiber optics, transportation, water, or sewage systems. The term does not include a municipality that may acquire, own, or operate any of the foregoing facilities.

Or every corporation, company, partnership, limited liability company, individual, association of individuals, their lessees, trustees, or receivers appointed by a court, that may own, operate, manage, or control any plant or equipment within the State of Indiana for the:

1. Conveyance of telegraph or telephone messages;
2. Production, transmission, delivery, or furnishing of heat, light, water, or power; or
3. Collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.

**Variance, Development Standards:** A specific approval granted by the Board of Zoning Appeals in the manner prescribed by the Unified Development Ordinance, to deviate from the applicable development standards (e.g. height, bulk, or area) in the Unified Development Ordinance.

**Variance, Use:** A specific approval granted by the Board of Zoning Appeals in the manner prescribed by the Unified Development Ordinance, to allow a land use that otherwise would not be permitted in the subject zoning district.

**Vehicle:** See "Motor Vehicle."

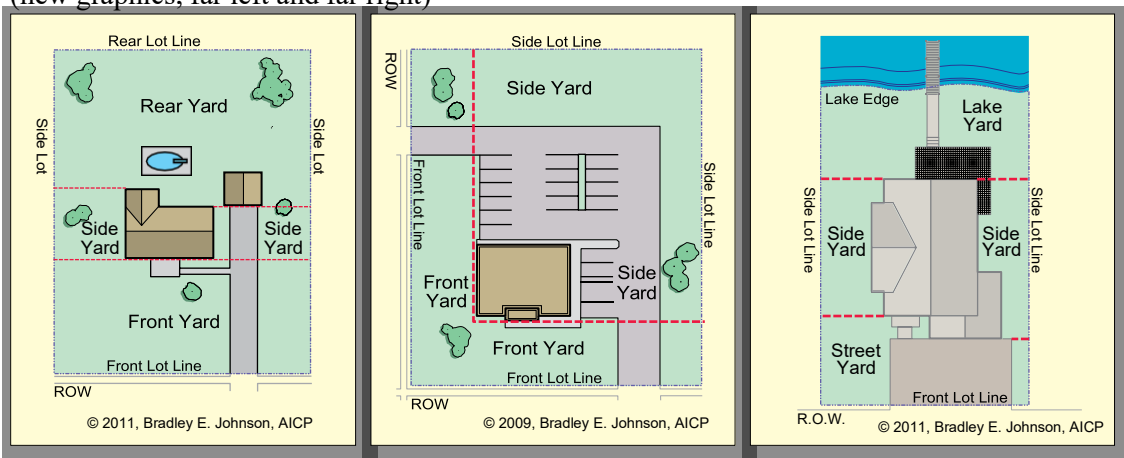
**Walk:** See "Sidewalk."

**Walk, Private:** See "Sidewalk, Private."

**Walk, Public:** See "Sidewalk, Public."

**Walkout Basement:** See "Basement, Walkout."

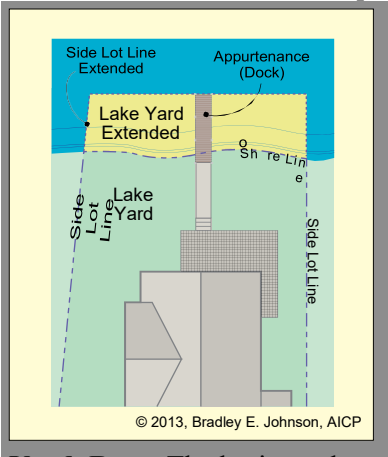
**Yard:** A generic term for side yard, rear yard, front yard, street yard, or lake yard; or any combination thereof. (new graphics, far left and far right)



**Yard, Front:** The horizontal space between the front facade(s) of a primary structure and the front lot line, extending to the side lot lines (See graphic for "Yard"). On a corner lot, each yard abutting a street or street right-of-way shall be considered a front yard.

**Yard, Lake:** The horizontal space between the facade(s) of a primary structure which face a lake and the lake's edge at normal elevation, extending perpendicularly to the side lot lines (See graphic for "Yard").

**Yard Extended, Lake:** The horizontal space beyond the lake's edge at normal elevation, extending perpendicularly (or relatively perpendicularly) to the side lot lines to a distance that fully includes the appurtenances related to the subject lot. The regulations of the subject lot's zoning district shall apply to the Lake Yard Extended, with the exception of docks, boat lifts, boat lifts with canopies, and dock boxes.



**Yard, Rear:** The horizontal space between the rear facade(s) of a primary structure and the rear lot line, extending to the side lot lines. Corner lots do not have rear yards, rather they have two side yards. (See graphic for "Yard")

**Yard, Side:** The horizontal space between the side facade(s) of a primary structure and the side lot line (See graphic for "Yard"), extending to the front yard (or street yard) and rear yard (or lake yard). On a corner lot, the two yards not abutting streets shall be considered side yards. (See graphic for "Yard")

**Yard, Street:** In the LR District, the horizontal space between the front facade(s) of a primary structure and the front lot line (or edge of pavement if the front lot line extends into the roadway), extending to the side lot lines. On a corner lot, each yard abutting a street or street right-of-way shall be considered a street yard. (See graphic for "Yard")

**Zoning Administrator:** The officer appointed by and/or delegated the responsibility for the administration of this Unified Development Ordinance's regulations by the Plan Commission. The term "Zoning Administrator" includes his/her authorized representatives.

**Zoning District:** See "District."

**Zoning Map:** See "Official Zoning Map."

# Appendix

# A

## Land Use Matrix

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### Town of Clear Lake Unified Development Ordinance

# Land Use Matrix

## A.01 Land Use Matrix

	CO	PR	AG	IA	RE	SR	LR	LA	MR	IS	NC	MA
<b>Accessory Uses</b>												
accessory dwelling					S							
agricultural tourism			P									
farmers market		P	P									
heliport (private)			S									
natural resources protection area	S	S	S		S	S	S	S				
off-street parking								P				
occupiable accessory structure								P				
outdoor storage								P				
recreation-based accessory structures	P	P	P	P	P	P	P	P	P	P	P	P
roadside sales			P									
sport court with lighting								S				
storage-based accessory structures	P	P	P	P	P	P	P	P	P			
support-based accessory structure										P	P	P
wind-to-energy facility			S									

	CO	PR	AG	IA	RE	SR	LR	LA	MR	IS	NC	MA
<b>Agricultural Uses</b>												
agricultural crop production			P	P								
agricultural crop production (organic)	P											
confined feeding operation (small)				P								
confined feeding operation (medium)				S								
hobby farming			P	P	P							
land conservation	P	P	P									
orchard			P	P								
plant nursery (retail)			P									
plant nursery (wholesale)			P									
raising of exotic animals				P								
raising of farm animals			P	P								
sale of agricultural products			P	P								
stable (private)			P		P							
storage of agricultural products			P	P								
tree farm			P	P								
P = Permitted S = Special Exception Blank fields indicate that the land use is not permitted. Unlisted land uses are not permitted.												

# Land Use Matrix

	CO	PR	AG	IA	RE	SR	LR	LA	MR	IS	NC	MA
<b>Commercial Uses</b>												
bank machine/atm											P	
club or lodge											P	
coffee shop											P	
commercial storage facility												P
farmers market										P		
golf course		P										
ice cream shop											P	
indoor storage											P	
liquor store											P	
marina (with up to 40 rack and launch boats)												P
office, general											P	
outdoor storage												P
pub											P	
restaurant											P	
retail (type 1), very low intensity											P	
retail (type 2), low intensity											S	
telecommunication facility										S		
watercraft fuel sales												P
watercraft maintenance facility												P
yacht club (with up to 40 rack and launch or mooring of boats)											P	
P = Permitted S = Special Exception Blank fields indicate that the land use is not permitted. Unlisted land uses are not permitted.												

# Land Use Matrix

	CO	PR	AG	IA	RE	SR	LR	LA	MR	IS	NC	MA
<b>Institutional Uses</b>												
community center		P								P		
government office										P		
government operation (non-office)										P		
library										P		
municipal airport										P		
municipal heliport										P		
museum										P		
nature center	P	P										
nature preserve	P	P										
park		P										
place of worship										P		
police, fire, or rescue station										P		
post office										P		
school (P-12)										P		
sewage treatment plant										P		
swimming pool (public)		P								P		
water treatment plant										P		

	CO	PR	AG	IA	RE	SR	LR	LA	MR	IS	NC	MA
<b>Residential Uses</b>												
caretakers residence		S										
dwelling, single-family detached			P		P	P	P		P			
fair housing facility (large)										S		
fair housing facility (small)			P		P	P	P		S			
P = Permitted S = Special Exception Blank fields indicate that the land use is not permitted. Unlisted land uses are not permitted.												

# Appendix

## B

### Amendment Tracking Table

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Town of Clear Lake  
Unified Development  
Ordinance



# UDO Amendment Tracking Table

## B.01 UDO Amendment Tracking Table

Ordinance Number	Plan Commission/ Town Council Approval Date	Effective Date	Sections Affected	Pages Changed	Brief Description of Changes	Date Codified	Internal Use
2009-12	2009_11_02PC 2009_12_14TC	2009_12_14	1.03	1-3	Added a variety of UDO amendments from the UDO Advisory Committee.	2009_09_26	(1)
2010-02	2010_02_02PC 2010_02_08TC	2010_02_08	9.17 (new section), rolled all following	v-vi, 9-1 to 9-4, 9-21 to 9-22, 9-41 to 9-50	Added "Administrative Subdivision" to allow lot line shifts and combination of lots.	2010_02_14	(2)
2010-12	2010_11_03PC 2010_12_13TC	2010_12_13	2.02, 2.04, 2.06, 2.08, 2.10, 2.12, 2.14, 2.16, 2.18, 2.20, 2.22, 2.24, 5.04, 5.14, 5.20, 5.21, 5.22, 5.23, 5.24, 5.33, 5.43, 5.44, 5.51, 5.53, 5.55, 5.57, 5.58, 5.73, 5.76, 6.01, 6.03, 6.06, 6.07, 6.09, 7.04, 7.15, 7.16, 7.22, 7.23, 7.26, 9.05, 9.07, 9.08, 9.11, 9.14, 9.15, 9.17, 9.18, 9.19, 9.20	iii, 2-3, 2-5, 2-7, 2-9, 2-11, 2-13, 2-15, 2-17, 2-19, 2-21, 2-23, 2-25, 5-2, 5-5, 5-12, 5-18 to 5-20, 5-35, 5-42, 5-48, 5-50, 5-52, 5-54 to 5-56, 5-75, 5-77, 6-2, 6-3, 6-5, 6-6, 6-7, 7-3, 7-16 to 7-17, 7-25 to 7-26, 7-29, 9-5 to 9-9, 9-13, 9-16, 9-24, 9-32, 9-37, 9-42 to 9-43, 9-45, 9-47, 9-49, 11-3, 11-5, 11-12 to 11-13, 11-15, 11-20 to 11-21, 11-29, 11-31 to 11-35, 11-37	<ul style="list-style-type: none"> <li>Globally changed terminology from Fence and Wall Standards to Fence Standards.</li> <li>Removed rain garden provisions in Density and Intensity Standards.</li> <li>Clarified all references to sidewalks as either public or private.</li> <li>Clarified where RVs can be stored in Outdoor Storage Standards.</li> <li>Exempted private sidewalks from Setback Standards.</li> <li>Addressed how playsets may be located in the lake yard in Setback Standards.</li> <li>Clarified viewshed protection regulations in Setback Standards.</li> <li>Added submittal requirements for flatwork in ILP Section.</li> <li>Added a courtesy notice to adjacent property owners when ILP is issued.</li> <li>Added submittal requirement for a signature block in Administrative Subdivision process.</li> <li>Prohibits post-construction variances.</li> <li>Clarifies administrative modifications to development standard variances and use variances.</li> <li>Revised Definitions: Accessory Structure, Walkout Basement, Buffer Landscaping, Guest Quarters, Lot, Stepping Stones, and Structure.</li> <li>Added Definitions: Fence, Decorative Fence, Flatwork, Playset, Private Sidewalk, Public Sidewalk, and Sidewalk.</li> </ul>	2010_12_14	(3)
2011-03	2011_02_07 2011_03_14	2011_03_15	9.17	9-41 and 9-42	Cleaned-up the procedure for administrative subdivisions, required metes and bounds survey, and corrected for consistency with County recording process.	2011_03_16	(4)
2011-07	2011_06_20 2011_07_07	2011_07_07	2.12, 2.14, 6.01, 9.14, 9.15, 9.17	2-13, 2-15, 6-2, 9-31, 9-32, 9-34, 9-36, 9-37, 9-38, 9-41, 9-42	Made scrivener error corrections to 2.12 and 2.14, cap of 1 story for accessory structures. Clarified number of splits allowed by simple subdivision in intent section. Clarified allowances for subdivision waivers. Added request for waiver provisions to minor subdivisions, major subdivisions and administrative subdivisions. Allowed Zoning Administrator relief of filing requirements in various sections.	2011_07_18	(5)
2011-09	2011_09_19 2011_10_10	2011_10_10	1.06, 1.08, 1.11, 1.20, 2.01, 2.03, 2.05, 2.07, 2.09, 2.11, 2.13, 2.14, 2.15, 2.16, 2.17, 2.19, 2.21, 2.23, 3.01, 5.04, 5.05, 5.05, 5.06, 5.07, 5.08, 5.09, 5.10, 5.11, 5.12, 5.13, 5.14, 5.15, 5.16, 5.21, 5.22, 5.25, 5.27, 5.28, 5.35, 5.36, 5.37, 5.43, 5.44, 5.55, 5.56, 5.57, 5.58, 5.59, 5.60, 5.61, 5.63, 5.66, 5.68, 5.71, 5.72, 7.01, 7.05, 7.06, 7.08, 7.10, 7.19, 7.20, 7.21, 7.23, 7.24, 7.25, 7.26, 7.27, 8.04, 8.05, 9.05, 9.07, 9.08, 9.10, 9.11, 9.12, 9.13, 9.14, 9.15, 9.16, 9.17, 9.18, 9.19, 9.20, 10.01, 10.18, 11.02	1-2, 1-3, 1-4, 1-5, 1-7, 2-2, 2-4, 2-6, 2-8, 2-10, 2-12, 2-14, 2-15, 2-16, 2-17, 2-18, 2-20, 2-22, 2-24, 3-2, 5-2, 5-5, 5-6, 5-7, 5-8, 5-9, 5-10, 5-11, 5-12, 5-13, 5-14, 5-15, 5-20, 5-21, 5-23, 5-25, 5-26, 5-27, 5-31, 5-32, 5-33, 5-34, 5-39, 5-40, 5-44, 5-45, 5-54, 5-55, 5-56, 5-57, 5-58, 5-59, 5-62, 5-67, 5-68, 5-73, 5-76, 5-77, 7-2, 7-4, 7-5, 7-6, 7-8, 7-10, 7-20, 7-22, 7-23, 7-25, 7-27, 7-28, 7-29, 7-30, 7-32, 8-4, 8-5, 9-5, 9-6, 9-7, 9-9, 9-12, 9-14, 9-15, 9-16, 9-17, 9-19, 9-20, 9-21, 9-23, 9-24, 9-25, 9-26, 9-27, 9-28, 9-29, 9-31, 9-32, 9-33, 9-34, 9-35, 9-36, 9-37, 9-38, 9-39, 9-40, 9-41, 9-42, 9-43, 9-45, 9-46, 9-48, 9-49, 10-2, 10-8, 11-3, 11-4, 11-6, 11-8, 11-9, 11-10, 11-11, 11-12, 11-15, 11-16, 11-17, 11-18, 11-19, 11-20, 11-21, 11-23, 11-24, 11-25, 11-26, 11-27, 11-30, 11-31, 11-33, 11-34, A-2, B-2	<ul style="list-style-type: none"> <li>Corrected spelling errors.</li> <li>Globally changed application/applicant to petition/petitioner; kept a few instances of application/applicant where appropriate.</li> <li>Added interpretation for "Intent."</li> <li>Cleaned up misuse of terminology.</li> <li>Added accessory structure types to permitted uses in Article 2.</li> <li>Updated cross references.</li> <li>Cleaned up accessory structure standard to improve interpretation.</li> <li>Addressed outdoor kitchens and outdoor fireplaces.</li> <li>Eliminated duplicate architectural standards.</li> <li>Pulled deck standards from various places to create new section.</li> <li>Revised lot coverage rules.</li> <li>Refined fence standards.</li> <li>Capped attached non-livable space.</li> <li>Revised and added new illustrations for foundation plantings.</li> <li>Revised where yard plantings can occur in Lake Residential.</li> <li>Pulled RV standards from various places to create new section.</li> <li>Revised nonconforming structure standards to address accidental fire and to improve clarity of intent.</li> <li>Refined ILP examples and clarified exemption for small structures.</li> <li>Rewrote ILP prerequisite standards and flatwork filing requirements.</li> <li>Referenced rules of procedure and removed procedural information that is covered in rules of procedure.</li> <li>Changed filing deadline for special exception to 28 days.</li> <li>Clarified procedure for minor subdivisions.</li> <li>Added definitions for: occupiable accessory structure, attic, accessory building, deck, building envelope, front yard envelope, lake yard envelope, rear yard envelope, side yard envelope, street yard envelope, footprint, lost value, outdoor fireplace, outdoor kitchen, petitioner, parked recreational vehicle, stored recreational vehicle, established elevated deck setback, and soil scientist.</li> <li>Revised definitions for: recreation-based accessory structure, storage-based accessory structure, support-based accessory structure, applicant, building, building envelope, standard deck, elevated deck, floor area, garage, half story, landscape areas, lot area, interior lot, front lot line, through lot, lot width, patio, primary structure, recreational vehicle, established building setback, story, structure coverage, swimming pool, yard, front yard, lake yard, rear yard, side yard, and street yard.</li> <li>Deleted definition for: dwelling site, impervious surface coverage, and relatively adjacent property.</li> </ul>	2011_10_16	(6)

# UDO Amendment Tracking Table

Ordinance Number	Plan Commission/ Town Council Approval Date	Effective Date	Sections Affected	Pages Changed	Brief Description of Changes	Date Codified	Internal Use
2012-02	2012_05_09 2012_06_11	2012_06_11	5.04, 5.06, 5.07, 5.09, 5.16, 5.59, 5.61, 9.05, 11.02	5-5, 5-6, 5-7, 5-8, 5-15, 5-57, 5-59, 9-5, 9-7, 9-8, 9-10, 11-16, 11-31	<ul style="list-style-type: none"> <li>Added above ground swimming pools as a prohibited accessory structure</li> <li>Clarified "inground" swimming pools to be permitted in certain districts</li> <li>Changed lot coverage rules for brick pavers</li> <li>Clarified Setback Standards for Mechanical Equipment</li> <li>Added setback exemption for driveways in Lake Residential</li> <li>Added "outdoor mechanical equipment" to ILP applicability and clarified that they are not exempted</li> <li>Added filing requirements for "installation of outdoor mechanical equipment"</li> <li>Made scrivener changes to Permit Procedure section for ILP</li> <li>Added "Hot Tub" definition</li> <li>Modified "Structure Height" definition</li> <li>Modified "Swimming Pool" definition</li> </ul>	2012_06_20	(7)
2013-08	2013_11_04 2013_11_11	2013_11_11	1.07, 1.09, 1.11, 1.23, 5.04, 5.09, 5.14, 5.16, 5.27, 5.28, 5.29, 5.34, 5.36, 5.40, added 5.43, added 5.44, 5.60, 5.61, 5.69, 5.71, 5.73, 7.09, 8.05, 9.04, 9.05, 9.19, 11.02	1-2, 1-4, 1-5, 1-8, 2-3, 2-5, 2-7, 2-9, 2-11, 2-13, 2-15, 2-17, 2-19, 2-21, 2-23, 2-25, 5-2, 5-5, 5-8, 5-9, 5-13, 5-15, 5-24 through 5-32, 5-33, 5-34, 5-38, 5-40, 5-42, 5-45, 5-46, 5-47, 5-59, 5-60, 5-72, 5-77, 5-78, 7-9, 8-5, 9-5, 9-46, 11-9, 11-13, 11-14, 11-16, 11-17, 11-18, 11-21, 11-22, 11-23, 11-26, 11-34, Added Appendix C	<ul style="list-style-type: none"> <li>Changed term from "petition" to "application throughout</li> <li>Added "and water bodies" to Ordinance Jurisdiction language</li> <li>Added clarity to Zoning District Boundaries in Official Zoning Map provisions</li> <li>Added cross reference to Mechanical Equipment in all blue boxes</li> <li>Added Exempt Accessory Structures and Prohibited Location provisions in Accessory Structures Section</li> <li>Moved "...clearly complementary to and customarily incidental..." language in Lake Accessory Accessory Structures standards from Types to Use paragraphs</li> <li>Clarified regulations for Maximum Size of Accessory Structures in Lake Residential</li> <li>Clarified screening opportunities under decks</li> <li>Changed some in-line titles to be more consistent from section to section (e.g. changed "applicability" to "general")</li> <li>Removed all pre-existing floodplain standards and moved DNR approved standards to Appendix C</li> <li>Changed project applicability language for landscape provisions</li> <li>Added landscaping horizontal separation requirements from utilities and zoning administrator discretion to landscaping standards</li> <li>Updated standards for foundation plantings, from 80 to 60 foot wide facades</li> <li>Added Mechanical Equipment Standards Sections and removed pre-existing mechanical equipment standards from setback standards</li> <li>Clarified Variance from Development Standards or Use language</li> <li>Synchronized ILP language for small structures to match policy of 120 square feet</li> <li>Added definitions for "Dock," "Dock Box," "Lot Line, Lake-side," "Mechanical Equipment," and "Yard Extended, Lake."</li> <li>Modified definition for "District," "Hardship," and "Landscape Areas,"</li> <li>Deleted definition for "FEMA," "FIRM," "Flood Protection Grade," "Floodplain Management," "Floodplain Management Regulations," "Floodproofing," "Highest Adjacent Grade," "LOMA," "LOMR," "Lowest Floor," "One Hundred Year Flood," "One Percent Annual Chance Flood," "Regulated Flood," and "Regulatory Floodway"</li> </ul>		(8)
					<ul style="list-style-type: none"> <li>Converted Individual InDesign Files to a single file for the whole document.</li> </ul>		(9)

# UDO Amendment Tracking Table

Ordinance Number	Plan Commission/ Town Council Approval Date	Effective Date	Sections Affected	Pages Changed	Brief Description of Changes	Date Codified	Internal Use
2014-04	2014_09_08 2014_09_15	2014_09_15	2.01, 2.03, 2.05, 2.09, 2.11, 2.13, 2.14, 2.15, 5.16, 5.18, 5.19, 5.20, 5.21, 5.22, 5.24, 5.25, 5.26, 5.27, 5.45, 5.46, 5.49, 5.50, 5.51, 5.52, 5.53, 5.60, 5.63, 5.64, 5.65, 8.02, 8.04, 8.05, 11.02, Land Use Matrix	2-02, 2-04, 2-06, 2-10, 2-12, 2-14, 2-15, 2-16, 5-15, 5-17, 5-18 through 5-24, 5-39, 5-40, 5-42, 5-43, 5-44, 5-51, 5-54 through 5-57, 8-02 through 8-05, 11-14, 11-22, 11-29, 11-30, A-2	<ul style="list-style-type: none"> <li>Added "Natural resources protection area" as Special Exception Use in CO, PR, AG, RE, SR, LR, and LA Districts</li> <li>Changed Minimum Lot Width for LR District from 30 to 50 feet</li> <li>Added "Redevelopment Standards" to Article 5 and made them applicable to LR District</li> <li>Changed Lot Coverage Rules in Density and Intensity Standards to allow crushed limestone, and to allow grass pavers counted as 50% coverage</li> <li>Changed the term "gravel" to "stone" throughout</li> <li>Changed Residential Driveway Standards, increasing max width from 10 to 12; added more permitted driveway material; changed side setback from 3 feet to 5 feet; and added driveway drainage standards</li> <li>Added a whole new Driveway Standards section for LR and LA Districts</li> <li>Changed Nonresidential Driveway Standards to disallow grass pavers, stone, dirt, sand, and grass as driveway surfaces.</li> <li>Added Stormwater Management clause to the Environmental Standards</li> <li>Struck location standards from the General Fence Standards and added them, customized, to each individual fence standard section</li> <li>Added "Prohibited Types" to the Mechanical Equipment Standards</li> <li>Struck "materials" standards in the General Parking Standards and then added customized material standards to each of the following Parking Standard sections.</li> <li>Added "Redevelopment Standards" to the UDO to address lake residential lots when being redeveloped</li> <li>Added a clause that requires accessory structures to observe the aggregate side yard setbacks, in the General Setback Standards</li> <li>Struck "Chimneys" exception from the "Setback Exceptions Standards" and "Lake Residential Setback Standards"</li> <li>Also added Common Driveway Turn-around regulations to the "Lake Residential Setback Standards"; and modified the "Horizontally Protected Viewshed" standards</li> <li>Added "or flatwork" to various sections in the Nonconformances Article</li> <li>Modified "Legal Nonconforming Lots" section</li> <li>Added a definition for "Grass Paver", "Natural Resource Protection Area", Sign, Freedom of Speech", and "Stone"</li> <li>Modified definitions for "Lot Width" and "Story"</li> </ul>	2014_10_04	(10)
2015-10	2015_08_03 2015_09_21	2016_01_01	5.17, 5.18, 5.19, 5.20, 5.21, 5.50, 5.51, 5.52, 5.53	5-16 through 5-20, 5-42 through 5-44	<ul style="list-style-type: none"> <li>Changed the source for street classifications from Steuben Co to Clear Lake Thoroughfare Plan</li> <li>Clarified driveway materials appropriate in AG and IA districts</li> <li>Added apron standards for AG, IA, RE, SR, MR, LR, LA, IS, NC and MA</li> <li>Added apron illustration for AG, IA, RE, SR, MR, LR, LA, IS, NC and MA</li> <li>Added stone as permitted material for driveways in RE and SR</li> <li>Added stone as permitted material for parking spaces in RE, SR, LR, and LA</li> <li>Clarified the porous surface materials not permitted for parking spaces in RE, SR, LR and LA</li> </ul>	2015_10_12	(11)

# UDO Amendment Tracking Table

Ordinance Number	Plan Commission/ Town Council Approval Date	Effective Date	Sections Affected	Pages Changed	Brief Description of Changes	Date Codified	Internal Use
2016-15	2016_10_24 2016_11_14	2017_01_01	2.12, 5.30, 5.15, 5.22, 5.23, 5.24, 5.25, 5.26, 5.27, 5.30, 5.45, 5.46, 5.63, 5.64, 8.06, 9.05, 9.17, 9.17, 9.19, 11.02	2-13, 5-12, 5-14, 5-21, 5-22, 5-23, 5-24, 5-27, 5-39, 5-40, 5-54, 5-55, 8-06, 9-06, 9-41, 9-42, 9-46, 11-03, 11-09, 11-16, 11-19, 11-21, 11-22, 11-33, 11-34	<ul style="list-style-type: none"> <li>Changed accessory structure rear yard setback to 20 feet from 30</li> <li>Increased minimum roof pitch to 5:12</li> <li>Added Roof Plane standards</li> <li>Added Footprint of Primary subsection and illustration</li> <li>Added Front Facade Orientation subsection</li> <li>Clarified setback exceptions for Lake Residential, decks shall not be closer than 3 feet to a rear property line</li> <li>Clarified what sedimentation includes and on what surfaces sedimentation is restricted in the Soil and Water Quality standards</li> <li>Added clarification to when a Privacy Partition is exempt from obtaining an ILP</li> <li>Added clarity to permitted fence materials</li> <li>Clarified where residential fences are not permitted</li> <li>Added height exception for Decorative Cupolas</li> <li>Added underground tanks as prohibited mechanical equipment and added where and how above ground tanks may be installed</li> <li>Added corner lot and irregular lot regulation to setback standards section</li> <li>Allowed patios to be exempt from rear yard setback standards</li> <li>Rewrote the Legal Nonconforming Use Provisions and Abandonment of Use provisions</li> <li>Added Sewer Connection and Construction Parking prerequisites for ILP</li> <li>Increased the number of lots under one common owner to be merged as administrative subdivision from 5 to 10</li> <li>Updated the Procedure for Approval, Review of Material and Acceptance subsections</li> <li>Added new prerequisite for a variance, new Sanitary Sewer Connection</li> <li>Deleted definition for "Abandoned"</li> <li>Added definition for "Dwelling, Manufactured Home," and "Dwelling, Mobile Home,"</li> <li>Revised definition for "Dwelling, Single-family Detached," "Half Story," "Lot, Corner," "Yard, Front," "Yard, Side," and "Yard, Street"</li> <li>Added cross reference from "Manufactured Home" to "See Dwelling, Manufactured Home"; and "Mobile Home" to "See Dwelling, Mobile Home";</li> </ul>	2016_12_30	(12)
2017-06	2017_11_06 2017_12_11	2018_01_01	5.20, 5.23, 5.46, 5.64, 5.65, 5.69, 5.82, 8.05, 9.05, 11.02	5-19, 5-22, 5-40, 5-55, 5-56, 5-63, 5-77, 8-05, 9-05, 9-09, 11-04, 11-08, 11-13, 11-15, 11-22, 11-26, 11-31	<ul style="list-style-type: none"> <li>Amended LR and LA Driveway Standards to not require curb and to allow asphalt or concrete apron</li> <li>Improved in-line titles under General Fence Standards, 5.23(B):Permits to clarify that those subsections are "permit exemptions"</li> <li>Updated Cross Reference language in Residential Mechanical Equipment section to only apply to LR District and deleted cross reference to Setback Standards.</li> <li>Updated the Residential Mechanical Equipment section's Location Standards</li> <li>Clarified where Marina Fuel dispensing is exempt and that it shall still comply with above ground tank standards</li> <li>Added "mechanical equipment" to the list of obstacles in the "Clear Side Yard" Standards in Section 5.65: Lake Residential Setback Standards</li> <li>Added duration examples in residential sign standards.</li> <li>Added a new subsection, Sewer Connection, to Utility Standards</li> <li>Amended rules for Loss of Legal Nonconforming Lot Status</li> <li>Deleted "small structures" exemption from improvement location permits</li> <li>Added decorative fences to exemption from improvement location permits</li> <li>Amended "Duration" standards for ILPs, stating commencement within 3 months and expiration to 20 months</li> <li>Amended "Attic" definition to clarify what qualifies as an attic</li> <li>Amended "Fence, Decorative" definition to clarify the term</li> <li>Amended "Ground Level, Average" definition to clarify that elevation measurements are to be taken pre-construction</li> <li>Amended "Mechanical Equipment" definition to clarify "residential-scale" generators</li> <li>Added "Residential-Scale Generator" definition</li> <li>Amended "Tree Plot" definition to include no curb situation</li> </ul>	2018_01_31	(13)

# UDO Amendment Tracking Table

Ordinance Number	Plan Commission/ Town Council Approval Date	Effective Date	Sections Affected	Pages Changed	Brief Description of Changes	Date Codified	Internal Use
2018-01	2022_5_4 2022_5_17	2023_1_1	9.17	9-41	• Correct the inconsistency between maximum number of lots that can be combined as stated within 9.17- (A) and (B)(2) from five (5) to ten (10) lots.	2022_12_31	(14)
2018-21	2022_5_4 2022_5_17	2023_1_1	Definitions	11-15	• Ground Level, Average: definition contains an inconsistency in the capitalization of Main Outside Corners	2022_12_31	(15)
2018-22	2022_5_4 2022_5_17	2023_1_1	Definitions	11-26	• Definition for Residential-Scale Generator contains a typographical error in numerical size	2022_12_31	(16)
2018-08	2022_5_4 2022_5_17	2023_1_1	9.05	9-06 & 9-07	• Correct the inconsistency in the requirement to identify easements within 9.05 - (E)(2)(a), (b), (c) & (d)	2022_12_31	(17)
2018-09	2022_5_4 2022_5_17	2023_1_1	5.35	5-31	• Project Applicability: missing category (Addition to Accessory Structure) and cross references to clear side yard and town ordinance Title V: Public Works, Chapter 51: Sewers, 51.59 (H) Grinder Pump Station Accessibility which precludes plantings in sewer easement	2022_12_31	(18)
2018-13	2022_5_4 2022_5_17	2023_1_1	1.27	1-11	• Zoning Administrator Duties is missing support to Board of Zoning Appeals	2022_12_31	(19)
2018-18	2022_5_4 2022_5_17	2023_1_1	2.14	2-15	• Maximum Lot Coverage: eliminate the shared threshold value (9000 sq ft) between categories 53% and 50%	2022_12_31	(20)
2018-19	2022_5_4 2022_5_17	2023_1_1	9.08	9-14	• There is a wording mistake in Development plan 9.08 in (A)(1) a & b	2022_12_31	(21)
2018-33	2022_5_4 2022_5_17	2023_1_1	9.05(G)(3)	9-09	• Correct the inconsistency in permit expiration duration between Town of Clear Lake Improvement Location Permits and Steuben County building department	2022_12_31	(22)
2018-06	2022_6_7 2022_6_21	2023_1_1	5.31, 5.32, 5.03, 2.05, 2.06, 2.09, 2.10, 2.12, 2.14, 2.11, 2.13, 2.17, 9.05, A.01	5-28, 5-29, 5-04, 2-06, 2-07, 2-10, 2-11, 2-13, 2-15, 2-12, 2-14, 2-18, 9-05, A-2	• The current HB1 and HB2 standards do not effectively address the needs of the community. This change will eliminate the current HB1 and HB2 standards replacing it with one HB standard which better reflects the communities needs	2022_12_31	(23)
2018-05	2022_6_7 2022_6_21	2023_1_1	5.22	5.21	• C. Soil and Water Quality, 1. Erosion Control, (a) references Indiana Administrative Code 327-1 (Rule 5) is in error and should be 327-15 (rule 5) which applies to all "construction activity" that result in the disturbance of one (1) acre or more of land area. Areas smaller than one acre are also regulated by this Rule if the project is part of a "larger common plan of development or sale". Add standard criteria to explicitly deal with management of gutter and downspout discharge	2022_12_31	(24)
2018-07	2022_6_7 2022_6_21	2023_1_1	9.05	9-05	• Landscaping does not require an ILP resulting in a risk that violations of clear side yard standards will go undetected. Violations of clear side yard (SB-03: Lake Residential Setback Standards 5.65 (B)) setback standards will result in access issues for emergency personnel and safety concerns for life and property	2022_12_31	(25)
2018-14	2022_6_7 2022_6_21	2023_1_1	9.05(E)(2)	9-06, 9-07	• Add to ILP filing requirements the location of canopy trees required by Landscaping (LA-04) pg. 5-34	2022_12_31	(26)
2018-15	2022_6_7 2022_6_21	2023_1_1	9.05(C) & (D)(3)	9-06	• Add Town of Clear Lake, Indiana Code of Ordinances Title VII: Traffic Code Chapter 72: Parking Regulations paragraph 72.02 Regulations on Roads and Streets to the 9.05 (C) Cross References and add a requirement in 9.05 (D)(3) to post at construction site beside the approved ILP a figure or equivalent designating the location of approved construction parking spaces.	2022_12_31	(27)
2018-23	2022_6_7 2022_6_21	2023_1_1	5.09(C)	5-08	• Add an option to allocate the maximum square footage of 1,344 sq ft entirely to one accessory structure	2022_12_31	(28)
2018-38	2022_8_2 2022_8_16	2023_1_1	5.67	5-59	• Home business shall comply with Sign Standards	2022_12_31	(29.)

# Appendix

## C

### Flood Hazard Area Ordinance

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### Town of Clear Lake Unified Development Ordinance

## Article 1: Statutory Authorization, Findings of Fact, Purpose, and Objectives

- A. Statutory Authorization: The Indiana Legislature has in Indiana Code 36-7-4 and Indiana Code 14-28-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council of the Town of Clear Lake does hereby adopt the following floodplain management regulations.
- B. Findings of Fact:
1. The flood hazard areas of the Town of Clear Lake 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.
  2. 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.
- C. Statement of Purpose: It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.
  2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
  3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
  4. Control filling, grading, dredging, and other development which may increase erosion or flood damage.
  5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
  6. Make Federally subsidized flood insurance available for structures and their contents in the Town by fulfilling the requirements of the National Flood Insurance Program.
- D. Objectives: The objectives of this ordinance are:
1. To protect human life and health.
  2. To minimize expenditure of public money for costly flood control projects.
  3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
  4. To minimize prolonged business interruptions.
  5. To minimize damage to public facilities and utilities such as water and gas mains; electric, telephone, and sewer lines; streets; and bridges located in floodplains.
  6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.
  7. To ensure that potential homebuyers are notified that property is in a flood area.



# Flood Hazard Area Ordinance

## Article 2: Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**A Zone:** Portions of the Special Flood Hazard Area in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In “A Zones,” floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR, and Zone A99 on a Flood Insurance Rate Map or Flood Hazard Boundary Map. The definitions are presented below:

**Zone A:** Areas subject to inundation by the one-percent (1%) annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown. Mandatory flood insurance purchase requirements apply.

**Zone AE and A1-A30:** Areas subject to inundation by the one-percent (1%) annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. Mandatory flood insurance purchase requirements apply. (Zone AE is on new and revised maps in place of Zones A1-A30.)

**Zone AO:** Areas subject to inundation by one-percent (1%) annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one (1) and three (3) feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.

**Zone AH:** Areas subject to inundation by one-percent (1%) annual chance shallow flooding (usually areas of ponding) where average depths are between one (1) and three (3) feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.

**Zone AR:** Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection. Mandatory flood insurance purchase requirements apply.

**Zone A99:** Areas subject to inundation by the one-percent (1%) annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown. Mandatory flood insurance purchase requirements apply.

**Accessory Structure:** A structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

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

**Appeal:** A request for a review of the Floodplain Administrator’s interpretation of any provision of this ordinance or a request for a variance.

**Appurtenant Structure:** See “Accessory Structure.”

**Area of Shallow Flooding:** A designated AO or AH Zone on the community’s Flood Insurance Rate Map (FIRM) with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Base Flood Elevation (BFE):** The elevation of the one-percent (1%) annual chance flood.

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

**Building:** See “Structure.”

**Community:** A political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

**Community Rating System (CRS):** A program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

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

**Development:** Any man made change to improved or unimproved real estate including but not limited to:

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

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

**Elevated Structure:** A non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

**Elevation Certificate:** A certified statement that verifies a structure’s elevation information.

**Emergency Program:** The first phase under which a community participates in the National Flood Insurance Program. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial Flood Insurance Rate Map.

**Encroachment:** The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

**Existing Construction:** Any structure for which the “start of construction” commenced before the effective date of the community’s first floodplain ordinance.

**Existing Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community’s first floodplain ordinance.

**Expansion to an Existing Manufactured Home Park or Subdivision:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FEMA:** The Federal Emergency Management Agency.

**Five-hundred year flood (500-year flood):** The flood that has a two-tenths percent (0.2%) chance of being equaled or exceeded in any year.

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

# Flood Hazard Area Ordinance

**Flood Boundary and Floodway Map (FBFM)**: An official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards and regulatory floodway.

**Flood Hazard Boundary Map (FHBM)**: An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been identified as Zone A.

**Flood Insurance Rate Map (FIRM)**: An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**Flood Insurance Study (FIS)**: The official hydraulic and hydrologic report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Insurance Rate Map, Flood Boundary and Floodway Map (where applicable), and the water surface elevation of the base flood.

**Flood Prone Area**: Any land area acknowledged by a community as being susceptible to inundation by water from any source. (See “Flood.”)

**Flood Protection Grade (FPG)**: The elevation of the regulatory flood plus two (2) feet at any given location in the Special Flood Hazard Area. (See “Freeboard.”)

**Floodplain**: The channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

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

**Floodplain Management Regulations**: This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes Federal, State, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

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

**Floodproofing Certificate**: A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the flood protection grade. This certification must be by a Registered Professional Engineer or Architect.

**Floodway**: The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

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

**Fringe**: Those portions of the floodplain lying outside the floodway.

**Functionally Dependent Facility**: A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

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

**Highest Adjacent Grade**: The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

**Historic Structure**: Any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

**Increased Cost of Compliance (ICC)**: The cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include Increased Cost of Compliance coverage.

**Letter of Map Amendment (LOMA)**: An amendment to the currently effective Federal Emergency Management Agency map that establishes that a property is not located in a Special Flood Hazard Area. A Letter of Map Amendment is only issued by the Federal Emergency Management Agency.

**Letter of Map Revision (LOMR)**: An official revision to the currently effective Federal Emergency Management Agency map. It is issued by the Federal Emergency Management Agency and changes flood zones, delineations, and elevations.

**Letter of Map Revision Based on Fill (LOMR-F)**: An official revision by letter to an effective National Flood Insurance Program map. A LOMR-F provides the Federal Emergency Management Agency's determination concerning whether a structure or parcel has been elevated on fill above the base flood elevation and excluded from the Special Flood Hazard Area.

**Lowest Adjacent Grade**: The lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

**Lowest Floor**: 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 (2) openings (in addition to doorways and windows) in a minimum of two (2) exterior walls having a total net area of one (1) square inch for every one (1) square foot of enclosed area. The bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,
  - b. Such enclosed space shall be usable solely for the parking of vehicles and building access.

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

**Manufactured Home Park or Subdivision**: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

# Flood Hazard Area Ordinance

**Map Amendment:** A change to an effective National Flood Insurance Program map that results in the exclusion from the Special Flood Hazard Area of an individual structure or a legally described parcel of land that has been inadvertently included in the Special Flood Hazard Area (i.e., no alterations of topography have occurred since the date of the first National Flood Insurance Program map that showed the structure or parcel to be within the Special Flood Hazard Area).

**Map Panel Number:** The four (4) digit number followed by a letter suffix assigned by the Federal Emergency Management Agency on a flood map. The first four (4) digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised. (The letter “A” is not used by the Federal Emergency Management Agency, the letter “B” is the first revision.)

**Market Value:** The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

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

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

**National Geodetic Vertical Datum (NGVD) of 1929:** As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

**New Construction:** Any structure for which the “start of construction” commenced after the effective date of the community’s first floodplain ordinance.

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

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

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

**One-hundred Year Flood (100-year flood):** The flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent (1%) annual chance flood. See “Regulatory Flood.”

**One-percent Annual Chance Flood:** The flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent (1%) annual chance flood. See “Regulatory Flood”.

**Participating Community:** Any community that voluntarily elects to participate in the National Flood Insurance Program by adopting and enforcing floodplain management regulations that are consistent with the standards of the National Flood Insurance Program.

**Physical Map Revision (PMR):** An official republication of a community’s Federal Emergency Management Agency map to effect changes to base [one percent (1%) annual chance] flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or Special Flood Hazard Areas.



# Flood Hazard Area Ordinance

**Post-FIRM Construction:** Construction or substantial improvement that started on or after the effective date of the initial Flood Insurance Rate Map of the community or after December 31, 1974, whichever is later.

**Pre-FIRM Construction:** Construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial Flood Insurance Rate Map of the community, whichever is later.

**Probation:** A means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

**Public Safety and Nuisance:** Anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons; or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

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

**Regular Program:** The phase of the community's participation in the National Flood Insurance Program where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a Flood Insurance Study.

**Regulatory Flood:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Article 3, Section B of this ordinance. The "Regulatory Flood" is also known by the terms "Base Flood," "One-Percent (1%) Annual Chance Flood," and "100-Year Flood."

**Repetitive Loss:** Flood-related damages sustained by a structure on two (2) separate occasions during a ten (10) year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded twenty-five percent (25%) of the market value of the structure at the time of each such flood event.

**Section 1316:** The section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Floodplain Administrator finds has been declared by a duly constituted State or local zoning authority or other authorized public body to be in violation of State or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

**Special Flood Hazard Area (SFHA):** Those lands within the jurisdictions of the Town subject to inundation by the regulatory flood. The Special Flood Hazard Areas of the Town of Clear Lake are generally identified as such on the Steuben County, Indiana and Incorporated Areas Flood Insurance Rate Map prepared by the Federal Emergency Management Agency, dated December 17, 2013. The Special Flood Hazard Areas of those parts of unincorporated Steuben County that are within the extraterritorial jurisdiction of the Town or that may be annexed into the Town are generally identified as such on the Steuben County, Indiana and Incorporated Areas Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated December 17, 2013. (These areas are shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map as Zone A, AE, A1- A30, AH, AR, A99, or AO).

**Start of Construction:** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement or permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footing, installation of piles, construction of columns, or any work beyond the stage of excavation for placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

# Flood Hazard Area Ordinance

**Structure:** A structure that is principally above ground and is enclosed by walls and a roof. The term includes 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:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

**Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “repetitive loss” or “substantial damage” regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of State or local health, sanitary, or safety code requirements or any alteration of a “historic structure,” provided that the alteration will not preclude the structures continued designation as a “historic structure.”

**Suspension:** The removal of a participating community from the National Flood Insurance Program because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the National Flood Insurance Program.

**Variance:** A grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

**Violation:** The failure of a structure or other development to be fully compliant with this ordinance. 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.

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

**Water surface elevation:** The height, in relation to the North American Vertical Datum of 1988 (NAVD 88) or National Geodetic Vertical Datum of 1929 (NGVD) (other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

**X zone:** The area where the flood hazard is less than that in the Special Flood Hazard Area. Shaded X zones shown on recent Flood Insurance Rate Maps (B zones on older Flood Insurance Rate Maps) designate areas subject to inundation by the flood with a two-tenths percent (0.2%) chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older Flood Insurance Rate Maps) designate areas where the annual exceedance probability of flooding is less than two-tenths percent (0.2%).

**Zone:** A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

**Zone A:** See “A Zone.”

**Zone B, C, and X:** Areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.)



## Article 3: General Provisions

- A. Lands to Which This Ordinance Applies: This ordinance shall apply to all Special Flood Hazard Areas and known flood prone areas within the jurisdiction of the Town of Clear Lake.
- B. Basis for Establishing Regulatory Flood Data: This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Indiana Department of Natural Resources for review and approval.
1. The regulatory flood elevation, floodway, and fringe limits for the studied Special Flood Hazard Areas within the jurisdiction of the Town of Clear Lake shall be as delineated on the one-percent (1%) annual chance flood profiles in the Flood Insurance Study of Steuben County, Indiana and Incorporated Areas dated December 17, 2013 and the corresponding Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated December 17, 2013 as well as any future updates, amendments, or revisions prepared by the Federal Emergency Management Agency with the most recent date.
  2. The regulatory flood elevation, floodway, and fringe limits for the Special Flood Hazard Areas within the jurisdiction of the Town of Clear Lake delineated as an "A Zone" on the Steuben County, Indiana and Incorporated Areas of Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated December 17, 2013 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, 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 (1) square mile.
  3. In the absence of a published Federal Emergency Management Agency map, or absence of identification on a Federal Emergency Management Agency map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas 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 (1) square mile.
- C. Establishment of Floodplain Development Permit: A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.
- D. Compliance: No structure shall hereafter be located, extended, converted or structurally altered within the Special Flood Hazard Area without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the Special Flood Hazard Area shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.
- E. Abrogation and Greater Restrictions: This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- F. Discrepancy between Mapped Floodplain and Actual Ground Elevations: In cases where there is a discrepancy between the mapped floodplain (Special Flood Hazard Area) on the Flood Insurance Rate Map and the actual ground elevations, the elevation provided on the profiles shall govern.
1. If the elevation of the site in question is below the base flood elevation, that site shall be included in the Special Flood Hazard Area and regulated accordingly.
  2. If the elevation (natural grade) of the site in question is above the base flood elevation, that site shall be considered outside the Special Flood Hazard Area and the floodplain regulations will not be applied. The property owner should be advised to apply for a Letter of Map Amendment (LOMA).
- G. Interpretation: In the interpretation and application of this ordinance all provisions shall be
1. Considered as minimum requirements;
  2. Liberally construed in favor of the governing body; and
  3. Deemed neither to limit nor repeal any other powers granted under State statutes.

# Flood Hazard Area Ordinance

- H. Warning and Disclaimer of Liability: The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of the Town of Clear Lake, the Indiana Department of Natural Resources, or the State of Indiana for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.
- I. Penalties for Violation: Failure to obtain a Floodplain Development Permit in the Special Flood Hazard Area or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Town of Clear Lake's Unified Development Ordinance and Code of Ordinances. All violations shall be punishable by a fine not exceeding \$500.
1. A separate offense shall be deemed to occur for each day the violation continues to exist.
  2. The Town of Clear Lake shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
  3. Nothing herein shall prevent the Town from taking such other lawful action to prevent or remedy any violations. All costs connected with the violation and enforcement of this ordinance shall accrue to the legal owner of the property.

## Article 4: Administration

- A. Designation of Administrator: The Town Council of the Town of Clear Lake hereby appoints the Zoning Administrator to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.
- B. Permit Procedures: Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by the Town prior to any development activities. Submittal requirements may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:
1. The following information shall be required as part of the Floodplain Development Permit Application:
    - a. A description of the proposed development.
    - b. Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams.
    - c. A legal description of the property site.
    - d. A site development plan showing existing and proposed development locations and existing and proposed land grades.
    - e. Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
    - f. Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
    - g. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
  2. The following information shall be required during the construction phase of the project. Upon placement of the lowest floor; or floodproofing, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor or floodproofed elevation, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular structure said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holders' risk. (The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted.) 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.
- C. Duties and Responsibilities of the Floodplain Administrator: The Floodplain Administrator and/or designated staff is authorized to and shall enforce the provisions of this ordinance. The Floodplain Administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose. Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:
1. Review all Floodplain Development Permits to assure that the permit requirements of this ordinance have been satisfied.
  2. Inspect and inventory damaged structures in the Special Flood Hazard Areas and complete substantial damage determinations.
  3. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Article 5, Section (E) and (G)(1) of this ordinance, and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment).
  4. Ensure that all necessary Federal or State permits have been received prior to issuance of the local Floodplain Development Permit. Copies of such permits are to be maintained on file with the Floodplain Development Permit.

# Flood Hazard Area Ordinance

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5. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency.
6. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, Special Flood Hazard Area maps; Letters of Map Amendment (LOMA); Letters of Map Revision (LOMR); copies of Indiana Department of Natural Resources permits, floodplain analysis, and regulatory assessments (letters of recommendation); Federal permit documents; and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance.
7. Utilize and enforce all Letters of Map Revision (LOMR) or Physical Map Revisions (PMR) issued by the Federal Emergency Management Agency for the currently effective Special Flood Hazard Area maps of the community.
8. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
9. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4, Section (B).
10. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Article 4, Section (B).
11. Review certified plans and specifications for compliance.

## Article 5: Provisions for Flood Hazard Reduction

- A. General Standards: In all Special Flood Hazard Areas and known flood prone areas the following provisions are required:
1. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
  2. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of 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.
  3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the flood protection grade.
  4. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
  5. Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/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.
  6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
  7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
  8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
  9. Any alteration, repair, reconstruction or improvement to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in this ordinance.
  10. Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not further extended or replaced.
- B. Specific Standards: In all Special Flood Hazard Areas, the following provisions are required:
1. In addition to the requirements of Article 5, Section A, all structures to be located in the Special Flood Hazard Area shall be protected from flood damage below the flood protection grade. This building protection requirement applies to the following situations:
    - a. Construction or placement of any new structure having a floor area greater than 400 square feet.
    - b. Addition or improvement made to any existing structure:
      - i. where the cost of the addition or improvement equals or exceeds fifty percent (50%) of the value of the existing structure (excluding the value of the land).
      - ii. with a previous addition or improvement constructed since the community’s first floodplain ordinance.
    - c. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds fifty percent (50%) of the market value of the structure (excluding the value of the land) before damage occurred.
    - d. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
    - e. Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.

# Flood Hazard Area Ordinance

2. *Residential Construction*: New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the flood protection grade [two (2) feet above the base flood elevation]. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section (B)(4).
3. *Non-Residential Construction*: New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the flood protection grade [two (2) feet above the base flood elevation] or be floodproofed to or above the flood protection grade. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section (B)(4). Structures located in all “A Zones” may be floodproofed in lieu of being elevated if done in accordance with the following:
  - a. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the flood protection grade, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure 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 official as set forth in Article 4, Section (C)(10).
  - b. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
4. *Elevated Structures*: New construction or substantial improvements of elevated structures shall have the lowest floor at or above the flood protection grade. Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:
  - a. Provide a minimum of two (2) openings located in a minimum of two (2) exterior walls having a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area.
  - b. The bottom of all openings shall be no more than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
  - c. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
  - d. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
  - e. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
  - f. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
5. *Structures Constructed on Fill*: A residential or non-residential structure may be constructed on a permanent land fill in accordance with the following:
  - a. The fill shall be placed in layers no greater than one (1) foot deep before compacting to ninety-five percent (95%) of the maximum density obtainable with either the Standard or Modified Proctor Test method.
  - b. The fill should extend at least ten (10) feet beyond the foundation of the structure before sloping below the flood protection grade.
  - c. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three (3) horizontal to one (1) vertical.
  - d. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
  - e. The top of the lowest floor including basements shall be at or above the flood protection grade.



6. *Standards for Manufactured Homes and Recreational Vehicles:* Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days shall meet one (1) of the following requirements:
- a. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the flood protection grade and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;
    - i. Outside a manufactured home park or subdivision;
    - ii. In a new manufactured home park or subdivision;
    - iii. In an expansion to an existing manufactured home park or subdivision; or
    - iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood.
  - b. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.
  - c. Manufactured homes with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section (B)(4).
  - d. Recreational vehicles placed on a site shall either:
    - i. Be on site for less than 180 days; and,
    - ii. Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
    - iii. Meet the requirements for “manufactured homes” as stated earlier in this section.

C. Standards for Subdivision Proposals:

1. All subdivision proposals shall be consistent with the need to minimize flood damage.
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
4. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.

- D. Critical Facility: Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area. Construction of new critical facilities shall be permissible within the Special Flood Hazard Area if no feasible alternative site is available. Critical facilities constructed within the Special Flood Hazard Area shall have the lowest floor elevated to or above the flood protection grade at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the flood protection grade shall be provided to all critical facilities to the extent possible.



# Flood Hazard Area Ordinance

## E. Standards for Identified Floodways:

1. Located within Special Flood Hazard Areas, established in Article 3, Section (B), are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain 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 Indiana Code 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. 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. (Indiana Code 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. Please note that 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. No action shall be taken by the Floodplain Administrator until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Article 5 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.
3. No development shall be allowed which acting alone or in combination with existing or future development, will increase the regulatory flood more than fourteen-hundredths (0.14) of one (1) foot.
4. For all projects involving channel modifications or fill (including levees) the Town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.

## F. Standards for Identified Fringe: If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Article 5 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the flood protection grade.

## G. Standards for Special Flood Hazard Areas Without Established Base Flood Elevation and/or Floodways/ Fringes:

1. Drainage area upstream of the site is greater than one (1) square mile:
  - a. If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one (1) square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment. No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway or a floodplain analysis/regulatory assessment citing the one-percent (1%) annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.
  - b. Once the Floodplain Administrator has received the proper permit for construction in a floodway or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Article 5 of this ordinance have been met.

2. Drainage area upstream of the site is less than one square mile:
    - a. If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one (1) square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent (1%) annual chance flood elevation for the site.
    - b. Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Article 5 of this ordinance have been met.
  3. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood more than fourteen-hundredths (0.14) of one (1) foot and will not increase flood damages or potential flood damages.
- H. Standards for Flood Prone Areas: All development in known flood prone areas not identified on Federal Emergency Management Agency maps, or where no Federal Emergency Management Agency published map is available, shall meet applicable standards as required in Article 5.

# Flood Hazard Area Ordinance

## Article 6: Variance Procedures.

- A. Designation of Variance and Appeals Board: The Clear Lake Board of Zoning Appeals as established by the Town Council of the Town of Clear Lake shall hear and decide appeals and requests for variances from requirements of this ordinance.
- B. Duties of Variance and Appeals Board: The Clear Lake Board of Zoning Appeals shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the Board of Zoning Appeals may appeal such decision to the court of jurisdiction within Steuben County.
- C. Variance Procedures: In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and
  1. The danger of life and property due to flooding or erosion damage.
  2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  3. The importance of the services provided by the proposed facility to the community.
  4. The necessity to the facility of a waterfront location, where applicable.
  5. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
  6. The compatibility of the proposed use with existing and anticipated development.
  7. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
  8. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  9. The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
  10. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- D. Conditions for Variances:
  1. Variances shall only be issued when there is:
    - a. A showing of good and sufficient cause.
    - b. A determination that failure to grant the variance would result in exceptional hardship.
    - c. A determination that the granting of a variance will not result in increased flood heights; additional threats to public safety; extraordinary public expense; the creation of nuisances, fraud, or victimization of the public; or conflict with existing laws or ordinances.
  2. No variance for a residential use within a floodway subject to Article 5, Section (E) or Section (G)(1) of this ordinance shall be granted.
  3. Any variance granted in a floodway subject to Article 5, Section E or Section (G)(1) of this ordinance shall require a permit from the Indiana Department of Natural Resources.
  4. Variances to the Provisions for Flood Hazard Reduction of Article 5, Section B, may be granted only when a new structure is to be located on a lot of one half (½) acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
  5. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  6. 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.
  7. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Article 6, Section (E)).
  8. The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See Article 6, Section E).

- E. Variance Notification: Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
1. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
  2. Such construction below the base flood level increases risks to life and property.
- The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.
- F. Historic Structures: Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.
- G. Special Conditions: Upon the consideration of the factors listed in Article 6 and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

## **Article 7: Severability**

If any section, clause, sentence, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this ordinance.