

EXHIBIT 2. PROPOSED AMENDMENTS TO CHAPTER 152

Chapter 152

PLANNING AND DEVELOPMENT; ZONING

Proposed amendments

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GENERAL PROVISIONS

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152.01 TITLE AND AUTHORITY

Title. These regulations shall be formally known as the “Town of Thorntown Zoning Ordinance,” and may be cited and referred to as the “Zoning Ordinance,” “this Ordinance,” or “Subdivision Control Ordinance.”

Authority. This Ordinance is adopted by the Town pursuant to its authority under the laws of the State of Indiana, IC 36-7-4 et seq. Whenever codes cited in this Ordinance refer to Indiana Code (“IC” or “Indiana Code”) or Indiana Administrative Code (“IAC”) which has been amended or superseded, then this Ordinance is deemed amended in reference to the new or revised code.

152.02 PURPOSE AND INTENT

The purpose of this Ordinance is to secure adequate light, air, convenience of access, and safety from fire, flood, and other danger; lessen or avoid congestion on public streets; lessen congestion in public ways; preserve, protect and promote the public health, safety and general welfare of the community in the Town. More specifically, this Ordinance is adopted to achieve the following objectives:

- A. Implement the policies and goals contained within officially adopted plans, including the Comprehensive Plan;
- B. Provide for orderly and sustainable growth and development of suitable neighborhoods with adequate transportation networks, drainage, utilities, facilities, and appropriate building sites;
- C. Promote development patterns that support that promote walkability and compact community form;
- D. Thorntown should promote a land-management strategy intended to restore community health, reduce flooding, and protect the quality of natural resources and agricultural sustainability;
- E. Protect water quality within watershed critical areas;
- F. Encourage environmentally responsible development practices;
- G. Promote growth of residential, commercial, recreation / conservation and other land uses outside of Thorntown’s present corporate limits which maintain the compact form of the community;
- H. Revitalize and promote commercial activities within the Town to strengthen the Town’s economic base;

I. Protect local agricultural, landscape and historic heritage of the Town.

152.03 APPLICABILITY

A. Jurisdiction

This Ordinance applies to all land, buildings, structures and uses located within corporate limits of the Town of Thorntown, Indiana. To the extent allowed by law, the provisions of this Ordinance apply to all land, buildings, structures, and uses owned, leased, or otherwise controlled by any district, County, State or Federal government agencies.

B. Exempt Entities

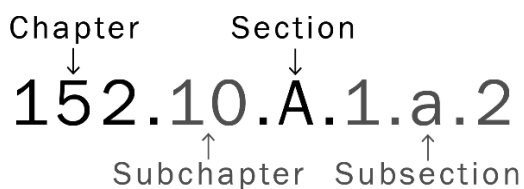
The following governmental agencies and entities may be exempt from this Ordinance with approval by the Town Council: The Town of Thorntown, Sugar Creek Township, Boone County, the State of Indiana, Western Boone County Community School Corporation, Thorntown Public Library, and regulated public utilities (hereinafter "Exempt Entities"). This exemption shall not apply to any State or Federal Building or Fire code except for local Ordinance requirements as applicable (see also Subch. 152.18 Exempt Entities) for permit process.

C. Effective Date

This Ordinance was adopted on ____, 2022 and became effective on ____, 2022, by Ordinance No. _____.

D. Ordinance Format

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



152.04 COMPLIANCE

No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, enlarged or used, nor shall any piece of land be used, nor shall any existing use be expanded except when in full compliance with all provisions of this Ordinance and the permits and certificates required by this Ordinance have lawfully been issued.

152.05 SEVERABILITY

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

152.06 COMPREHENSIVE PLAN

The Comprehensive Plan of the Town of Thorntown, as amended from time to time, establishes the policies for land use that are the underlying policies of this Unified Development Ordinance. The Comprehensive Plan is adopted pursuant to State Law. It contains officially adopted policy statements as well as maps. These maps and policies shall be consulted when land use decisions pursuant to this Unified Development Ordinance are being made, and used as criteria in making decisions upon land use requests.

152.07 OFFICIAL ZONING MAP

The legal descriptions of the zoning districts stated in this Ordinance serve as the Official Zoning Map of the Town.

152.08 REGULATIONS OF NONCONFORMING LOTS, USES, AND STRUCTURES

Upon the adoption of this Ordinance, the Zoning Map, and potentially upon other government action (e.g. acquisition of right-of-way), some buildings, structures, lots and uses may no longer conform to the regulations of their Zoning District. This subchapter provides the rules, policies, and regulations that apply to these buildings, structures, lots and uses.

A. General Regulations

1. **Illegal uses and structures.** Illegal uses and structures existing at the time when this Ordinance is enacted shall not be validated by virtue of its enactment.
2. **Legal Nonconforming.** Legal nonconformance is caused by an amendment to this Ordinance and not due to a change to the property, resulting in the property no longer conforming to the standards of the applicable Zoning District. When this situation occurs, the property is deemed legal nonconforming and is subject to the terms of this Ordinance.
3. **Illegal Nonconforming.** A building, structure, sign, or lot constructed or used without an approved building permit, improvement location permit or approval from the BZA or Plan

Commission is considered illegal nonconforming when it does not conform to this Ordinance. An illegal nonconforming property is subject to enforcement and penalties as set forth in Subchapter 152.99 and all other applicable state or municipal law. The illegal nonconforming property must be altered to conform to all applicable standards and regulations of this Ordinance.

4. **Burden of Owner to Establish Legality of Nonconformity.** The burden of establishing the legality of a nonconformity that lawfully exists under the provisions of this Ordinance is upon the property owner of the nonconformity and not upon the Town.
5. **Undue Hardship.** Nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building or development on which construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Where demolition or removal of an existing building has been substantially begun prior to rebuilding, such demolition or removal shall be deemed to be construction, provided that the work shall be carried on diligently.

B. Nonconforming lots

1. **Single Nonconforming Lots of Record.** In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record after the effective date of adoption or amendment of this Ordinance notwithstanding limitation imposed by other provisions of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lots fail to meet the requirements for area or width, or both, that are generally applicable in the district provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. This section shall apply only to single-family dwellings.
2. **Lots in Combination.** If two or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance; and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance.

C. Nonconforming uses

1. **Authority to Continue.** Where, at the time of adoption of this Ordinance, lawful uses of land exist which would not be permitted by the regulations imposed by this Ordinance, the uses may be continued so long as they remain otherwise lawful, subject to the following provisions.
2. **Enlargement.** No such nonconforming uses shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance. However, the non-conforming use may be extended throughout any parts of a building which were clearly arranged or designed for such use at the time of adoption or amendment of this Ordinance.
3. **Moving.** No such nonconforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this Ordinance.
4. **Termination by Abandonment.** If any such nonconforming uses of land are discontinued or abandoned for more than one (1) year (except when government action impedes access to the premises), any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
5. **New Construction.** No additional or accessory structure not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.

D. Nonconforming structures

1. **Authority to Continue.** Where a lawful structure exists on the effective date of adoption or amendment of this Ordinance that could not now be built under the terms of this Ordinance by reason of restrictions on area, lot, coverage, height, setbacks, its location on the lot, bulk, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful.
2. **Alteration.** No such nonconforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.
3. **Ordinary Repair and Maintenance.** On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent (10%) or the current replacement cost of the nonconforming structure and market value of real estate, or

nonconforming portion of the structure, whichever the case may be, provided that the cubic content existing when it became nonconforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official. If a non-conforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

4. **Moving.** Should such structure be moved for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
5. **Damage or Destruction.** Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to the extent of more than fifty percent (50%) of the fair market value of the building immediately prior to the damage, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

E. Nonconforming development characteristics of site

1. **Authority to Continue.** If a characteristic of development or use lawfully exists at the effective date of adoption or amendment of this Ordinance that would not now be allowed in the district under the terms of this Ordinance, the lawful characteristic of development or use may be continued so long as it remains otherwise lawful, except as otherwise provided below. Such characteristics of development or use shall include, but not be limited to, items such as landscaping, lighting, parking lots, refuse containers, and screening.
2. **Alterations to the Site Requiring Compliance.** Any additions to the building or the site that increase the area by more than 40% (forty percent) shall require that any nonconforming characteristics of development or use shall comply with the standards of this Ordinance.

F. Structure alteration or new construction in existing subdivision

1. Any existing structure or proposed structure meeting the requirements of the adopted primary or secondary plat shall be allowed to construct a new structure or modify an existing structure without having to seek a variance from the Board of Zoning Appeals.

152.09 DEFINITIONS

For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A

ACCESSORY USE. A secondary use on a property that is incidental and subordinate to a primary use located on the same property, and which does not alter or change the character of the premises.

ADDITION. An extension or increase in the floor area or height of a building or structure.

ADJACENT PROPERTY. Any property adjacent to or directly diagonal to the subject property. Properties across a public or private right-of-way are also considered adjacent.

ADVISORY PLANNING LAW has the meaning set forth in IC 36-7-4-101.

ALLEY. A right-of-way, other than a street, road, crosswalk, or easement, designed to provide a secondary means of vehicular access to the side and rear of the lots.

ALTERATION. Any change, addition, or modification in construction, or any change in the structural members of a building, such as load bearing walls, columns, beams, or girders.

AMEND OR AMENDMENT. Any repeal, modification, or addition to a regulation; any new regulation; any change in the number, shape, boundary, or area of a district, or any repeal or abolition of any map, part thereof, or addition thereto.

APPLICATION. The completed form or forms, together with any other materials, exhibits, and fees as required of an applicant pursuant to this Ordinance.

APPLICANT. The owner, owners, or legal representative of land who makes application to the Town of Thorntown. Written consent shall be required from the legal owner of the premises.

B

BASE FLOOD ELEVATION (BFE). The elevation of the one-percent annual chance flood.

BASEMENT. A portion of the building that is underground but having at least half its clear height below the average grade of the adjoining ground.

BEST MANAGEMENT PRACTICE(S) (BMP(S)). The control of pollutants from municipal separate storm sewer systems for the purpose of demonstrating and determining controls that are cost-effective and that use innovative technologies to manage, reduce, treat, recapture, or reuse municipal

stormwater, including techniques that utilize infiltration, evapotranspiration, and reuse of stormwater onsite.

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

BUILDING. Any structure designed, built, and used for the shelter, protection, or enclosure of persons, animals, or property, and which is permanently affixed to the land. A building is also a structure.

BUILDING, ACCESSORY. A subordinate building or structure located on the same lot as a principal building which does not alter or change the character of communications, electric, gas, water, and sewer lines, their supports and incidental equipment, and public telephone booths shall be considered accessory uses even though no principal building exists on the premises.

BUILDING, ADDITION. Construction that increases the square footage of an existing structure or building.

BUILDING, PRINCIPAL. A building in which is conducted the main or principal use of the lot in which said building is situated.

BUILDING, DETACHED. A building that has no structural connection with any other building or structure.

BUILDING, REMODEL. The alteration of an existing structure or building.

BUILDING MASSING. This is an effect of bulky homogenous monotonous mass of buildings created by placing similarly-sized and designed buildings close to each other at a similar distance, particularly in the residential subdivisions.

BUILDING SETBACK LINE (FRONT). The line nearest the front of and across the lot establishing the minimum open space to be provided between the front line of a building or structure and the Front Lot Line. Said building setback line shall be parallel to the street.

C

CLEAR VISION AREA. An area on a corner lot that shall be free from visual obstructions between two (2) and ten (10) feet above grade so that a driver/rider or pedestrian can see oncoming pedestrians and vehicles. Visual obstructions include, but are not limited to, buildings, structures, trees, shrubs, signs, fences, walls. Street grade is measured at the intersection of the street and/or alley centerlines. The clear vision area is formed by a diagonal line connecting:

1. Two points measured fifteen (15) feet equidistant from the lot corner along each property line at the intersections of two (2) local streets or one local street and one alley; OR
2. Two points measured twenty-five (25) feet along each property line at the intersection of a local street and a collector, arterial or expressway or any combinations thereof.

For rounded lot lines, the distances are measured from the point at which the right-of-way lines would intersect if they were not rounded at the corner.

COMMITMENT. A covenant concerning the use or development of a parcel of real property made in writing by the owner of that parcel, either voluntarily or by an order or request of the Plan Commission, the Board of Zoning Appeals, or the Town Council, pursuant to IC 36-7-4-1015.

COMMON AREA. An area held in common by an owners' association, not located in rights-of-way, and not located on individually owned private property.

COMPREHENSIVE PLAN. The complete plan, or any of its parts, for the development of the planning jurisdiction of the Town of Thorntown prepared by the Advisory Plan Commission of the town and adopted in accordance with I.C. 36-7-4-500.

CONCEPT PLAN. An informal review of a proposed subdivision or Planned Unit Development by the Plan Commission at a public hearing to alert applicants to problems and requirements before the official submission.

CONSTRUCTION PLAN. The maps or drawings showing the specific location and design of improvements to be installed.

COVENANT (DEED RESTRICTION). Private and legal restrictions of various kinds on the usage of lots, typically within a subdivision and applied by the subdivider.

CUL-DE-SAC. See definition of Street, Cul-de-sac.

CUT. An excavation, the difference between a point on the original ground and a designated point of lower elevation on the final grade. Also, the material removed in excavation.

D

DEDICATION. The setting apart of land or interests in land for use by the public or municipality by Ordinance, resolution, or entry in the official minutes as by the recording of a plat.

DENSITY. A unit of measurement; the number of dwelling units per acre of land.

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

DEVELOPED AREA. Land that has been substantially improved by making it more useful to humans including the erection of buildings or increasing its value by cultivation.

DEVELOPMENT PLAN. A scale drawing, including a legal or site description, of the real estate involved which shows the location and size of the following, both existing and proposed: all buildings, structures, and yards; topographic map; location and dimension of building lines and easements; widths and lengths of all entrances and exits to and from said real estate; location of all adjacent or adjoining streets, service facilities; and other improvements such as planting areas.

DEVELOPMENT PLAN, DETAILED. The construction drawings incorporating all amendments and plans adopted at the Preliminary Development Plan hearing that sets the stage for approval of the Secondary Plat(s) as evidenced in a development plan.

DEVELOPMENT PLAN, PRELIMINARY. The initial development plans as proposed for a Planned Unit Development following approval by the Plan Commission and adoption by the Common Council of said drawings and Planned Unit Development (PUD) Ordinance including any waivers from the underlying zoning district regulations and commitments by the developer for said real property.

DISTRICT (ZONING). A specific district within the jurisdiction which has uniform regulations governing the use, height, area, size, and intensity of use of buildings and land, and open spaces.

DWELLING. A building or structure or portion thereof used exclusively for residential occupancy, including single-family, two-family, and multi-family; however, excluding hotels, motels, and boarding houses.

DWELLING UNIT. A room or group or rooms designed and equipped exclusively for use as living quarters for only one family and including provisions for living, sleeping, cooking, and sanitary facilities. The term shall include manufactured and mobile homes but shall not include recreational vehicles.

DWELLING, SINGLE-FAMILY DETACHED. A building consisting of a single dwelling unit only and separated from other dwelling units by open space. Single-family dwellings shall include modular homes and may include mobile homes.

DWELLING, SINGLE-FAMILY ATTACHED. A building consisting of two (2) or more dwelling units, each that occupies a separate platted lot.

DWELLING, TWO-FAMILY. A building consisting of two dwelling units which may be attached either side-by-side or one above the other, and each unit having a separate or combined entrance or entrances. Includes condominiums.

DWELLING, MULTI-FAMILY. A building consisting of three (3) or more dwelling units, including condominiums, with varying arrangements of entrances and party walls.

E

EASEMENT. A grant by the property owner of the use of a strip of land by the public, a corporation or persons for specified purposes.

EROSION. The removal of surface materials by the action of natural elements.

EXCAVATION. Any act by which earth, sand, gravel, rock, or other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting therefrom.

F

FILL. Any act by which earth, sand, gravel, rock, or any other similar material is placed, pushed, dumped, pulled, transported, or moved to a new location above and natural surface of the ground or on top of the stripped surface and shall include the conditions resulting therefrom. The difference in elevation between a point on the original ground and a designated point in higher elevation on the final grade. The material used to make a FILL.

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.

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.

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.

FLOODWAY FRINGE. Those portions of a flood hazard area lying outside the floodway district.

FLOOR AREA, GROSS. The sum of all horizontal surface areas of all floors of all roofed portions of a building enclosed by and within the surrounding exterior walls or roofs, or to the center line of any

party wall separating such buildings or portions thereof. Floor area of a building shall exclude exterior unenclosed balconies and/or porches.

FLOOR AREA, FINISHED: That portion of floor area constructed, completed and usable for living purposes with normal living facilities that includes sleeping, dining, cooking, sanitary, or combination thereof. A floor area or portion thereof that remains unfinished and used only for storage purposes and not equipped with the facilities previously identified is not considered finished floor area.

FRINGE. Those portions of the floodplain lying outside the floodway.

FRONTAGE. Property connected directly with a street or highway. For the purpose of determining frontage, an alley is not considered to be a street or highway.

G

GROUND FLOOR. That story that contains finished floor area closest to, but not below, grade level. In cases in which the only story with finished floor area is below grade level, that story with finished floor area closest to grade level is considered the ground floor.

H

HARDSHIP. The exceptional burden that would result from failure to grant a requested variance, which may be caused by atypical, unusual, and peculiar factors or features of the property involved. Mere economic or financial hardship alone is not enough to claim a hardship. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot qualify as a hardship. A problem that may be resolved through other means without granting a variance, even if the alternative is more expensive, does not constitute a hardship. Hardship also does not result from an inability to use a parcel exactly as intended by the property owner as long as there remains a viable use of the property.

HEIGHT, BUILDING. The vertical distance measured from the average finished grade to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridges for gable, hip, and gambrel roofs.

HEIGHT, SIGN. The vertical distance measured from the highest point of the sign to the finished grade of the ground immediately beneath the sign. For those instances when the sign is constructed on an artificially constructed earthen berm, the sign height shall be measured from the highest point of the sign to the base of the earthen berm.

HEIGHT, STRUCTURE. The vertical distance measured from the average finished elevation to the highest point of the structure.

HOMOGENEITY. The uniformity of the overall structure, resulting from the compatibility of components.

I

IMPERVIOUS SURFACE. Any surface that does not allow water to be absorbed or percolate into the ground. Such surfaces include areas covered by buildings, porches, decks, patios, swimming pools, tennis courts and also includes surfaces constructed of asphalt, concrete, gravel composite, brick, stone, tile, or any other paving material used for parking, driveways, and walkways.

IMPROVEMENT. Any alteration to the land or other physical constructions associated with subdivision and building site development.

IMPROVEMENT LOCATION PERMIT (ILP). A permit issued by the Department permitting a person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure as a part of a building permit and/or the alteration of the condition of land, change of use or occupancy, or any change that is subject to the provisions of this Ordinance not governed by other requirements.

INFRASTRUCTURE. The fixed public works and facilities necessary in a community, such as sewers, water systems, and streets.

INSTITUTIONAL. Public and quasi-public land uses which enhance the community's quality of life, such as schools, churches, libraries, or hospitals, but not including such uses as utility plants or garages.

L

LOT. A parcel of land located within a single block and may be either a Lot of Record or a Zoning Lot. In determining lot area and boundary lines, no part thereof shall be included that is within the limits of a street.

LOT, CORNER. A lot located at the intersection of two or more streets, the interior angle of such intersection not exceeding 135 degrees. A lot abutting a curved street or streets shall be considered a corner lot if tangent projections of the front lot lines drawn perpendicular at the side lot lines meet at an interior angle of less than 135 degrees in from of the lot.

LOT, THROUGH. A lot other than a corner lot with frontage on more than one street. Through lots, abutting two streets may be referred to as double frontage lots.

LOT AREA. The area of any lot exclusive of street, highway, alley, road, or other rights-of-way, the area of the horizontal plane of the lot bounded by the vertical plans of the front, side, and rear lot lines. Easements are considered to be part of the Lot Area.

LOT COVERAGE. The total ground area within the lot or project covered by the primary structure, accessory structure(s), and impervious surfaces (e.g. driveways, sidewalks, parking lots, patios, swimming pools, garages, carports, storage sheds, etc.).

LOT FRONTAGE. The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under “Yards” in this section.

LOT LINE, FRONT. On an interior lot, the line separating the lot from the street. On a corner or through lot, the line separating the lot from either street.

LOT LINE, REAR. The lot line opposite the front lot line. A corner lot does not have a rear lot line.

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

LOT OF RECORD. A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder; or a lot or a parcel described by metes and bounds, legally defined and duly recorded in the office of the County Recorder.

LOT WIDTH. The horizontal distance between the side lot lines, measured at the front building setback line.

M

METES AND BOUNDS. A description of land prepared by a state-registered land surveyor providing measured distances and courses from known or established points on the surface of the earth.

MINOR CHANGE (as applies to Planned Unit Developments) - An amendment that does not alter the intent, objectives, conditions, stipulations, waivers, or findings of the approved plan and does not significantly differ from the plan/Ordinance adopted. Minor amendments may include (1) alteration of plant materials or type; (2) locations and/or specifications of lighting; (3) additions of emergency generators that have limited impact both visually and acoustically to the surrounding properties; (4) addition of electric vehicle charging stations or bike-share facilities; (5) modifications to the appearance of entrance/subdivisions signs; (6) changes to lot arrangement but not lot size; (7) reduction of parking spaces by less than 5% of what is required by the Ordinance provided it does not increase intensity or fall below the minimum parking requirements of the Ordinance; (8) minor

modifications to drainage management structures; (9) modifications in access to the development site where such change is a reduction in intensity in the traffic patterns of the roadway; (10) addition of or modifications to fencing; and/or (11) modification of trails/sidewalks but not the elimination of such and any modification that is determined by the Planning Administrator meeting this definition.

MONUMENT. Any permanent marker either of stone, concrete, galvanized iron pipe, or iron or steel rods, used to identify the boundary lines of any tract, parcel, lot, or street lines.

N

NATIVE PRAIRIE GRASSES. A mixture of perennial grasses that historically populated the prairie ecosystem of the United States that contain no trees. Prairie grasses may vary by region.

NATURAL AREAS. Any critical area such as floodplains, wetlands, high tree concentrations, critical habitats that contain rare, threatened or endangered species, wooded slopes, wooded or partially wooded streams, woodlands, and riparian areas.

NATURAL DRAINAGE. Drainage channels, routes, and ways formed over time in the surface topography of the earth prior to any modifications or improvements made by unnatural causes and/or human intervention.

NATURAL FEATURES. The physical characteristics of a property or area that are not man-made, such as soil types, geology, slopes, vegetation, and drainage patterns.

NEW CONSTRUCTION. Structures for which the “start of construction” commences on or after the effective date of this Ordinance.

NON-CONFORMING LOT, USE OR STRUCTURE. Any lot, use, or structure legally existing as of the effective date of this Ordinance, that is not in compliance with this Ordinance or any subsequent amendments.

NOTICE OF PUBLIC HEARING. A legal document announcing the opportunity for the public to present their views to an official representative, board, and/or commission of a public agency concerning an official action pending before the agency.

O

OPEN SPACE. Common area providing light and air designed for environmental, scenic, or recreational purposes. Cropland, forested areas, or pastureland qualifies as open space. Open space may include turf areas, decorative plantings, walkways, active and passive recreation areas,

playgrounds, and wooded areas. Open space does not include areas devoted to public or private streets or rights-of-way.

P

PARKING, OFF-STREET. An area appropriate in size to accommodate the required parking for the applicable land use(s), together with driveways and maneuvering room; located totally out of public right-of-way; and set back from such right-of-way as required within this Zoning Ordinance.

PARKING, ON-STREET. An area appropriate in size to accommodate the parking located within public right-of-way.

PARKING, REQUIRED. The number of parking spaces required for a particular use or uses as required within this Zoning Ordinance.

PARKING SPACE. An enclosed or un-enclosed surfaced area permanently reserved for the temporary storage of one (1) passenger motor vehicle and appropriately part of a street or connected with a street or alley by a surfaced driveway affording adequate ingress and egress.

PERSON. Any individual, corporation, firm, partnership, association, organization, or any other group that acts as a unit.

PLANNED UNIT DEVELOPMENT (PUD). A large and integrated development consisting of a parcel or parcels of land to be developed as a single entity according to the adopted preliminary development plans and approved detailed plans, with different use and development standards than the standards that would normally apply in a non-PUD zoning district.

PLANNED UNIT DEVELOPMENT DISTRICT. A zoning district for which a PUD district Ordinance must be adopted under the regulations of this Zoning Ordinance.

PLANNING ADMINISTRATOR. A person (or persons) appointed by the Plan Commission, hired or contracted, to perform the duties prescribed by the Plan Commission.

PLAT. The drawing, map, or plan of a subdivision or other tract of land or a replat of such including certifications, descriptions, and approvals. The final map or drawing, described in these regulations, on which the subdivider's plan of subdivision is presented to the Plan Commission for approval and which, if approved, may be submitted to the County Recorder for filing.

PLAT, PRIMARY. The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Plan Commission for approval.

PLAT, SECONDARY. The final and formal presentation of the map, plan, or record of a subdivision and any accompanying material, as described in the regulations of the Thorntown Code of Ordinance.

PRIVATE STREET. A right-of-way which has the characteristics of a street except that it is not dedicated to the public use. A driveway which is located on a lot and which serves only the use on that lot is not considered as a PRIVATE STREET.

PUBLIC ACCESS AREA. A public place that is generally an outdoor area, whether publicly or privately owned, to which the public have access by right or by invitation, expressed or implied, whether by payment of money or not, but not a place when used exclusively by one or more individuals for a private gathering or other personal purpose. A social space that is open and accessible to people.

PUBLIC FACILITIES PLAN. The part of the comprehensive plan, now or hereafter adopted, which shows the location of proposed fire and police station sites, existing and proposed schools, parks, or recreation facilities.

PUBLIC USES. Public parks, schools, fire and police stations, libraries, museums, zoological gardens and parks, city and town halls, county courthouses, utility complexes, fairgrounds, and administrative and cultural buildings and structures, but not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities.

PUBLIC UTILITY. Any person, firm, or corporation duly authorized to furnish electricity, gas, steam, telephone, telegraph, water, or sewerage systems to the public under public regulation.

R

REZONING. An amendment to a zoning map and/or text of a zoning Ordinance.

REZONING, MAP AMENDMENT. An amendment to a zoning map that creates a new zoning district or changes the boundaries of an existing zoning district.

REZONING, TEXT AMENDMENT. An amendment to the Ordinance that creates a new zoning districts, adds to and/or changes the requirements of an existing zoning district, or changes general Ordinance standards.

RIGHT-OF-WAY. An area of land occupied or intended to be occupied by transportation facilities, public utilities, or other special public uses. 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.

RIGHT-OF-WAY WIDTH. The distance between the front property lines on the properties adjacent to the right-of-way as measured at right angles to the centerline of the right-of-way.

RURAL AREAS. The unincorporated areas of the county.

RUNOFF. The surface water discharge or rate of discharge of a given watershed after a fall of rain or snow that does not enter the soil but runs off the surface of the land.

RUNOFF FROM A FULLY DEVELOPED AREA UPSTREAM. The surface water runoff that can be reasonably anticipated upon maximum development of that area of the watershed located upstream from the subject tract, as permitted by prevailing zoning or the comprehensive land use plan.

S

SEDIMENTATION. The process by which mineral or organic matter is accumulated or deposited by moving wind, water or gravity.

SETBACK, REQUIRED. The minimum and/or maximum required distance between a property line and a setback line, as established by this Ordinance.

SETBACK LINE. A line established by this Ordinance defining the limits of a yard in which no building or structure may be located except as may be exempted in said Ordinance.

SHRUB. A woody plant of relatively low height having several stems arising from the base and lacking a single trunk.

SIDEWALK. That portion of the road right-of-way which is improved for the use of pedestrian traffic.

SIGN. Any identification, description, display, or illustration which is affixed to, or painted, or represented directly or indirectly upon a building or other outdoor structure or parcel of land, and which directs attention to an object, product, place, activity, business, person, service, or interest.

SITE. A parcel or adjoining parcels under single ownership or single control, considered as a unit for the purposed of development or other use.

SITE PLAN. A drawing of the site, drawn accurately to an engineering scale, showing existing and proposed features of the site including but not limited to buildings and other structures both existing and proposed; setbacks from all buildings/structures to the property lines; location and dimensions of all building lines and easements; widths and lengths of all entrances and exits to and from said property (driveways); location of all adjacent and adjoining streets, service facilities, manholes, ponds, drainage swales, grading and all other improvements sufficient for the review as required by this Ordinance. The lot number and subdivision and/or legal description, address of site, property owner's name and contact information, and contractor's name and contact information shall be included.

SLOPE. The face of an embankment or cut section; any ground whose surface makes an angle with the plane of the horizon. **SLOPES** are usually expressed in a percentage based upon vertical difference in feet per 100 feet of horizontal distance.

SOIL STABILIZATION. Chemical or structural treatment of a mass of soil to increase or maintain its stability or otherwise improve its engineering properties.

STREET. A right-of-way established for or dedicated to the public use, which affords the principal means of access to abutting properties. A **STREET** may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive, or other appropriate name.

STREET, ARTERIAL. A system of streets and roads which form an integrated network of continuous routes primarily for through traffic. The “Arterial” system is stratified into “major” and “minor” categories.

STREET, ARTERIAL, MAJOR. Serves corridor traffic movements having trip length and travel density characteristics indicative of substantial statewide or interstate travel, or connects major population centers in rural areas or serves major centers of activity and highest traffic volume corridors with the longest trip desires in urban areas.

STREET, ARTERIAL, MINOR. Links other cities, town, and traffic generators, and provides a substantial amount of interstate and inter-county service in rural areas; or interconnects and augments with the principal arterials to provide service to trips of moderate length for intra-community continuity in urban areas.

STREET, COLLECTOR. A system of streets and roads which generally serve travel of primarily intra-area and intra-county importance with approximately equal emphasis to traffic circulation and land access service. The “collector” system is generally further stratified into “major” and “minor” categories. The system collects and distributes traffic between arterial and local systems.

STREET, CUL-DE-SAC. A short local street having one end open to traffic and being permanently terminated by a vehicle-turnaround at the other end.

STREET, HIGHWAY. A term applied to streets and roads that are usually under the jurisdiction of the Indiana State Highway Commission.

STREET, LOCAL. A system of streets and roads, which primarily provides local access service between fronting properties and higher order street systems.

STREET (OR ALLEY) IMPROVEMENT. The construction of a street or alley to its full thickness, commencing at the subgrade to the specifications hereinafter established. The placing of a new surface

over an existing paved or closed surface street or alley shall not be considered as an improvement, but as maintenance.

STRUCTURE. Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground or requires location under the ground. Among other things, structures include buildings, walls, fences, signs, gas or liquid storage tank, mobile homes, and accessory structures under 200 square feet that do not require a permanent foundation. A structure is not a building except as further defined by that term.

STRUCTURE, ACCESSORY. A structure that is located on the same parcel of property as the principal building and the use of which is incidental and subordinate to the use of the principal building. Accessory structures should be designed to have a minimal impact on adjoining properties and may not be used for human habitation. Examples of accessory structure include, but are not limited to, detached garages, carports, storage sheds, pole barns, hay sheds, and lean-tos. For purposes of floodplain regulation, accessory structures shall have a floor area of 400 square feet or less.

SUBDIVIDER. Any person engaged in developing or improving a tract of land which complies with the definition of a subdivision.

SUBDIVISION. The division of any parcel of land shown as a unit on the last preceding transfer of ownership thereof into two or more lots, tracts, or parcels.

SUBDIVISION, MAJOR. The division of a lot, tract, or parcel of land into five (5) or more lots, tracts, parcels or other divisions of land.

SUBDIVISION, MINOR. The division of a lot, tract, or parcel of land into two (2) to four (4) lots, tracts, parcels or other divisions of land that meets the following criteria:

- a. Has all lots fronting an existing street(s);
- b. Does not involve the construction of a new street(s), realignment, or the extension of an existing street;
- c. Does not involve the dedication of additional right-of-way;
- d. Does not necessitate the extension of any municipal infrastructure or the creation of any public improvements; and
- e. Does not create non-conformity of lot and/or structures.

SWALE. A low lying stretch of land which gathers or carries surface water runoff.

T

TECHNICAL ADVISORY COMMITTEE. A committee established to assist in the evaluation of development applications and to make advisory recommendations to the applicable reviewing authority. The membership of the Committee shall include, but not be limited to, persons that are engaged in either private or public work with specific knowledge in road design and construction; sewer and water facility design and construction; solid waste; health requirements for water and sewer facilities; recreation and open space; environmental planning criteria related to geology, vegetation, noise, and water systems; and urban design.

THOROUGHFARE. The same as STREET.

THOROUGHFARE PLAN. The part of the comprehensive plan, now or hereafter adopted, which includes a major street and highway plan and sets forth the location, alignment, dimensions, identification, and classification of existing and proposed streets, highways, and other thoroughfares.

TOPSOIL. Surface soils and subsurface soils which presumably are fertile soils and soil materials, ordinarily rich in organic matter or humus debris. TOPSOIL is usually found in the uppermost soil layer called the "A horizon".

TREE. A perennial woody plant with one main trunk and a rather distinct and elevated head, ordinarily growing to definite heights and usually developing branches at some distance from the ground.

TREE, CANOPY. A tree with mature height over 35 feet and with a canopy that screens the sun and provides shade.

TREE, EVEGREEN. A tree with foliage that remains green for most part of the year.

TREE, ORNAMENTAL. Typically a small tree (may be an understory tree) that is grown for decorative purpose with multi-season interest.

TREE, STREET. Trees growing on public right-of-way except for alleys and for medians contained within subdivisions.

TREE, UNDERSTORY. A tree with mature height between 12 and 35 feet and with a canopy that screens the sun and provides shade.

TRUNK. The portion of a stem or stems of a tree before branching occurs.

U

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

USE, ACCESSORY. A use subordinate to another use located on the same property which does not change or alter the character of the premises and is clearly and customarily incidental to the primary use.

USE, LEGAL-NONCONFORMING. Any continuous, lawful use of structures, land, or structures and land in combination, established prior to the effective date of the Code of Ordinance or its subsequent amendments that is no longer a permitted use in the zoning district where it is located.

USE, NONCONFORMING. A use which does not conform to the use regulations of the zoning district in which it is located.

USE, PRIMARY. The main use of land or buildings as distinguished from an accessory use. It may be a permitted use, conditional use, or a special exception.

USE, PROHIBITED. A use indicated as prohibited for a certain zoning district.

UTILITY, PUBLIC. Any person, firm, or corporation duly authorized to furnish under public regulations to the public electricity, gas, steam, telephone, fiber optics, transportation, water, or sewage systems.

V

VARIANCE. A modification of the strict terms of the relevant regulations of this Ordinance where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this Ordinance would result in unnecessary and undue hardship, serious practical difficulties.

VARIANCE, DEVELOPMENT STANDARDS. A specific approval granted by the Board of Zoning Appeals deviating from the development standards (such as height, setbacks, lot area, etc.) that are prescribed within this Ordinance.

VARIANCE, USE. An approval of use granted by the Board of Zoning Appeals permitting a use other than that prescribed in this Ordinance.

VIOLATION. The erection, alteration, enlargement, maintenance or use of any land, building, or structure in violation of this Ordinance, Building Codes and related codes, weed Ordinance or other

codes and Ordinances of the Town of Thorntown applicable to said land, building, or structure in the zoning district in which it is located.

W

WAIVER. A specific modification or lessening of the regulations of this Ordinance granted by the Plan Commission and Town Council for a specific development such as a Planned Unit Development in response to unique site characteristics or development patterns that justify relief from the otherwise applicable regulations or by the Plan Commission for relief from the Subdivision Control standards.

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

Y

YARD. An open space on a lot, other than a court, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance.

YARD, FRONT. A yard across the full width of the lot extending from the front property line to the front setback line. On corner lots and through lots, there shall be two (2) front yards as determined by the road frontages.

YARD, REAR. A yard extending the full width of the lot between the rear setback line and the rear property line.

YARD, SIDE. A yard between the side setback line and side property line and extending from the front setback line to the rear setback line.

Z

ZONING. A police power measure, enacted by the governing body of local governments, in which the community is divided into districts or zones within which permitted and special uses are established as regulations governing lot size, building bulk, placement, and other development standards.

ZONING DISTRICT. A specific district within the jurisdiction which has uniform regulations governing the use, height, area, size, and intensity of use of buildings and land, and open spaces.

ZONING DISTRICT, BASE. In the case of an overlay district, the standard zoning district in which the parcel or tract is located, and the standards of which apply when the overlay district regulations are silent on any given point.

ZONING DISTRICT, OVERLAY. That zoning district that is superimposed on a base zoning district, which adds additional regulations regarding the use of and development standards for the property.

ZONING MAP. The Official Town of Thorntown Zoning Map.

ZONING Ordinance. Those chapters of Thorntown Code of Ordinance, now or hereafter adopted, that include the Official Zoning Map, regulations, requirements and procedures for the establishment of land use controls.

ZONING APPLICATION PROCEDURES

- 152.10 GENERAL APPLICATION AND REVIEW PROCEDURE
- 152.11 AMENDMENT (REZONE AND/OR TEXT AMENDMENT)
- 152.12 SUBDIVISION (PLATTING)
- 152.13 PLANNED UNIT DEVELOPMENT
- 152.14 VARIANCE
- 152.15 DEVELOPMENT PLAN
- 152.16 IMPROVEMENT LOCATION PERMIT
- 152.17 ADMINISTRATIVE APPEAL
- 152.18 EXEMPT ENTITIES
- 152.19 PLANNING ADMINISTRATION AGENCIES

152.10 GENERAL APPLICATION AND REVIEW PROCEDURE

A. Applicability

The following requirements are common in most zoning application procedures and apply to applications submitted under this Chapter.

B. Application Forms

1. Application forms shall be obtained from the Planning Administrator.
2. Application forms shall be filled out completely and legibly.
3. The applicant shall submit the number of filled out application forms as required by this Ordinance under the subchapters of each specific application type.

C. Application Requirements:

1. **Ownership.** The applicant must:
 - a. Own a controlling interest in each parcel within the area of the proposed application; or
 - b. Have notarized documentation authorizing the applicant to act as the agent of the owner(s) of all parcels within the area of the application.
2. **Supportive Information.** The application shall include, but not be limited to, the following documents:
 - a. All documentation specified on the application packet and in this Ordinance unless certain documentation is deemed superfluous by the Planning Administrator due to the specific circumstances of the project.
 - b. Any other additional information as may be required by the Planning Administrator or TAC members to evaluate the application.
3. **Fees.** Fees shall be paid in accordance with the Schedule of Fines and Fees, as set forth in Chapter § 10.25. No permit shall be granted by the Planning Administrator or Building Inspector until all applicable fees pertaining to that permit have been paid in full. No permit shall be granted by the Planning Administrator or Building Inspector until all fees and fines owed by the Applicant to the Town have been paid in full. This requirement shall apply not only to the fees and fines specific to the individual application, but shall also include all fees and fines owed on any permit previously issued to the Applicant.

D. Application Process, Generally

1. **Prerequisites.** For those projects that require Board, Commission, and/or Council review, project approval shall have been granted prior to application being made for subsequent permits (e.g. approval of a Primary Plat before an Improvement Location Permit application is submitted).
2. **Pre-filing Meeting.** Prior to applying, the petitioner shall meet with the Planning Administrator to review the zoning classification of the site, review the regulatory Ordinances and materials, and review the procedures. The Planning Administrator will assist and advise the petitioner in preparing the application and supportive documents as necessary.
3. **Filing Deadlines.** An application requiring a public hearing or meeting will not be scheduled for such hearing or meeting unless filed, in proper form and number and containing all required information, according to the following schedule:
 - a. **Technical Advisory Committee (TAC):** submit application and all required information and payment at least 20 days prior to TAC meeting.
 - b. **Plan Commission (PC):** submit application and all required information and payment at least 50 days prior to PC meeting.
 - c. **Board of Zoning Appeals (BZA):** submit application and all required information and payment at least 30 days prior to BZA meeting.
4. **Investigation of Petitions.**
 - a. Any application in this Chapter may be reviewed by the TAC as required or per request of the Board, Commission and/or Council.
 - b. For applications requiring approval by the Board, Commission, and/or Council, the Planning Administrator may submit a written report to the appropriate decision-making body stating any facts concerning the characteristics, land use, public facilities available, or other pertinent facts the application. The report may also contain a report from members of the TAC (if applicable). A copy of such statement shall be made available to the petitioner and all remonstrators of record, if any.
5. **Revisions.** Following review by the Planning Administrator and/or the Technical Advisory Committee, the petitioner shall submit revised materials and documents that address the comments and concerns. The petitioner shall refer to the specific application packet to determine the format and number of copies to be delivered to the Planning Administrator.

6. **Expiration.** If a petitioner fails to provide comments, revisions or contact within a 6-month time period, and the Planning Administrator has attempted to contact the petitioner, the application will be considered null and void.

E. Public Meetings

Applications requiring public meetings shall be filed in accordance with the time established in this Ordinance for each individual type of application, subject to the Rules of Procedure of the applicable hearing body.

F. Public Hearing Notice

1. Hearings on All Applications Pending Before the Board of Zoning Appeals or Plan Commission
 - a. Notice of Public Hearing to Parties of Interest
 1. After the application is filed, the applicant shall obtain a list of names and last known addresses of the property owners of property adjacent to the subject property to a depth of two properties or 660 feet, whichever is less, of the subject tract(s). This list shall be obtained from the Boone County Auditor's Office. Then, the applicant shall submit this list to the Planning Administrator or his/her designee before the public hearing.
 2. The applicant shall give due notice to these owners as identified herein, concerning the place, date, and time for the first public hearing of the petition utilizing the notification letter prepared by the Planning Administrator, mailed as a Certificate of Mailing and date stamped by Post Office Personnel not less than fifteen (15) days nor more than thirty (30) days prior to the public hearing date.
 3. The Certificate of Mailing receipts of said notification letters shall be submitted to the Planning Administrator or his/her designee prior to the public hearing.
 - b. Notice of Public Hearing in Newspaper
 1. The Planning Administrator shall prepare the notice and arrange for the publication of a public notice to be placed in a newspaper of general circulation in the Thorntown jurisdictional area.
 2. The notice shall run at least one (1) time in the paper not less than fifteen (15) days before noted public hearing.
 3. The applicant shall be responsible for the cost of publishing the notice and will be billed according to the policies of the applicable newspaper.

4. The applicant shall also file with the Planning Administrator of the proof of publication prior to the public hearing.

2. Content of Notice

All notices shall include the date, time and place of such hearing or meeting, description of the matter to be heard or considered, the address or particular location of the subject property, and a legal description of the subject property.

3. Referral of Applications

The Planning Administrator shall refer every application for which this Ordinance requires a hearing before the Plan Commission, the Board Zoning of Appeals or the Town Council to all appropriate Town commissions and departments. Each commission and department to which an application is referred shall review such application and submit its comments thereon to the Planning Administrator for transmittal to the specific body hearing the application. Such comments shall, whenever possible, be submitted at least fourteen (14) business days prior to the date set for the hearing and shall be made available to any person on request prior to the hearing.

4. Conduct of Hearings

All other matters pertaining to the conduct of hearings shall be governed by the provisions of this Ordinance pertaining to, and the rules of procedures adopted by, the official or body conducting the hearing.

5. Examination and Copying of Application and Other Documents

At any time following the giving of notice as required in this chapter 152, and upon reasonable request, any person may examine the application and, subject to the exceptions set forth in the [Indiana Freedom of Information Act](#), all other documents on file pertaining to the application. In addition, any person shall be entitled to copies of such application and documents upon reasonable request and payment of a fee as established from time to time by the Council to cover the cost of such copies.

G. Final Records

The Clerk/Treasurer shall maintain final records of all applications, plans, and permits filed and required by Indiana Law.

H. Inspection

The Town may inspect any land, structure or other improvement at any reasonable time to ensure compliance with any permit or application in this Chapter.

I. Summary of Review Authority

The following table summarizes the review and approval authority of the various types of applications.

Application Type	Staff	TAC	Commission	Council	BZA	Public Hearing
Rezone (map)	R	R	R	D	-	Y
Text Amendment	R	R*	R	D	-	Y
Subdivision (Platting)						
Major	R	R	D	-	-	Y
Minor	D	R		-	-	N
PUD	R	R	R	D	-	Y
Development Plan	R	R	D	-	-	Y
Variance	R	R*	-	-	D	Y
Administrative Appeal	R	R*	-	-	D	Y
Improvement Location Permit	D	R*	-	-	-	N

Key: R – Review; R* - Plan Commission may require review by TAC or BZA; D – Decision; Y – Yes, N – No.

152.11 AMENDMENT (REZONE AND/OR TEXT AMENDMENT)

A. Purpose

The purpose of this subchapter 152.11 is to provide standards and procedures for making amendments to the text of this Ordinance and the Zoning Map. This amendment process is not intended to relieve particular hardships nor to confer special privileges or rights upon any person, but only to make adjustments necessary in light of changed conditions or changes in public policy. Further, the intent of this subchapter is to ensure that the statutory requirements established in the Indiana Code for the amending of Ordinance text and Zoning Map are met (IC 36-7-4-607 and 36-7-4-608).

B. Authority

The text of this Ordinance and the Zoning Map may be amended from time to time by the passage of an Ordinance duly adopted by the Town Council in accordance with the procedures set forth in this Subchapter 152.11.

C. Parties Entitled to Initiate Amendments

1. Amendment to Text

Amendments to this Ordinance may be initiated by adoption of a motion of the Plan Commission or by adoption of a resolution by the Town Council.

2. Amendment to Zoning Map

Amendments to this Ordinance may be initiated by adoption of a motion of the Plan Commission; by adoption of a resolution by Common Council; or by the filing of a petition by at least fifty percent (50%) of the owners of property within the area proposed to be changed or affected by said amendment.

D. Standards for Amendments

The wisdom of amending the text of this Ordinance or the Zoning Map is a matter committed to the sound legislative discretion of the Town Council and is not controlled by any one standard. In making their determination, however, the Town Council should, in determining whether to adopt or deny, or to adopt some modification of the Plan Commission's recommendation, pay reasonable regard to the following:

1. Whether the proposed amendment is consistent with the goals, objectives, and policies of the Comprehensive Plan, as adopted and amended from time to time by the Town Council;
2. Whether the proposed amendment is compatible with current conditions and the overall character of existing development in the immediate vicinity of the subject property;
3. Whether the proposed amendment is the most desirable use for which the land in the subject property is adapted;
4. Whether the proposed amendment will have an adverse effect on the value of properties throughout the jurisdiction; and
5. Whether the proposed amendment reflects responsible standards for development and growth.

E. Procedure for Review and Decision

A petition to amend the text of this Ordinance or the Zoning Map shall be processed in accordance with the procedures set forth below:

1. **Applications.** Applications for amendment to this Ordinance shall be filed in accordance with the requirements of subchapter 152.10.
2. **Public Hearing and Notice.** After receipt of a properly completed application for an amendment, the Planning Administrator shall fix a date for a public hearing within 30 days of receiving the full application packet. Notice of the public hearing shall be provided as prescribed in Section 152.10.F of this Ordinance.

3. **Plan Commission Action.** Within sixty (60) days after receipt of the proposed amendment, the Plan Commission shall recommend the approval or denial of the proposed amendment, or the approval of the amendment with modifications, and shall then submit its written recommendation, together with the petition for the text and/or map change, to the Town Council.
4. **Town Council Action.**
 - a. The Town Council shall approve, deny, continue or send a proposed amendment back to the Commission for modifications. If the Council returns a proposal to the Commission, the Commission shall consider the rejection or amendment, and shall vote on the proposal within 45 days in accordance with the provisions of IC 36-7-4-607.
 - b. Failure of the legislative body to pass the proposed amendment within ninety (90) days after its rejection by the Plan Commission constitutes rejection of the proposed amendment; and the proposed amendment may not be reconsidered by the Plan Commission or legislative body until the expiration of one (1) year after the date of its original rejection by the Plan Commission.
5. **Effective Date.** Such amendment adopted by Town Council shall become effective immediately upon adoption and approval by the Plan Commission.

152.12 SUBDIVISION (PLATTING)

A. Applicability

The subdivision procedure described in this subchapter shall be required for the subdivision (platting) or resubdivision (replatting) of any tract of land and/or the dedication of right-of-way within the planning jurisdiction of the Town of Thorntown.

B. Procedure Summary

1. **Minor Subdivision.** A Minor Subdivision Plat shall be submitted to and reviewed by the Planning Administrator and reviewed and approved by the Technical Advisory Committee (TAC). It shall be prepared on Mylar and signed by the President and Secretary of the Plan Commission and recorded in the Boone County Recorder's Office. The notification and certification requirements of IC 36-7-4-701 (d) shall be followed.
2. **Major Subdivision.** A Primary Plat shall be submitted to and reviewed by the Planning Administrator, reviewed by the Technical Advisory Committee, and reviewed and approved by the Plan Commission in a Public Hearing.

3. **Major Subdivision.** A Secondary Plat or a Replat of a Subdivision shall be submitted to and reviewed by the Planning Administrator, reviewed and approved by the Technical Advisory Committee, and signed by the President and Secretary of the Plan Commission and recorded in the Boone County Recorder's Office.
4. **Plat Amendment.** For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, or area reserved thereon for public use, or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling the subdivision, such change shall be approved by the Plan Commission by the same procedure, rules, and regulations as for a subdivision.
5. **Future Street Opening.** Whenever a parcel of land is subdivided and the subdivision plat shows one (1) or more lots containing more than one (1) acre of land and there are indications that such lots will eventually be resubdivided, the Plan Commission may require that such parcel of land allow for the future opening of streets and the ultimate extension of adjacent streets. As a requirement of the plat, dedications of rights-of-way shall be provided for the future opening and extension of such streets.

C. Application Procedure

1. **Pre-filing meeting.** The applicant shall request a pre-filing meeting with the Planning Administrator for an informal discussion of the proposed application and of the application requirements. This will enable the subdivider to become familiar with these and other regulations as they affect the area and will prevent unnecessary and costly revisions. The subdivider should present a sketch showing in a general way the proposed development and the existing conditions within the area proposed for subdivision and of surrounding lands. This shall not require formal application, fee, or filing of a preliminary plat, nor shall it be deemed a preliminary plat.
2. **Application and fees.**
 - a. The applicant shall follow the application and fee payment requirements prescribed in subchapter §152.10.
 - b. In addition to submitting a written application, the applicant shall submit an electronic (Portable Digital Format, PDF) copy of a preliminary plat and development plans and two physical copies of the same plans in accordance with Sections D through G in this subchapter 152.12 to the Planning Administrator at least 50 days before the meeting at which the Plan Commission is expected to consider such application.

- c. The Planning Administrator shall forward one copy to each member of TAC.
 - d. The TAC members shall forward any comments or recommendations concerning such plat to the Planning Administrator prior to the date of the meeting at which the Plan Commission is expected to consider such application for preliminary plat approval.
3. The application shall show the manner in which the proposed subdivision is coordinated with the comprehensive plan and its provisions, specifically, with relation to the requirements of the official thoroughfare plan, school and recreation sites, shopping centers, community facilities, sanitation, water supply and drainage, and other developments existing and proposed in the vicinity.
 4. No land shall be subdivided for residential use unless adequate access to the land over approved streets or thoroughfares exists or will be provided by the subdivider, or if such land is considered by the Plan Commission to be unsuitable for such use by reason of flooding or improper drainage, objectionable earth and rock formations, topography, or any other feature harmful to the health and safety of potential residents and the community as a whole.
 5. No land shall be subdivided unless the intended use of the individual lot is in conformance with the zoning Ordinance, now or hereafter adopted.
 6. At the time of filing an application for approval of the preliminary plat, the application shall be accompanied by an application fee as set from time to time by the Council. The Planning Administrator shall surrender the application fee to the Clerk/Treasurer. The application fee shall be nonrefundable.
 7. If the Planning Administrator is satisfied that the standards of this section have been met, the Planning Administrator shall set a date for a hearing before the Plan Commission, giving written notice to the applicant of such hearing.
 8. Notice of public hearing. The applicant shall follow public hearing notice procedures set forth in Section 152.10.F of this Ordinance.

D. Preliminary plat requirements

The preliminary plat shall be prepared in accordance with this section.

1. The plat shall be drawn at a scale of 50 feet to one inch, except that when the drawing at the scale requires more than one sheet, the plat may be drawn at a scale of 100 feet to one inch. Sheets shall not exceed 24 inches by 36 inches in size.
2. The plat shall include a location map showing the following:

- a. Location of proposed subdivision;
 - b. Existing subdivisions and parcels of land adjacent to the proposed subdivision;
 - c. Existing schools, parks, playgrounds, or other similar facilities that will serve the proposed subdivision;
 - d. All public thoroughfares up to and including primary thoroughfares established by this chapter, that will serve the proposed subdivision; and
 - e. The location of any streets and alleys in the proposed subdivision showing the relationship of the streets to any existing or proposed streets in contiguous subdivisions or undeveloped property to produce the most advantageous development of the entire neighborhood.
3. The plat shall show the following:
- a. The proposed name of the subdivision;
 - b. Names and addresses of the owner, subdivider, and consulting engineer, land surveyor, or planning firm who prepared the plan;
 - c. Legend and notes including the scale, north point, and date;
 - d. Tract boundary lines showing dimensions, bearings, angles, and references to section, township, and range lines or corners;
 - e. Existing zoning of the tract and all contiguous tracts surrounding the proposed subdivision;
 - f. All section and municipal corporate boundaries lying within or contiguous to the tract;
 - g. Topographic contours at vertical intervals of one foot if the general slope of the tract is less than 5%, or intervals of two feet if the slope is in excess of 5%. Such contours shall be references to mean sea level elevations;
 - h. Layout of lots, showing dimensions and numbers;
 - i. Building setback lines showing dimensions throughout the subdivision;
 - j. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes;

- k. Streets and rights-of-way on and adjoining the site of the proposed subdivision, showing the names, roadway widths, approximate gradients, types and widths of pavements, curbs, and sidewalks;
- l. Existing and proposed easements including the location, width, and purpose of such easements;
- m. Location, size, and capacity of any public sewer and/or water facilities, if such facilities are available;
- n. Ground water levels stated in inches below ground surface and given at points of lowest ground elevation on the tract;
- o. A description of the surface drainage system to an approved outlet, including data showing that such outlet is adequate to accommodate the drainage requirements of the finished subdivision. Arrows designating the general drainage of all streets and lots shall be included; and
- p. If the preliminary plat is to be divided into sections or phases of development, the boundaries and numbers of such sections shall be shown.

E. Preliminary Plat Approval

- 1. Within 60 days of the public hearing concerning an application for a certificate of approval of a subdivision plat, the Plan Commission shall notify the applicant in writing stating whether the preliminary plat is approved or disapproved.
- 2. Approval of a preliminary plat shall be subject to the following:
 - a. Such approval is strictly tentative, involving merely the general acceptability of the submitted layout;
 - b. The Plan Commission may introduce such changes or revisions as are deemed necessary to the best interest and general welfare of the community; and
 - c. Approval shall be effective for a maximum period of two years unless, upon application of the applicant, the Plan Commission grants an extension. The Plan Commission may extend approval of a preliminary plat for a maximum of four years without further notice, public hearing, or fees.
- 3. Disapproval of a preliminary plat shall be subject to the following:

- a. If the Plan Commission disapproves a preliminary plat application, the Plan Commission shall notify the applicant in writing, stating the specific reasons for disapproval;
- b. The original applicant may submit a new application for preliminary approval within six months without responsibility for additional application fees; and
- c. If no reapplication is submitted within six months of the date of disapproval, any subsequent application shall be submitted as a new application.

F. Secondary Plat Requirements

1. After approval of the preliminary plat by the Plan Commission and fulfillment of the requirements of this section, blackline or blue-line reproductions of the secondary plat of the subdivision shall be submitted to the Plan Commission along with one (1) reproducible transparency (i.e., Mylar) and a digital copy (Portable Digital Format, PDF). All plats shall be drawn at the same scale as the preliminary plat and shall be drawn on a sheet 24 inches by 36 inches in size. If the Plan Commission approves the secondary plat, it shall place a certification thereof on the reproduced copies.
2. Upon the final approval of the secondary plat, one copy of the certified plat shall be forwarded to the following persons:
 - a. County Surveyor;
 - b. County Auditor;
 - c. Any utility company that may be affected;
 - d. Subdivider or applicant; and
 - e. File of Plan Commission.
3. The secondary plat may include all or only a part of the preliminary plat which has received approval.
4. The following information shall be shown on the secondary plat:
 - a. Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, closing with an error of not more than one foot in 5,000 feet;
 - b. Accurate distances and directions to the nearest official monument. Reference corners shall be accurately described on the plan;

- c. Accurate locations of all existing and recorded streets intersecting the boundaries of the tract;
- d. Accurate metes and bounds description of the tract boundary;
- e. Source of title of the applicant to the land as shown by the last entry in the books of the County Recorder;
- f. Street names;
- g. Complete curve notes for all curves included in the plat;
- h. Street lines with accurate dimensions in feet and hundredths of feet with angles to street, alley, and lot lines;
- i. Lot numbers and dimensions;
- j. Accurate locations of easements for utilities and notations of the purpose of easements;
- k. Accurate dimensions for any property to be dedicated or reserved for public, semi-public, or community use;
- l. Building lines and dimensions throughout the subdivision;
- m. Location, type, material, and size of all monuments;
- n. Plans and specifications for the improvements required in this section;
- o. Restrictions of all types which will run with the land and become covenants in the deeds for lots;
- p. Name of subdivision;
- q. Name and address of the owner and subdivider;
- r. North point, scale, and date;
- s. Certification of dedication of streets and other public property;
- t. Certification by a registered land surveyor; and
- u. Certificate of approval by the Plan Commission.

G. Secondary Plat Approval

1. Prior to the certification of a plat by the Plan Commission, the subdivider shall provide a bond which shall:

- a. Run to the Town of Thorntown;
 - b. Be in an amount determined by the Plan Commission to be sufficient to complete the improvements and installations in compliance with this section. The subdivider's engineer shall supply an estimate of the cost of improvements and installations on the project to aid the Plan Commission in its determination of the amount of the bond. The engineer's estimate, however, shall not be binding upon the Plan Commission;
 - c. Be with surety satisfactory to the Plan Commission; and
 - d. Specify the time for the completion of the improvements and installations.
2. Upon the completion of the improvements and installations required of a subdivider for the approval of a final secondary plat, and prior to the acceptance thereof for public maintenance by the governmental unit having responsibility for such maintenance, the subdivider shall provide a three-year maintenance bond which shall:
 - a. Run to the Town of Thorntown;
 - b. Be in an amount equal to 20% of the cost of such improvements and installations as estimated by the Plan Commission under subsection G.1.b above;
 - c. Provide surety satisfactory to the Plan Commission;
 - d. Warrant the workmanship and all materials used in the construction, installation, and completion of said improvements and installations to be of good quality and have been constructed and completed in a workmanlike manner in accordance with the standards, specifications, and requirements of this section and the satisfactory plans and specifications for the subdivision as approved by the Plan Commission; and
 - e. Provide that for a period of three years after such installations and improvements have been completed or are accepted for public maintenance, by any appropriate governmental unit or agency thereof, which may be necessary by reason of improper workmanship or materials, with such maintenance, however, not to include any damages to such improvements and installation resulting from forces or circumstances beyond the control of the subdivider.
3. Within 60 days after application for approval of the secondary plat, if the Plan Commission approves the plat, it shall affix its seal upon the plat, together with the signatures of the Plan Commission members and attested by the Town Clerk/Treasurer. If the Plan Commission disapproves, the Town Clerk/Treasurer shall set forth the reasons for such disapproval in the

town records and provide the applicant with written notification setting forth the reasons for disapproval.

4. No improvement location permit or building permit shall be issued for any structures on any subdivision lots prior to the recording of such subdivision by the County Recorder.
5. No structure shall be occupied on any subdivision lots prior to the installation and completion of all facilities, including grading, as shown on the development plans and approved by the Plan Commission; except that, in the case of an asphalt road surface, the installation of the final surface cost may be postponed until the end of the maintenance period.
6. The streets shall be installed and paved per standards in this Ordinance prior to acceptance of the road for public maintenance.

152.13 PLANNED UNIT DEVELOPMENT

A. Required Approvals. A PUD District requires the following approvals:

1. Preliminary Plan approval that includes a rezone Ordinance, a concept plan and preliminary architectural drawings (collectively, “PUD District Ordinance”).
2. Subdivision approval.
3. Detailed Development Plan approval.

B. Application and Fees.

The applicant shall follow the application and fee payment requirements prescribed in Subchapter §152.10.

C. Application Decision

1. An application for a PUD District Ordinance shall be reviewed and considered by the Plan Administrator, Plan Commission and Council in accordance with Subchapter §152.11.
2. An application for subdivision shall be reviewed in accordance with Subchapter 152.12 Subdivision (Platting).
3. An application for Detailed Development Plan shall be reviewed in accordance with Subchapter 152.15 Development Plan.

D. Commitments

In conjunction with its recommendation to the Council regarding a PUD District Ordinance, the Plan Commission may recommend that the Council permit or require the petitioner to make written commitments concerning the use or development of the parcel.

E. Conditions of Approval

In conjunction with its recommendation to the Council regarding a PUD District Ordinance, the Plan Commission may recommend that the Council impose conditions of approval concerning the use or development of the parcel.

F. Revisions

Following the Plan Commission review, the applicant shall submit revised copies of the PUD District Ordinance that address the comments and concerns of the Plan Commission.

G. Effect of Approvals

A PUD District Ordinance shall become effective after its approval by the Council and shall be recorded by the Town in the Office of the Recorder of Boone County, Indiana. The Zoning Map shall be amended accordingly. The use and development of the property shall thereafter be governed by the PUD District Ordinance, subject to review and approval of subsequent permits and approvals as required by this Ordinance, and any other regulatory processes which may be required prior to commencement of construction within the PUD District.

H. Duration

Failure to start construction for as it relates to a PUD District Ordinance within five (5) years of its effective date (unless extended by the Plan Commission) will automatically void the PUD Ordinance, Preliminary Architectural Drawings and Concept Plan. The PUD District Zoning will remain valid; however, a rezone or text amendment will need to be approved to establish a new PUD Ordinance, Preliminary Architectural Drawings and Concept Plan before any permits or approvals are granted for the properties within the PUD District. In the event construction work is involved, such work must commence within the stated period and be diligently pursued.

I. Extensions

Extension of time up to a maximum two (2) years may be granted from the date of expiration of the PUD District Ordinance by the Plan Commission when extenuating circumstances can be clearly shown by the petitioner. The request for same shall be submitted to the Plan Commission in writing prior to the expiration date and shall clearly state the reasons why construction has not commenced.

The Plan Commission may grant such additional time extensions if there have not been adopted changes to Comprehensive Plan and zoning regulations that would impact the PUD District Ordinance.

J. Development Plan Approval

Development Plan approval, as set forth in *Subchapter 152.15 Development Plan*, shall be required for all PUD Districts. Development Plans shall conform to the approved PUD District Ordinance and this Ordinance for portion of the PUD District Ordinance which defaults to this Ordinance for any development standard that is not modified as part of the PUD District Ordinance.

K. Permits

No permit of any kind shall be issued for any purpose within a PUD District except in accordance with the approved Development Plan, and after acceptance by the Town of all required guarantees for improvements pursuant to this Ordinance.

L. PUD District Ordinance Requirements

PUD District Ordinances and supporting data shall include the following documentation. The Plan Commission, in its sole discretion, may, in writing, waive or relax any of the requirements listed which are not relevant or deemed unnecessary for a thorough review of the development.

1. **PUD Ordinance.** The PUD District Ordinance shall follow a standard format adopted by the Town for PUD District Ordinances.
2. **Preliminary Architectural Drawings.** As part of the approval of a PUD District Ordinance, the Plan Commission shall review and approve the Preliminary Architectural Drawings before the PUD Ordinance is approved by the Town Council. Approval of the Preliminary Architectural Drawings shall represent the architectural standards for the PUD District when the construction plans are submitted for review and approval.
3. **Concept Plan.** The Concept Plan shall show in general terms the following: major circulation; generalized location and dimensions of buildings, structures, and Parking Areas; Open Space areas; Conservation and/or Preservation areas; recreation facilities; and other details to indicate the character of the proposed development.
4. **Written Statement of Character.** A written statement of character of the PUD District shall provide an explanation of the character of the PUD District and the reasons why it has been planned to take advantage of the flexibility of these regulations.

5. **Development Amenities and Open Space.** The PUD District Ordinance must include a statement of recreational amenities and open space. Such statements shall designate and convey active and/or passive recreational areas in accordance with *Subchapter 152... Open space requirement*.
6. **Traffic Impact Study.** A Traffic Impact Study may be required to be conducted at the discretion of the Plan Commission. If a Traffic Impact Study is required, then it shall be prepared by a registered professional engineer and shall evaluate the impact of present and future traffic generated by the proposed development on the adjacent roadway system. Prior to commencement, the petitioner shall meet with the Plan Commission or its designees to determine the appropriate scope for the study.
7. **Additional Materials.** The Plan Administrator shall inform the applicant in writing of any additional information, documents or data deemed necessary to support a thorough review of the proposed development.

M. PUD District Ordinance Amendments

The procedure for amending an approved PUD District Ordinance (text amendment) shall be the same as the procedure for the adoption of the initial PUD District Ordinance as set forth herein. The Commission or the Council shall have standing to initiate a change or amend a PUD District Ordinance. Changes that shall require an amendment to a PUD District Ordinance include changes which alter the Concept Plan, Preliminary Architectural Plans or intent of the initial PUD District, as determined by the Plan Commission, which shall include but are not limited to:

1. Increases in density or intensity.
2. Changes in the proportion or allocation of land uses.
3. Changes in the list of approved uses.
4. Changes in the locations of uses outside of the parameters set forth by the PUD District Ordinance.
5. Changes in functional uses of Open Space, where such change constitutes an intensification of use of the Open Space.
6. Changes in the Concept Plan such that it creates a conflict with the intent of the PUD District Ordinance established with the original Concept Plan.

152.14 VARIANCE

Reserved for future use.

152.15 DEVELOPMENT PLAN

Reserved for future use.

152.16 IMPROVEMENT LOCATION PERMIT

Reserved for future use.

152.17 ADMINISTRATIVE APPEAL

Reserved for future use.

152.18 EXEMPT ENTITIES

All projects proposed by Exempt Entities (see also subchapter 152.03 Jurisdiction & Exempt Entities) will be administratively reviewed for determining whether such projects meet development standards, including, but not limited to, setbacks, landscaping, lot coverage, sidewalks, lighting standards, and other bulk standards as outlined in this Ordinance.

A. Procedures

Exempt Entities may be exempted from this Ordinance with Council review and approval. Said review shall follow the procedures outlined below:

1. Each project will be given a deficiency report describing the provisions of this Ordinance that the project does not comply with. The deficiency report with the project will be presented to the TAC for review and comments.
2. The sponsoring entity will be notified at the time of the TAC letter of the deficiencies along with notification being given to the Council on all projects. The Council shall adopt a resolution acknowledging and accepting the deficiency report.

B. Fees

Exempt Entities may be exempt from paying any fees to the Town if approved by the Plan Commission.

152.19 PLANNING ADMINISTRATION AGENCIES

A. Establishment. The administration of the planning and zoning regulations of this Ordinance in the planning jurisdiction of Town of Thorntown is conducted by the following government entities: Town Council, Board of Zoning Appeals, Plan Commission, and staff.

The Plan Commission may, by resolution, establish a Technical Advisory Committee. The purpose of the Technical Advisory Committee shall be to provide technical support to Staff as an aid in the review of applications or petitions for public hearing, applications for Improvement Location Permits, and in the preparation of written or verbal comments by Staff to the Plan Commission and Board of Zoning Appeals regarding all matters presented to such bodies for public hearing.

B. Administration of Planning and Zoning Authority. The Planning Administrator shall administer the planning and zoning functions of the Town of Thorntown as prescribed by the Plan Commission and this Ordinance.

C. Duties and Powers of the Planning Administrator.

1. It shall be the duty of the Planning Administrator to supervise the general administration of this Ordinance.
2. It shall be the duty of the Planning Administrator to enforce and administer this Ordinance; receive and review all applications required by this Ordinance; issue Improvement Location Permits; and number and file all Certificates of Zoning Compliance.
3. The Planning Administrator shall, when requested by the Plan Commission or Board of Zoning Appeals, or when the interests of the Town so require, make investigations in connection with matters referred to in this Ordinance and render written reports on the same.
4. The Planning Administrator shall keep the records including, without limitation, records of applications, permits issued, certificates issued, inspections made, reports rendered, and notices or orders issued. The Planning Administrator shall maintain records of all final determinations and decisions of the Plan Commission and the Board of Zoning Appeals.
5. The Planning Administrator shall transmit to the Plan Commission or Board of Zoning Appeals the recommendation of the Department on all applications, petitions, or matters requiring official action by the Plan Commission or Board of Zoning Appeals.
6. The Planning Administrator shall maintain the Official Zone Maps and designate on the Official Zone Maps all map amendments granted under the terms of this Ordinance.

7. The Planning Administrator shall provide and maintain information for the public relative to all matters arising out of this Ordinance.
8. The Planning Administrator may designate Staff to assist in the daily administration of the duties and responsibilities set forth in this Ordinance.
9. The Planning Administrator shall perform such other duties as the Plan Commission may direct in accordance with the provisions of this Ordinance.

Zoning Districts and Permitted Uses

152.20	ZONING DISTRICTS DESIGNATION
152.21	PERMITTED USES
152.22	RESIDENTIAL DISTRICT
152.23	BUSINESS DISTRICT
152.24	AGRICULTURAL DISTRICT
152.25	INDUSTRIAL DISTRICT
152.26	MIXED USE DISTRICT
152.27	OVERLAY DISTRICTS
152.27.A	PLANNED UNIT DEVELOPMENT DISTRICT

152.20 ZONING DISTRICTS DESIGNATION

A. Each of the standard zoning districts in this Ordinance stands alone and is not a part of a hierarchy or pyramidal system of zoning. For example, what is permitted in the Residential zoning district is not necessarily permitted in the Business zoning district. Only those uses and development standards which are expressly permitted and noted for each zoning district apply to that zoning district.

B. Districts

Land in Thorntown's planning jurisdiction shall be divided and classified into the following zoning districts:

1. Residential Districts:
 - a. Residential District.
2. Business Districts:
 - a. Business District
3. Agricultural Districts
4. Industrial Districts
5. Mixed Use Districts
6. Overlay Districts:
 - a. Planned Unit Development.

C. Zoning Districts Designation of Annexed Property

All territory which may hereafter be annexed to the Town of Thorntown shall be zoned consistent with the land use policy of the comprehensive plan and with the zoning district most similar to the zoning which was applicable prior to annexation, as long as that zoning is consistent with the comprehensive plan land use policy map.

152.21 PERMITTED USES

A. Buildings, structures, or land must only be used in a manner permitted in the Zoning Districts where they are located.

- B. It shall be unlawful for any person to build, erect, construct, or maintain any building within the Residence District to be used for business, manufacturing, or industrial purposes, or for any purpose other than residence, or the necessary outbuildings for use in connection with a residence and for the convenience and comfort of the inhabitant of such residence without first obtaining a permit so to do from the Council.
- C. Any building or structure used exclusively for business or industrial purposes which is situated within the Residence District or the residential uses within the Business District shall follow the regulations for non-conforming uses as provided in subchapter 152.08 on the date of the passage of the Ordinance from which this section is derived, shall not be affected by this section; nor shall any residence property situated within the Business District be in any way affected by this section.

152.22 RESIDENTIAL DISTRICT

A. Intent

The Residential District is intended for residential uses.

B. Applicability

The part of the town within its corporate limits and outside of the Business District shall constitute the Residence District of the town.

C. Development Standards

The development standards in the Residential Zoning District shall be the following:

- 1. Minimum lot area:
 - a. Single-family dwelling: 6,000 square feet.
 - b. Two-family dwelling: 4,500 square feet per dwelling unit.
 - c. Multi-family dwelling: 3,000 square feet per dwelling unit.
- 2. Minimum lot width shall be:
 - a. Single-family use: 50 feet
 - b. Two-family use: 75 feet
 - c. Multi-family use: 100 feet

- d. Minimum lot width shall be measured at the front setback line. On corner lots, it shall be measured along the narrower front setback line.
 - e. Lots located on a cul-de-sac/cul-de-loop shall maintain a minimum street frontage of 45-feet measured along the front property line.
3. Minimum setbacks on the lot shall be:
 - a. Front: 20 feet
 - b. Side: 5 feet
 - c. Rear:
 1. Primary structure: 20 feet
 2. Accessory structure: 10 feet
 4. Maximum lot coverage:
 - a. Single-family use: 45 %
 - b. Two-family use: 55 %
 - c. Multi-family use: 65 %
 5. Maximum building height shall be:
 - a. Primary structure: 35 feet
 - b. Accessory structure: 25 feet
 - c. Accessory structure(s) shall not be taller than the primary structure.
 6. Minimum dwelling unit floor area shall be:
 - a. Single-family dwelling:
 1. One-story: 1,200 square feet of finished floor area.
 2. Multi-story: 900 square feet of finished floor area.
 - b. Two-family dwelling: 1,200 square feet of finished floor area per dwelling unit.
 - c. Multi-family dwelling: 900 square feet of finished floor area per dwelling unit.
 7. Minimum parking requirement. There shall be minimum two (2) off-street parking spaces per dwelling unit on a lot.

8. Number of primary structures. There shall be maximum one (1) primary structure per lot.

152.23 BUSINESS DISTRICT

A. Intent

The Business District is intended for business and/or commercial uses.

B. Applicability

The part of the town included in the territory's boundaries is described as follows, to-wit: beginning at the southwest corner of the public square in the original plat of the town, and run thence west to the northwest corner of Lot No. 26 in such original plat; thence east to the southwest corner of Lot No. 22 in such original plat; thence south to Plum Street; thence east to the southwest corner of Lot No. 15 in such original plat; thence north to Bow Street; thence west to Pearl Street; thence north to Church Street; thence west to the northwest corner of Lot No. 86 in such original plat; thence south to the northwest corner of such public square, which is the place of beginning, is hereby designated, and shall be and constitute the Business District of the town.

C. Development Standards

Reserved for future use.

152.24 RESERVED

Reserved for future use.

152.25 RESERVED

Reserved for future use.

152.26 RESERVED

Reserved for future use.

152.27 OVERLAY DISTRICTS

A. PLANNED UNIT DEVELOPMENT (PUD) DISTRICT

1. Intent

The intent of the PUD District is to provide a relief mechanism from the prescriptive standards of a regular zoning district. The PUD District is intended to be used to achieve a higher quality of project design than could be accomplished through the strict application of a regular district or set of zoning districts, without adversely impacting the adequate facilities required to serve the property and surrounding area. A PUD District is established through Council approval with a specific PUD District Ordinance establishing the development standards and use standards for each PUD District.

2. Applicability

The provisions of this Section shall only apply to new development proposals.

3. Limitations on Flexibility of Planned Unit Developments

It is not intended that the Town automatically grants the initial plan of development proposed by a petitioner. The Town Plan Commission shall approve only such plans of development that are consistent with the public benefits resulting from the planned unit development. Therefore, the Town Plan Commission may require, as a condition of approval and subsequent amendment of the zoning map, any reasonable condition, limitation or design factor that will promote proper development of a Planned Unit Development.

4. Purpose of Planned Unit Development (PUD) Ordinance

- a. To designate a parcel of real property as a Planned Unit Development (PUD) including the underlying zoning district.
- b. To specify uses or a range of uses permitted in the PUD District.
- c. To specify development requirements in the PUD District.
- d. To specify the documentation including an overall plan and supporting documentation.
- e. To specify any limitation applicable to the Planned Development, and
- f. To specify any variations from the underlying zoning district requirements.

5. Prerequisite Base Zoning

The prerequisite base zoning shall be as indicated in the PUD District Ordinance. If a parent tract has multiple zoning districts, each of those zoning districts must be on the prerequisite listing.

6. Minimum Project Size

The minimum project size for a PUD District shall be a) five (5) acres or more in Residential zoning district, b) three (3) acres or more in Business and Industrial zoning districts, and c) ten (10) acres in Mixed Use District.

7. PUD Principles

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

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

8. PUD Development Standards

A proposed Planned Development Plan shall be designed to produce an environment of stable and desirable character in keeping with the principles of good neighborhood design, and must provide standards of community amenities, efficiency in street patterns, and areas for parking adequate for the occupancy proposed, or equal to the requirements of this Ordinance. It must also provide for a development density and related bulk and coverage characteristics in keeping with the requirements of the Comprehensive Plan and reflecting that of the base zone that contains the land subject to rezoning as a particular Planned Unit Development.

a. Establishment of Site Development Intensity

1. Before approval of a Preliminary Planned Development Plan, a detailed determination of land use intensity shall be declared.
2. Except as otherwise provided below, the development standards for lots in a PUD may be varied from one another and from that allowed by the underlying base zone. The maximum base zone density permitted under the PUD process is as follows:
 - A. Residential use, low density: 0.5 unit/acre or less.
 - B. Residential use, medium density: 0.51 - 3 units/acre.
 - C. Residential use, high density: 3.1 or more units/acre.
3. In calculating the density (Net), certain areas inappropriate for development including but not limited to bodies of water, floodplains, wetlands, and rights-of-way, shall be discounted from gross acreage.
4. The Commission shall make a finding that said intensity is consistent with the Land Use Element of the Comprehensive Plan of current adoption and in the best interest of the City and surrounding areas.
5. If such zoning is not related to the character of development sought by the Planned Unit Development, then the Plan Commission shall determine whether to require a rezoning of the site to a more appropriate zone or to establish a development intensity pursuant to the PUD waiver procedure.

b. Establishment of Landscape Buffer Yard

A minimum 25-FT landscape buffer yard shall be provided along the right-of-ways of the Planned Unit Development District and as a buffer yard between residential and non-residential uses. This landscape buffer yard shall be maintained as Common Area, labeled on the development plan/subdivision plat/parcel as Common Area/Landscaping Easement. The Declaration of Covenants or other recordable instrument shall state that the landscape buffer yard is Common Area and maintained by the association or developer of said project. Exception to the minimum buffer yard size requirements include those subdivisions or parcels abutting expressways or arterials and those subdivisions having rear yards abutting a collector, arterial, or expressway then those specific requirements apply. Varieties of landscaping plants are required and shall adhere to Subchapter 152.64 Landscaping and Screening requirements.

c. Establishment of Maximum Height, Building Size

Maximum heights and maximum/minimum building sizes shall be as required in the base zone unless modified by the Plan Commission and approved by the Town Council as part of the Preliminary Plan approval, unless otherwise specified in this Ordinance.

d. Open Space Requirement

1. Open space shall include cropland, forested areas, pastureland, turf areas, decorative plantings, walkways, active and passive recreation areas, playgrounds, and wooded areas. Open space does not include areas devoted to public or private streets or rights-of-way.
2. No plan for a Planned Unit Development shall be approved, unless such plan provides for permanent open space areas equivalent to the following types of Planned Unit Developments:
 - A. Residential PUD: Twenty percent (20 %) of gross acreage.
 - B. Mixed Use PUD: Twenty percent (20%) of gross acreage.
 - C. Industrial or Commercial PUD: Fifteen percent (15 %) of gross acreage.

e. Establishment of Other Site Development Regulations

1. PUD shall follow Site Design and Improvement Standards in this Ordinance §152.70-89.
2. Other site development regulations, including but not limited to parking, signs, accessory uses, landscape requirements, environmental standards, flood plain protection, and public and private infrastructure shall be as required in this Ordinance.
3. The Plan Commission may recommend, and the Town Council may authorize, exceptions to other applicable regulations of this Ordinance controlling development within the boundaries of a PUD, provided that the Plan Commission shall find that such exception shall be solely for the purpose of promoting an integrated site plan no less beneficial to the tenants or occupants of such development, as well as the neighboring property, than would be obtained under the regulations of this Ordinance for buildings developed on separate zoning lots.

Official Thoroughfare Plan

- 152.30 THOROUGHFARE MAPS AND DRAWINGS
- 152.31 DESIGNATION OF THOROUGHFARES
- 152.32 OPENING OR WIDENING OF STREETS
- 152.33 LOCATION OF THOROUGHFARES
- 152.34 CONSIDERATION BY COUNCIL
- 152.35 ISSUANCE OF PERMITS
- 152.36 CONTINUING AUTHORITY OF COUNCIL

§ 152.30 THOROUGHFARE PLAN COMPONENTS

- A. The official thoroughfare plan consists of all of the following components:
 - 1. The road classifications and designations prescribed in this Ordinance;
 - 2. The maps that are part of the Boone County Thoroughfare Plan adopted in 2017 (Exhibit A: Proposed Functional Classifications Revisions and Exhibit B. Future Thoroughfare Plan); and
 - 3. Table 6. Proposed Right-of-Way Width and Table 7. Typical Roadway Sections, both located in the Boone County Thoroughfare Plan adopted in 2017.
- B. The official thoroughfare plan is hereby declared to be a part of this subchapter, and notations, reference, indications, and other details shown thereon are as much a part of this subchapter as if they were fully described in the text of this subchapter.

§ 152.31 DESIGNATION OF THOROUGHFARES

- A. The thoroughfares comprising the official thoroughfare plan are hereby classified on the basis of width and type, in accordance with their proposed function as Principal Arterial, Minor Arterial, Major Collector, Minor Collector, and Local Street thoroughfares:
 - 1. State Roads 47 and 75: Major Collectors.
 - 2. All other roads within the planning jurisdiction of Town of Thorntown: Local Streets (Urban)
- B. The minimum required width of right-of-way, travel lane number and width, required street parking and its development standards, pavement section and border section standards are listed in Table 6. Right-of-Way Requirements and Table 7. Typical Roadway Sections located in the Boone County Thoroughfare Plan adopted in 2017.

§ 152.32 OPENING OR WIDENING OF STREETS

Whenever a street classified in the official thoroughfare plan is to be platted as a part of a subdivision, the required right-of-way width for such thoroughfare shall be as specified in the official thoroughfare plan, provided, that where a thoroughfare borders a tract of land to be subdivided, the owner of such land shall be required to plat only one-half of the right-of-way designated for such thoroughfare, measured at 90 degrees to the centerline thereof.

§ 152.33 LOCATION OF THOROUGHFARES

- A. Wherever the location of a thoroughfare is indicated in the official thoroughfare plan as following an existing road or street, or a section or other established property line, the location of the thoroughfare shall conform to such location and the right-of-way for such thoroughfare shall be equally divided by the section or half section line, if any, or by the centerline of any existing road or street, or by the existing property line, however, a thoroughfare lying wholly within a subdivision and not designated as following an existing road or established property line, may be varied in its alignment when such a variance promotes the plan of a neighborhood development unit in accordance with good site planning principles, and if such alignment provides for the continuity of traffic movement.
- B. In the absence of any street designated in each section of land, within the jurisdictional area, on or approximately on the north-south and east-west section lines of such sections, it is the intent of the official thoroughfare plan and this subchapter that local street thoroughfares be established on such section line.
- C. In the absence of any street designated in each section of land, within the jurisdictional area, on or approximately on the north-south and east-west half-section lines of such section, it is the intent of the official thoroughfare plan and this subchapter that local street thoroughfares be established on such half-section lines where feasible.
- D. Wherever the location of a thoroughfare is indicated in the official thoroughfare plan as following an irregular alignment, or a revised alignment, or is not referenced to an established line, it shall follow the alignment shown in the official thoroughfare plan. Such alignment shall be subject to a detailed survey which shall be subject to the approval of the Council prior to dedication of the thoroughfare.

§ 152.34 CONSIDERATION BY COUNCIL

- A. The Council shall be guided by and give consideration to the general policy and pattern of street development set out in the official thoroughfare plan in the authorization, construction, widening, alteration, relocation, or abandonment of the public streets, highways, and related structures.
- B. No thoroughfare shall be abandoned or vacated until the Council shall have held public hearings on vacation or abandonment of such thoroughfare. Legal notice of such public hearing shall be provided by the person requesting the vacation or abandonment.

§ 152.35 ISSUANCE OF PERMITS

Any permits authorized by the Council, the Plan Commission, the Building Inspector or his or her agent permitting the erection, alteration, or relocation of structures and other improvements within the jurisdictional area shall be issued only if, in addition to satisfying other provisions, the proposed thoroughfare right-of-way as set forth by this chapter will be protected from encroachment. In this instance, the proposed thoroughfare right-of-way lines will be considered as the front line of lots and tracts bordering such thoroughfares for the purpose of establishing building lines.

§ 152.36 CONTINUING AUTHORITY OF COUNCIL

The Council may determine lines for new, extended, widened, or narrowed thoroughfares in any portion of the area within the town under the same procedure as established for the certification and approval of the official thoroughfare plan.

Floodplain Control Regulations

152.40-49

Reserved for future use

Subdivision Control Regulations

152.50 PURPOSE. OBJECTIVES. APPLICABILITY

152.51 GENERAL PROVISIONS

152.52 APPLICATION PROCEDURE

152.53 DESIGN AND IMPROVEMENT PRINCIPLES AND STANDARDS

152.54 WAIVERS OF SUBDIVISION REGULATIONS

152.55 INSPECTION OF IMPROVEMENTS

§ 152.50 PURPOSE. OBJECTIVES. APPLICABILITY

A. Purpose

1. This section is enacted for the purpose of adopting subdivision regulations for the town. The regulation of land subdivision has become widely recognized as a method of ensuring sound community growth and the safeguarding of the interests of the homeowner, the subdivider, and the local government. The citizens of the town need the assurance that subdivisions will provide permanent assets to their community or neighborhood. This section should be viewed, not as an end in itself, but as one tool or technique for the shaping of urban-oriented land use according to a comprehensive plan for the development of the town as a whole.
2. The planning of a subdivision is the joint responsibility of the subdivider and the Plan Commission, the former having the prime responsibility for the creation of desirable, stable neighborhoods that become an integral part of the town. Subdivision design and utility can enhance or depreciate the character and potentialities of the surrounding areas and stabilize or endanger the individual's investment in a home.
3. The Advisory Plan Commission has the responsibility of helping the subdivider achieve a high standard of excellence in the planning of his or her subdivision, and of informing all subdividers of the minimum standards and requirements for subdivision development in the town.

B. Objectives

With the adoption of this section regulating the subdivision of land, the following objectives will be achieved:

1. Better living conditions will be created within new subdivisions;
2. Only those areas which can be economically serviced and maintained will develop;
3. Land descriptions will be simplified and made less susceptible to more than one interpretation;
4. Necessary streets, utilities, and public areas may be extended without expensive land purchases;
5. Property values will be enhanced and secured in the subdivision and adjacent lands;
6. Purchasers will be protected from unexpected assessments; and
7. Future development in the town will improve the health, safety, welfare, and convenience of all its citizens.

C. Applicability

1. This Subchapter applies to all development within the Town or within the Town's extraterritorial jurisdiction.
2. No site improvement or construction shall commence until all required plans and specifications have been reviewed and approved by the Town or other governmental approving agency.
3. No Town services or utilities shall be extended or furnished to any development until the applicant has installed the improvements specified in this Ordinance or guaranteed their installation as provided for in this Ordinance.

152.51 GENERAL PROVISIONS

- A. Subdivisions are permitted in all Zoning Districts.
- B. Subdivision plats, replats, amendments or corrections to a recorded plat cannot be recorded until approved in accordance with this Ordinance. Approval must be in writing on the plat by the Plan Commission.
- C. Plat approval may be withheld if a subdivision is not in conformity with the laws, regulations, guidelines, and policies, the regulations of this Ordinance.
- D. Amendments or corrections to a recorded plat must be cited as an addendum to the approved plat.
- E. An Improvement Location Permit must be obtained before any development of the site commences.
- F. An Improvement Location Permit may be approved before the secondary plat is recorded. However, the secondary plat must be signed before the Improvement Location Permit is approved.
- G. No building permit shall be approved until the secondary plat has been recorded.
- H. No building permit shall be approved for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of this chapter.
- I. Whenever a parcel of land is subdivided and the subdivision plat shows one (1) or more lots containing more than one (1) acre of land and there are indications that such lots will eventually be resubdivided, the Plan Commission may require that such parcel of land allow for the future opening of streets and the ultimate extension of adjacent streets. As a requirement of the plat, dedications of rights-of-way shall be provided for the future opening and extension of such streets.

J. Covenants.

1. Wherever a subdivision with residential use includes common areas, such as but not limited to detention ponds, open space, private streets, private parks, and other community amenities, covenants shall be created to regulate these common areas to ensure their neat and safe condition.
2. 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.
3. Covenants can be placed on commercial and industrial developments.
4. Homeowners' Association. In cases of subdivisions with residential use that include common areas, covenants shall provide for creation of a Homeowner's Association to maintain such common areas in a neat and safe conditions.

K. Covenant Enforcement. 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.

§ 152.52 APPLICATION PROCEDURE

The applicant shall follow application procedures for Primary and Secondary Plats as provided in subchapters §152.10-19.

§ 152.53 DESIGN AND IMPROVEMENT PRINCIPLES AND STANDARDS

- A. In determining whether an application for approval of a primary plat or a secondary plat of a subdivision shall be granted, the Plan Commission shall determine that the plat is in accordance with the principles and standards required in this Ordinance which shall be deemed as minimal; and whenever the applicable requirements of other Ordinances adopted by the town are higher or more restrictive, those requirements shall control any application for plat approval.
- B. The applicant shall follow the site design and improvement standards as provided in subchapters §152.70-89.

§ 152.54 WAIVERS OF SUBDIVISION REGULATIONS

- A. It is the intention of this Ordinance that all newly created lots in Thorntown planning jurisdiction conform to the minimum Subdivision Control Regulations in this Ordinance. Waivers shall not

have the effect of nullifying the intent and purpose of these regulations, but rather provide for an opportunity for an alternative standard in the following situations:

1. Strict adherence to the standards of this chapter causes extraordinary hardship or practical difficulty;
 2. The purpose and intent of these regulations may be served better by an alternative standard.
- B. The Plan Commission, in its discretion, may authorize a waiver to any provisions of this chapter and may impose conditions on waiver approval.
- C. The Plan Commission shall not approve waivers unless it shall make findings based upon the evidence presented to it in each specific case that:
1. The granting of the waiver will not be detrimental to the public safety, health, or welfare, or injurious to other property.
 2. The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable generally to other property.
 3. The proposed development represents an innovative use of site design, site access design, site circulation design, building orientation, building materials, and landscaping which will enhance the use or value of area properties.
 4. The proposed development is consistent with the purpose and intent of the Comprehensive Plan.
 5. Where the waiver affects design and construction of public facilities, all appropriate public agencies will be given ample time to comment in writing to the Plan Commission.
- D. The Board of Zoning Appeals shall not grant waivers to the subdivisions regulations. Per Indiana statute, it is not within the jurisdiction of the Board of Zoning Appeals to hear and or grant waivers to subdivision regulations.

§ 152.55 INSPECTIONS OF IMPROVEMENTS

- A. Road inspection.** It shall be the duty of the developer to notify the Building Inspector or its designee(s) before any construction commences on the curbs, gutters, public walks, or roads, in order that the Building Inspector or its designee(s) may run any and all tests required during the construction period.

- B. Sewer and water inspection.** It shall be the duty of the developer to notify the Building Inspector or its designee(s) before any construction commences on the sewage disposal and water supply facilities in order that the Building Inspector or its designee(s) may run any and all tests required during the construction period.
- C. Stormwater drainage inspection.** It shall be the duty of the developer to notify the Building Inspector or their designee(s) before commencing construction so that any and all tests may be run on the drainage structures and the grading of the subdivision during the entire construction period.

Development Standards

Reserved for future use

152.60 GENERAL PROVISIONS

152.61 ACCESSORY STRUCTURES

152.62 PARKING, LOADING AND VEHICULAR CIRCULATION

152.63 LANDSCAPING AND SCREENING

152.64 OPEN SPACE AND AMENITIES

152.65 EXTERIOR LIGHTING

152.66 SIGNAGE

152.67 CLEAR SIGHT AREA

SITE DESIGN AND IMPROVEMENTS STANDARDS

152.70 GENERAL REGULATIONS

152.71 MONUMENTS

152.72 BLOCK AND LOT LAYOUT, ANTI-MONOTONY

152.73 TRANSPORTATION SYSTEM

152.74 DRAINAGE, EROSION, AND SEDIMENT CONTROL

152.75 SEWER FACILITIES

152.76 WATER FACILITIES

152.77 OTHER UTILITIES

152.78 PRESERVATION OF EXISTING NATURAL AND HISTORIC FEATURES

152.79 STREET LANDSCAPING

152.80 NONRESIDENTIAL SUBDIVISIONS AND DEVELOPMENTS

152.81 EASEMENTS

152.90-99 REMEDIES, PENALTIES AND ENFORCEMENT

§152.70. GENERAL REGULATIONS

A. Applicability

Except as otherwise provided below, the site design and improvement standards in this subchapter are required for all subdivisions, planned unit developments, and any other new development or redevelopment of a site upon which such improvements do not currently exist. Exemptions from these requirements may be granted by Variance or, in the case of the subdivision standards from subchapters §152.50-59 of this Ordinance, by a Waiver/Variance of the Plan Commission subject to §152.55.

B. Conformity with Other Regulations

1. In addition to the requirements established in these regulations, the improvement of land shall comply with the following:
 - a. Applicable statutory provisions;
 - b. Applicable provisions of this Ordinance and all other laws of the applicable jurisdictions;
 - c. The official Comprehensive Plan of the applicable jurisdictions, including all streets, trails, and parks shown on any official map(s);
 - d. The rules and regulations of the State Board of Health, the Indiana Department of Natural Resources, Indiana Department of Environmental Management and other appropriate state agencies;
 - e. Applicable planning and regulatory guidelines, including access control or driveway manuals, parking and traffic control Ordinances, and other applicable guides published by the state or local governmental units;
 - f. The current edition of the “Indiana Manual on Uniform Traffic Control Devices” for installation of traffic control devices;
 - g. The rules of the Indiana Department of Transportation (INDOT) if the development or any lot contained therein abuts a state highway; and
 - h. The Boone County Thoroughfare Plan, as amended.
2. To assure, through careful site evaluation and design the creation of new parcels that are compatible with existing neighborhoods, the natural environment, health and safety of the community’s residents; the developer, contractor, and/or engineer for the project shall comply with the policies of the Comprehensive Plan, this Ordinance, Boone County Highway Design

Standards, and the latest issue of the “Indiana Department of Transportation Standard Specifications” for material and construction control, except when different specifications are 1) explicitly described in these regulations, or 2) adopted by the Engineer of appropriate jurisdiction and approved by all appropriate boards, commissions, agencies, and Offices of the Town or County.

C. Political and Jurisdictional Boundaries

To eliminate potential jurisdictional disputes and to facilitate effective coordination and control of development, the Plan Commission shall be guided by the following policy:

1. Whenever access to the development is required across land in another local government, the Commission shall request assurance from that local governmental attorney that access is legally established, and from the local governmental engineer that the access road is adequately improved, or that a Performance Bond has been duly executed and is sufficient in amount to assure the construction of the access road.
2. Lot lines shall be laid out so as not to cross boundary lines between adjacent units of local government which has separate governing bodies for the purpose of regulation and control of land use and development, as well as for tax purposes.

D. Conditions of Development

1. Character of Land Suitable for Development

Land that the Plan Commission finds to be unsuitable for subdivision or development due to flooding, improper drainage, adverse earth formations or topography, utility easements, or other features that will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the development and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the Planning Commission, upon recommendation of the Technical Advisory Committee, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve any danger to public health, safety, and welfare.

2. Adequate Public Facilities

No primary plat shall be approved unless the Planning Commission determines that public facilities will be adequate to support and service the area of the proposed development. The applicant shall, at the request of the Planning Commission, submit sufficient information and data on the proposed development to demonstrate the expected impact on and use of public facilities by possible uses of said development. Public facilities and services to be examined for adequacy will include roads, sewerage, schools, and public safety agencies.

3. **Reservation of Land for Public Use**

- a. Where a proposed park or other public use is shown in a Comprehensive Plan or Master Parks Plan of the Town, and said public use is located in whole or in part within a proposed development, sufficient area for the public use shall be dedicated to the public or reserved and offered for public purchase. If within five (5) years of plat recording the purchase is not agreed on, the reservation shall be terminated.
- b. Where it is deemed essential by the Plan Commission, upon consideration of the particular type of development proposed in the development, the needs for public services that the development will generate, and the policies of the Comprehensive Plan, the Commission may recommend and the Town Council may require the reservation of land for public use. Land required for dedication shall be of a location, size, and character consistent with the needs created by the development.

4. **Extension Policies**

All public improvements and required easements shall be extended through the parcel on which new development is proposed. Streets, water lines, wastewater systems, drainage facilities, electric lines, and telecommunications lines shall be constructed through new development to promote the logical extension of public infrastructure. The Town may require the applicant of a development to extend off-site improvements to reach the development or oversize required public facilities to serve anticipated future development as a condition of plat approval. The cost of such extensions or over sizing shall be borne by the developer unless other provisions have been made to cover the cost via impact fee Ordinances.

E. **Required Improvements**

The following improvements shall generally be provided in new developments and, when provided, shall be designed and installed in accordance with the conditions and specifications in this subchapter 152.70-79, "Site Design and Improvement Standards".

1. **Monuments.** The applicant shall place permanent reference monuments in the development in accordance with the regulations in in Subchapter 152.71.
2. **Blocks and Lots.** All blocks and lots shall be designed in accordance with the regulations in in Subchapter 152.72.
3. **Streets and Alleys.** Streets and alleys within the jurisdiction of the Town of Thorntown and within the jurisdiction of Boone County shall be designed and constructed in accordance with

the standards and specifications of the Boone County Highway Design Standards and with the regulations in Subchapter 152.73.

4. **Street Name Signs.** Street name signs shall be installed in one corner of each street intersection and in accordance with the regulations in Subchapter 152.73.
5. **Street Lights.** Street lights may be required for safety purposes, and such installations shall conform to: 1) the requirements of the Town Council/County Commissioners, 2) the public utility providing such lighting, and 3) standards within in Subchapter 152.73.
6. **Sidewalks.** Sidewalks shall generally be required on both sides of all streets and shall be designed and constructed in accordance with the regulations in Subchapter 152.73.
7. **Pedestrian Network.** Pedestrian network shall be designed and constructed in accordance with the regulations in in Subchapter 152.73.
8. **Bridges and Culverts.** Bridges and culverts, if necessary, shall be constructed in accordance with engineering standards approved by the Engineer of the applicable jurisdiction.
9. **Drainage Facilities.** Storm sewers, detention/retention ponds, and other drainage facilities shall be designed and constructed in accordance with the regulations in Subchapter 152.74.
10. **Erosion Control Plan.** All development which requires an Improvement Location Permit shall conform to the regulations concerning types of soils involved and the conditions which are requisite to assure proper execution of erosion and sediment control and proper drainage, in accordance with Subchapter 152.74.
11. **Sanitary Sewers and Septic Systems.** Public sanitary sewers and septic systems shall be constructed in accordance with the regulations in Subchapter 152.75.
12. **Water Facilities and Fire Hydrants.** The placement of fire hydrants and water mains for adequate fire protection shall be in accordance with the appropriate fire district standards and in accordance with the regulations in Subchapter 152.76.
13. **Utilities.** Energy and communication utilities shall be installed according to the regulations in Subchapter 152.77.
14. **Preservation of Existing Natural and Historic Features.** Existing natural and historic features which add value to development and enhance the attractiveness of the community should be preserved in all site plans in accordance with Subchapter 152.78.
15. **Street Landscaping.** Street landscaping shall be provided in Subdivisions and Planned Unit Developments in accordance with Subchapter 152.79.

16. **Easements.** Easements for various infrastructure shall be provided in accordance with the regulations in this chapter §152 and/or with Subchapter 152.81.

F. Cost Responsibility

The developer/owner is responsible for the costs associated with all infrastructure and improvements unless modified by an agreement between the Town of Thorntown and said developer/owner of a specific project.

G. Development Names

The proposed name of the development shall not duplicate, or too closely approximate phonetically, the name of another development in the planning jurisdiction of Town of Thorntown. The reviewing authority shall have final authority to designate the name of the development, which shall be determined at the time of Improvement Location Permit.

152.71 MONUMENTS

- A. Monuments and markers shall be placed so that the center of the pipe or marked point shall coincide exactly with the intersection of lines to be marked, and shall be set so that the top of the monument or marker is level with the finished grade; and
- B. Monuments shall be set:
 - 1. At the intersection of lines forming angles in the boundary of the subdivision; provided, that not more than eight such monuments shall be required;
 - 2. At the intersection of the centerlines of all streets and also at the center points of all cul-de-sac turnarounds;
- C. Markers shall be set:
 - 1. At the beginning and ending of all curves along street property lines;
 - 2. At all points where lot lines intersect curves, either front or rear;
 - 3. At all angles in property lines of lots; and
 - 4. At all lot corners not established by monuments.
- D. Monuments shall be of stone, precast concrete, or concrete poured in place with minimum dimensions of four inches by 30 inches set vertically in place. They shall be marked on top with iron or copper dowel set flush with the top of the monument, or deeply scored on top with a cross. Markers

shall consist of iron pipes or steel bars at least 30 inches long, and not less than five-eighths inches in diameter.

152.72 BLOCK AND LOT LAYOUT, ANTI-MONOTONY

A. Block standards

1. Block length and width or acreage within bounding streets shall be such as to accommodate the size of lot required by the zoning Ordinance in the district in which the subdivision is to be located, and to provide convenient access, circulation control, and safety of street traffic. Blocks that are unreasonably large or small will not be approved.
2. Blocks should not exceed 800 feet in length. In the design of blocks longer than 800 feet, the Plan Commission may specify the provision of pedestrian crosswalks near the center of the block, or wherever would be most useful to facilitate pedestrian circulation to a school, park, recreation area, shopping center, or other significant neighborhood destination.
3. Residential blocks shall be of sufficient depth to accommodate two tiers of lots of minimum depth, except where an interior street parallels an arterial or collector street, railroad right-of-way, floodplain, or similar boundary obstruction.

B. Lot standards

1. Lots shall be adequate for the type of development, land use proposed and the corresponding minimum development features required of such development.
2. The lot size, width, depth, shape, grade location, and orientation shall be in proper relation to street and block design and to existing and proposed topographical conditions.
3. The minimum lot dimensions such as lot area and width shall conform to the lot area and width requirements of the base zoning district.
4. The minimum lot depth shall be enough to contain a building envelope for any buildings and accessory structures, off-street parking facilities, landscaping, required setback yards, and necessary easements for utilities, infrastructure, and other features requiring easements.
5. All lots shall abut on a street.
6. Side lines of lots shall be at approximately right angles to straight streets and on radial lines on curved streets. Some variation from this requirement is permissible, but pointed or very irregular lots should be avoided.

7. Double frontage lots should not be platted, except that where desired along interstates or arterial or collector thoroughfares, lots may face on an interior street and back on such thoroughfares. In that event a planting strip for a screen, at least 20 feet in width shall be provided along the back of each lot.
8. Setbacks requirements (Building lines) shall conform to the development requirements of the base zoning district.
9. Lots abutting a watercourse, drainageway, channel, stream, or floodplain shall have additional minimum width or depth as required to provide an adequate building site and afford the minimum usable area required for front, rear, and side yards.
10. The following paragraph shall be required as a provision of the restrictive covenants of all final plats to which they apply: "No driveway on any corner lot shall enter the adjoining street at a point closer than 25 feet to the intersection of the street right-of-way lines, or in the case of a rounded property corner, from the intersection of the street right-of-way lines extended".

C. Anti-Monotony

1. General.

Residential developments shall have diversity in streetscapes, lot sizes, and/or development features to avoid monotonous streetscapes and to encourage stimulating living environments.

2. Avoiding Monotonous Blocks.

A. Break in Continuity.

1. A common area at least 100 feet wide used for a park or another subdivision amenity shall constitute a break in continuity.
2. Intersections.
 - a. The right-of-way or easement for a public or private street shall constitute a break in contiguous lots.
 - b. Where a street or cul-de-sac terminates in a T-intersection with a cross-street, a common area equal in width to the right-of-way of the terminating street or cul-de-sac and at least as deep as the lots abutting either side of the common area established opposite to and aligned with the terminating street shall constitute a break in contiguous lots.

- B. Architectural anti-monotony. No two (2) dwellings with alike facade styles and/or exterior color packages shall be permitted adjacent to, diagonally, or across from each other.
- C. Building massing anti-monotony. To meet the building massing anti-monotony provision, the developer is required to meet at least one (1) of the following standards:
 - 1. No two (2) dwellings of the same height shall be located side-by-side. The height variation shall be at least 2 feet. OR
 - 2. No two (2) dwellings with the same roof pitch of the longest roof ridge shall be located side-by-side; OR
 - 3. No two (2) dwellings with the same orientation of the longest roof ridge shall be located side-by-side; OR
 - 4. No two (2) dwellings with the same roof type shall be located side-by-side. The roof types include, but not limit to, Gable (includes open and box), Hip, Gambrel, Mansard, Pyramid Hip, Skillion, and so on.

152.73 TRANSPORTATION SYSTEM

A. Street Standards

- 1. Street standards intent

The interconnected street network shall provide safe and adequate vehicular and pedestrian access to all lots and parcels of land within the subdivision. It shall also provide adequate access for emergency and service vehicles, enhance access by ensuring connected transportation routes, and provide continuous and comprehensible traffic routes.

- 2. Street connectivity.
 - a. Street patterns shall provide reasonably direct access to the primary circulation system.
 - b. Cul-de-sacs are discouraged and are only permitted where street continuation is prevented due to topography or other physical condition, or unless the Plan Commission finds such extension is unnecessary for the coordination of development within the development or between the development and adjoining property.
 - c. Wherever there exists a dedicated or platted portion of a street or alley adjacent to the proposed subdivision, the remainder of the street or alley to the prescribed width shall be platted within the proposed subdivision.

3. Streets shall conform to the following principles and standards:
 - a. Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.
 - b. Local circulation systems and land development patterns shall not conflict with the efficiency of bordering thoroughfares.
 - c. Widths of thoroughfares shall conform to the widths set forth in the thoroughfare plan.
 - d. The minimum right-of-way of residential streets or cul-de-sacs shall be 50 feet.
 - e. All cul-de-sacs shall terminate in a circular right-of-way with a minimum diameter of 100 feet and minimum roadway diameter of 95 feet. Cul-de-sac streets shall be not longer than 600 feet, such distance to be measured from the center of the turning circle to the intersection of the centerline of the cul-de-sac street and the centerline of a through street, provided, however that if the residential street within the subdivision has only one intersection with a through street, the entire subdivision shall be measured from the point of intersection of the subdivision street and the through street.
 - f. Alleys shall be discouraged in residential districts but may be included in commercial and industrial areas where needed for loading and unloading or access purposes, and where platted shall be at least 20 feet in width.
 - g. The centerlines of streets should intersect as nearly at right angles as possible.
 - h. At intersections of streets or alleys, property line corners shall be rounded by arcs of at least 20 feet radii or by chords of such arcs.
 - i. If the smaller angle of intersection of two streets is less than 60 degrees, the radius of the arc at the intersection of the property lines shall be increased as deemed advisable by the Plan Commission.
 - j. Intersections of more than two streets at one point shall be avoided.
 - k. Street jogs with centerline offsets of less than 125 feet shall not be permitted.
 - l. Where parkways or special types of streets are involved, the Plan Commission may apply special standards to be followed in their design.
 - m. Whenever the proposed subdivision contains or is adjacent to a railroad right-of-way, an arterial or collector street, provision shall be made for a marginal access street, or a parallel street adjacent to such railroad right-of-way or arterial or collector street. As a

general principle, intersections of such marginal access streets or parallel one-quarter mile intervals with arterial streets, or at less than one-eighth mile intervals with collector streets.

- n. Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with other requirements of these regulations, and where the Plan Commission finds it will be proper to require the dedication of the other half when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be planned within such tract.
- o. A temporarily dead-ended street shall be permitted in any case in which a street is proposed to be and should logically be extended but is not yet constructed. An adequate easement for a turn-around shall be provided for any such temporary dead-end street which extends 200 feet or more in length. Such easement shall be automatically vacated to abutting property owners when such dead-ended street is legally extended.
- p. In subdivisions that adjoin or include existing streets that do not conform to the minimum right-of-way dimensions as established by the thoroughfare plan, the subdivider shall dedicate additional width along either one or both sides, of such streets or inadequate width so as to bring them up to standards, provided, the area to be used for widening is owned by the subdivider or under his or her control.
- q. Horizontal visibility on curved streets and vertical visibility on all streets must be maintained along the centerline as follows.

Local streets	200 feet
Arterial streets	500 feet
Collector streets	300 feet
- r. Curvature measure along the centerline shall have a minimum radius as follows.

Local streets	200 feet
Arterial streets	500 feet
Collector streets	300 feet
- s. Between reversed curves on arterial and collector streets there shall be a tangent of not less than 100 feet and on local streets such tangent shall be not less than 40 feet.
- t. Maximum grades for streets shall be as follows:

1. Arterial and Collector, not greater than 6%; and
 2. Local streets and alleys, not greater than 8%.
- u. The minimum grade of any street gutter shall not be less than 0.3%.
 - v. No street names may be used which will duplicate, or be confused with, the names of any existing streets unless such proposed streets are the logical extension or continuation of, or obviously in alignment with an existing platted street, in which case the proposed street shall bear the names of such existing streets.
 - w. The following paragraph shall be required as a provision of the restrictive covenants of all secondary plats to which they apply: "No fence, wall, hedge, tree, or shrub planting which obstructs sight lines and elevations between two and 12 feet above the street shall be placed or permitted to remain on any corner lot within the clear sight triangular area formed by the street right-of-way lines extended".
 - x. At the intersection of any proposed local street and arterial or collector streets, acceleration and deceleration lanes shall be provided in accordance with the specifications of the State Highway Commission.

B. Street improvements

1. Streets (and alleys where provided) shall be completed to grades shown on plans, profiles, and cross-sections, provided by the subdivider, and prepared by a registered professional engineer and approved by the Plan Commission.
2. The streets shall be graded, surfaced, and improved to the dimensions required by such plans, profiles and cross-sections and the work shall be performed in the manner prescribed in Standard Specifications current issue, of the Indiana State Department of Transportation.
3. Street materials.
 - a. The street pavement shall be of a Portland cement concrete or a flexible pavement of dimensions as shown on the illustration(s) in Highway Standard Drawings of Boone County Highway Department dated 2019.
 - b. Material types as set out in State Department of Transportation's Specifications, secondarily street design to be used on local streets serving industrial or commercial development.
4. Where collector and local streets are located within the subdivision as specified in the official thoroughfare plan as established by this chapter, the subdivider will construct such street

pavement in accordance with the requirements for local streets set forth in division (B)(3) above. For the purpose of constructing collector and local street pavements according to the design characteristics set forth in division (B)(3) above, the Plan Commission may use funds available for such purposes to participate with the subdivider in the cost of such construction; provided, however, that such participation shall be limited to that cost which is additional to the cost of constructing the required local street improvements.

5. Prior to placing the street and alley surfaces, adequate drainage for the street shall be provided by the subdivider. Culvert drainage pipe, when required, shall be coated corrugated metal pipe or a similar type not less than 12 inches in diameter approved by the Plan Commission. Upon the completion of the street and alley improvements, plans and profiles as built shall be filed with the Plan Commission. Longitudinal subgrade drainage shall be provided below the depth of the subgrade.
6. Curb and gutter.
 - a. The curb and gutter shall be installed on each side of the street surface.
 - b. All gutters and curbs shall be constructed in accordance with the latest adopted version of Boone County, IN Highway Department Standard Drawings.
 - c. All materials in the curb mix shall meet or exceed INDOT Standard Specifications Class A Concrete and a gradation report for all materials shall be furnished to the Highway Inspector prior to installation.
 - d. No concrete curb mix shall be placed below air temperatures of 40 degrees Fahrenheit.

B. Alleys

1. The minimum right of way of an alley, if provided, shall be sixteen (16) feet.
2. Alleys shall be paved full width to minimum local road standards.
3. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.
4. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the end, as determined by the Plan Commission.

C. Sidewalks and Pedestrian Facilities

1. All developments must have a pedestrian network of sidewalks and/or asphalt pathways for pedestrian transportation and recreation.

2. The pedestrian network shall be designed in a way that includes mobility options for people who are able-bodied and disabled.
3. All concrete sidewalks, asphalt pathways, and crosswalk improvements must comply with the requirements of Americans with Disabilities Act (ADA), as amended.
4. Required pedestrian pathways should be located within the right-of-way.
5. Sidewalks shall be installed on each side of the street.
6. All proposed sidewalks shall be at least five (5) feet in width or as required by the Americans with Disabilities Act (ADA).
7. All proposed sidewalks shall be constructed of Portland cement concrete and designed by standards found in the latest adopted version of Boone County, IN Highway Department Standard Drawings.
8. Curb ramps for handicapped accessibility must be provided at all intersections of streets, alleys, and drives (excluding individual residential driveways) and comply with ADA requirements. Curb ramps are not permitted in driveways.

D. Street Names and Numbers, Signs, and Traffic Control Devices

1. Street Names
 - a. No street names may be used which will duplicate, or be confused with, the names of any existing streets unless such proposed streets are the logical extension or continuation of, or obviously in alignment with an existing platted street, in which case the proposed street shall bear the names of such existing streets. Street names that may be spelled differently but sound the same as existing streets shall not be used.
 - b. The Plan Commission shall have the authority to name all streets in the case of conflict upon recommendation of the Technical Advisory Committee at the time of primary plat approval.
2. Street Signs
 - a. Streets must have the minimum number of street signs necessary to create a safe environment for drivers and pedestrians and convey information to efficiently find a certain street or address.
 - b. The subdivider shall provide the subdivision with standard county or town street signs at the intersection of all streets.

- c. Street signs must comply with the current edition of the Indiana Manual on Uniform Traffic Control Devices.
- d. Street names and regulatory signs must be installed prior to any street being opened to the public or the issuance of building permits within the development section.

3. Traffic Control Devices

The Town or County shall be responsible for the installation of all warning signs and other traffic control devices, except for those, which may be warranted in industrial and commercial areas. In such cases, the developer whose project has increased traffic to the degree that a signal may be warranted may be required to pay the cost of traffic signal installation and interconnection.

E. Street Lights

Street lights may be required to be installed throughout the subdivision and such installations shall conform to the requirements of the public utility providing such lighting.

F. Plans Approved for Acceptance and Dedication

1. **Acceptance**

All work must be acceptable to and meet all of the requirements of the Town or County pertaining to Maintenance Bond. Upon the completion of all improvements and installations as required by this Ordinance, the developer shall furnish the Town Council or County Commissioners with an engineer's certification that said improvements and installations have been constructed, installed, and completed in compliance with the requirements of this Ordinance.

2. **Specifications**

All work and materials shall meet the specification requirements of the Boone County Highway Department Standards and the Standard Specifications of the Indiana Department of Transportation.

3. **Bonds**

a. Town Jurisdiction

Prior to the approval of a proposed plat for subdividing land under the jurisdiction of the Town of Thorntown, the person or firm or corporation requesting the approval of said plat shall furnish a performance bond, a certified check, Certificate of Deposit or irrevocable letter of credit guaranteeing the completion of required infrastructure improvements in

the proposed development as set out in the plat tendered for approval. Said bond to be in the amount of 110% of the estimated cost of completion of the required public infrastructure improvements and which bond shall guarantee those said infrastructure improvements. (Minimum amount - \$1,000)

Prior to acceptance of construction and release of the performance surety, the person, firm, or corporation requesting the development shall file a maintenance bond or other accepted surety in the amount equal to 20% of the total construction costs of the required public improvements and which surety shall provide for a period of three years following the release of the performance surety.

b. Jurisdiction of the County

Reserved for the future use.

152.74 DRAINAGE, EROSION, AND SEDIMENT CONTROL

A. General requirements:

1. No changes shall be made in the contour of the land, or grading, excavating, removal, or destruction of the topsoil, trees, or other vegetative cover of the land shall be commenced until such time that a plan for minimizing erosion and sedimentation has been reviewed by the Building Inspector or there has been a determination by the Building Inspector that such plans are not necessary.
2. The proposed subdivision development shall meet the applicable criteria set forth in this section.
3. The cost of the installation and completion of necessary improvements for this purpose are included in the bond required under § 152.52(F); OR The Building Inspector determines that a plan for drainage and minimizing erosion and sedimentation is not necessary.
4. The Building Inspector shall be guided by the advice from the USDA Soil Conservation Service, County Soil and Water Conservation District, County Drainage Board, State Department of Natural Resources - Division of Water, and other agencies or officials offering technical assistance on the subject of soils, drainage, erosion, and sediment control. The application shall provide the information, report, or plan for his or her application, and any additional expense necessary to ensure adequate information, and any additional expense necessary to ensure adequate information report or plans shall be met by the applicant.

5. Measures used to control erosion and reduce sedimentation and to provide drainage shall as a minimum meet the standards and specifications of the Boone County Soil and Water Conservation District.
6. The plans for the installation of a drainage system shall be provided by the subdivider and shall be certified by a registered professional engineer. The plans shall be approved by the Plan Commission. Upon completion of the storm drainage system, the plans for such system as built shall be filed with the Utility Board, Plan Commission, and Boone County Surveyor.

B. Compliance with regulations and procedures

1. The design, installation, and maintenance of the required drainage facilities and erosion and sediment control measures shall be in accordance with the standards and specifications of the latest version of the Boone County Stormwater Management Ordinance and the Boone County Stormwater Technical Standards Manual.
2. Where such authority exists under the Indiana Drainage Code, (IC 36-9-27), approval of the Boone County Surveyor must be obtained for the proposed development prior to approval by the Plan Commission.
3. The approval of plans and specifications for the control of erosion and sedimentation shall be concurrent with the approval of the development, and shall become a part thereof.
4. Permission for clearing and grading prior to the approval of the development plan may be obtained under temporary easements or other conditions satisfactory to the Building Inspector.
5. In the event the applicant or developer proceeds to clear and grade prior to the approval of the subdivision or development plan, without satisfying conditions specified under division (F) above, the jurisdictional agency having authority over the approval of such subdivision or development plans may revoke the approval of all plans.

C. Performance principals

The following measures are effective in minimizing erosion and sedimentation and shall be included where applicable in the overall development plan:

1. Stripping of vegetation, regrading, or other development shall be done in such a way that will minimize erosion;

2. Development plans shall preserve prominent natural features, keep cut fill operations to a minimum, and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff;
3. Whenever feasible, natural vegetation shall be retained, protected, and supplemented;
4. The disturbed area and the duration of exposure shall be kept at a practical minimum;
5. Disturbed soils shall be stabilized as quickly as possible;
6. Temporary vegetation and mulching shall be used to protect exposed critical areas during development;
7. The permanent final vegetation and structural erosion control and drainage measures shall be installed as soon as practical in the development;
8. Provision shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development. Where necessary, the rate of surface water runoff will be structurally retarded; and
9. Sediment in the runoff water shall be trapped until the disturbed area is stabilized by the use of debris basins, sediment basins, silt traps, or similar measures.

D. Grading for drainage

In order to provide more suitable sites for building and other uses, improve surface drainage and control erosion, the following requirements shall be met.

1. The locations, grading, and placement or subgrade (base) material of all street, public driveway, and public parking areas shall be accomplished as the first work done on a development plan.
2. All lots, tracts, or parcels shall be graded to provide proper drainage away from the buildings and dispose of it without ponding, and all land within the development shall be graded to drain and dispose of surface water without ponding, except where approved by the Building Inspector.
3. All drainage provisions shall be of such design to adequately handle the surface runoff and carry it to the nearest suitable outlet such as a curbed street, storm drain, or natural watercourse. Where drainage swales are used to divert surface waters away from buildings, they shall be sodded or planted as required and shall be of such slope, shape, and size as to conform with the requirements of the Plan Commission.

4. Concentration of surface water runoff shall only be permitted in swales or watercourses.
5. Excavation and fills.
 - a. Cut and fill slopes shall not be steeper than three to one unless stabilized by a retaining wall or cribbing as approved by the Building Inspector when handled under special conditions.
 - b. Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surfaces of fills, by installation of temporary or permanent drainage across or above this area.
 - c. Cuts and fills shall not endanger adjoining property.
 - d. Fill shall be placed and compacted so as to minimize sliding or erosion of the soil.
 - e. Fills shall not encroach on natural watercourses or constructed channels.
 - f. Fills placed adjacent to natural watercourses or constructed channels shall have suitable protection against erosion during this period of construction.
 - g. Grading will not be done in such a way so as to divert water onto the property of another land owner without the expressed consent of the Building Inspector.
 - h. During grading operations, necessary measures for dust control will be exercised.
 - i. Grading equipment will not be allowed to cross live streams. Provision will be made for the installation of temporary or permanent culverts or bridges.

E. Responsibility

1. Whenever sedimentation is caused by stripping, vegetation, regrading, or other development activities, it shall be the responsibility of the applicant or person causing such sedimentation to remove it from all adjoining surfaces, drainage systems, and watercourses and to repair it from all adjoining surfaces, drainage systems, and watercourses and to repair any damage at his or her expense as quickly as possible.
2. Maintenance of all driveways, parking areas, drainage facilities, and watercourses within any development plan area is the responsibility of the applicant or developer; provided, that such facilities have not been dedicated to the public and accepted by the appropriate authority for public maintenance.
3. It is the responsibility of the applicant and any person doing any act on or across a communal stream, watercourse, or swale or upon the floodplain, floodway, or floodway fringe area of any

watercourse during the period of development to return these areas to their original or equal conditions upon completion of such activities.

4. No applicant or other person shall block, impede the flow of, alter, construct any structure, or deposit any material or thing, or commit any act which will affect normal or flood flow in any communal stream or watercourse without having obtained prior approval from the county drainage board and or the State Department of Natural Resources, Division of Water, whichever is applicable.
5. Where a development plan area is traversed by a watercourse, the total development of the watercourse shall be considered. There shall be provided a drainage easement or right-of-way conforming to the requirements of the State Drainage Code and approved by the County Surveyor.
6. Each applicant who makes any surface changes shall be required to:
 - a. Collect on-site surface runoff and dispose of it to the point of discharge into an adequate outlet;
 - b. Handle existing and potential off-site runoff through the development by designing to adequately handle storm runoff from a fully developed area upstream;
 - c. Pay his or her proportionate share of the total cost of off-site improvements to the common natural watercourse, based on a fully developed drainage area; and
 - d. Provide and install at his or her expense, in accordance with the requirements of the Building Inspector, all drainage and erosion control improvements (temporary and permanent) as required by the Building Inspector.
7. It is the responsibility of the applicant or owner to keep all major watercourses, not under the jurisdiction of any public agency, open and free flowing.
8. The applicant or owner will assume the responsibility for maintaining an open and free flowing condition in all minor streams, watercourses, and drainage systems, constructed or otherwise improved in accordance with this section, which are necessary for proper drainage.

152.75 SEWER FACILITIES

- A. The subdivider shall provide the subdivision with a complete sanitary sewer system which shall connect with an existing approved sanitary sewer outlet and install such facilities in accordance with these regulations.

- B. Sanitary sewers shall be located within the right-of-way or within a fifteen (15) foot easement in the front yard. The center of manhole covers shall be no more than twelve (12) feet from the back of curb.
- C. The subdivider shall submit plans for the installation of a sanitary sewer system during the primary plat review process or development plan review process. These plans shall be certified by a registered professional engineer. The plans shall be approved by the Plan Commission or its designees. Upon completion of the sanitary sewer installation, the plans for such system as built shall be filed with the Utility Board.
- D. The subdivider shall contact the Building Inspector or its designees to inspect the location of sewer facilities improvements.

152.76 WATER FACILITIES

- A. The subdivider shall provide the subdivision with a complete water supply system which shall connect with an existing approved water supply system outlet and install such facilities in accordance with these regulations.
- B. The plans for the installation of a water supply system shall be provided by the subdivider and shall be certified by a registered professional engineer. The plans shall be approved by the Plan Commission or its designees. Upon completion of the water supply system, the plans for such system as built shall be filed with the Utility Board.
- C. Where a public water main is accessible, the developer shall install adequate water lines and other facilities, including fire hydrants, subject to the specifications of State and local authorities. Upon completion of the installation of the water lines, they shall be inspected by the Building Inspector or its designees to assure proper installation.
- D. The location of fire hydrants and all water supply improvements shall be confirmed with the appropriate fire and/or engineering departments and shall be shown on the primary plat or development plan.

152.77 OTHER UTILITIES

- A. Location. All newly installed utility facilities, including but not limited to gas, electric power, telephone, and cables, shall be located underground wherever possible. Whenever existing utility facilities are located above ground, except when existing on public roads and rights-of-way, they

shall be removed and placed underground. Underground service connections to the street property line of each platted lot shall be installed at the developer's expense.

- B. Waiver of service connection to each lot. At the discretion of the Planning Commission, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.
- C. Easements. Easements provided for other private or municipal utilities shall be negotiated and accepted by those individual utilities. Easements shall be indicated on the plat or development plan.

152.78 PRESERVATION OF EXISTING NATURAL AND HISTORIC FEATURES

Existing natural and historic features that would add value to development or to the community as a whole, such as trees, watercourses and water bodies, wetlands, historic spots (buildings, structures, gardens, cemeteries, etc.), and similar irreplaceable assets, shall be preserved in the design of the development. No such feature shall be removed from any development nor any change of grade of the land affected until approval of the primary plat has been granted. These features shall be marked on the primary plat plan. If the developer wishes to change or remove these features, it shall show the features to be changed or removed on the plan. The reviewing authority shall decide whether the changes or removal of the features would be permitted.

152.79 STREET LANDSCAPING

- A. Canopy trees shall be planted as a public improvement along any new subdivision street between the sidewalk and the street curb, or between front property line and street curb if sidewalks are not provided. The cost of street trees and installation shall be born by the developer.
- B. Minimum number of trees. Developer shall provide at least 1 canopy tree per 50 linear feet of right-of-way.
- C. Spacing of the trees. The trees shall be spaced between 30 to 60 feet apart. Spacing is measured as distance between tree trunk's centers.
- D. A landscape plan for installing street trees and/or shrubs shall be developed by a certified Landscape Architect.
- E. In development of any landscape plan that includes trees or shrubs in the public right-of-way, consideration shall be given to mature height and spread; potential damage to sidewalks, street under-drains, curbs, and street pavements by root systems; maintenance requirements; tolerance

to pruning; and adaptability to the specific street environment, including heat, glare, snow and salt. Tree selection shall consider vertical clearance of branches sufficient to allow adequate room visually and physically for vehicles passing underneath.

- F. Shrubs shall be low growing and salt tolerant.
- G. The location of trees and shrubs at intersections shall permit clear sight distance between two (2) feet to ten (10) feet above the street and 100 feet in any direction of an intersection.
- H. Vegetation shall be selected with consideration for low maintenance requirements. All vegetation and its continued maintenance shall be the responsibility of the homeowner or homeowners' association.
- I. Minimum number of trees. Developer shall provide at least 1 tree per 50 linear feet of right-of-way.

152.80 NONRESIDENTIAL SUBDIVISIONS AND DEVELOPMENTS

- A. It is recognized that the subdivider in creating commercial or industrial subdivisions often faces unique problems of lot design not normally encountered in residential subdivisions. For this reason, the initial emphasis of the Plan Commission shall be upon street layout and block arrangement. Generally, the procedural requirements shall be for the owner to follow the regular procedure outlined in these regulations, however, the subdivider need show only two lots along with the street and block layout. Then, from time to time, as prospective buyers or users express interest in lots sized to their required specifications, the owner shall submit an amendment to the approved recorded subdivision plat for consideration.
- B. Regular procedural requirements of the Plan Commission following the receipt of a secondary plat shall then apply, except those streets that have been built by following an approved set of plans on the previously approved secondary plat shall not have to be rebuilt because of the adoption of new criteria by the Plan Commission. This shall also apply to storm drainage facilities within the subdivision unless runoff characteristics have been changed by the newly proposed improvements or by unauthorized existing improvements.

152.81. EASEMENTS

Where alleys are not provided, easements for utilities shall be provided. Such easements shall have minimum widths of 15 feet, and where located along rear lot lines, one-half the width shall be taken from each lot. In the case of lot extending to the boundary of the lands platted and not adjoining

another plat, the full width of the easements shall be provided on such peripheral lots. Before determining the location of easements, the plan shall be discussed with the local public utility companies to assure their proper placing for the installation of such services during TAC review.

REMEDIES, PENALTIES AND ENFORCEMENT

152.90-99

§152.99 PENALTY

Action on the violation of any provision of this chapter and the right of injunction against such violation shall be as provided by I.C. 36-7-4-1013 et seq.