City of Fort Wayne Common Council
DIGEST SHEET

Department of Planning Services

Title of Ordinance:	Zoning Ordinance Amendment
Case Number:	1245/11
Bill Number:	G-11-06-17
Council District:	all

Introduction Date:	June 28, 2011
Plan Commission Public Hearing Date:	June 13, 2011
Next Council Action:	Ordinance will return to Council after recommendation by the Plan Commission

Synopsis of Ordinance:	To reorganize the structure of the Zoning Ordinance (Chapter 157 of the Fort Wayne City Code) including minor language revisions, as the first phase of the overall Zoning Ordinance update project, which will reorganize and align the structure and language of both the Allen County and Fort Wayne Zoning Ordinances (Title 3 of the Allen County Code, and Chapter 157 of the Fort Wayne City Code) and the "General Planning" provisions (Title 2 of the Allen County Code, and Chapter 157 of the Fort Wayne City Code) for the Comprehensive Plan and the Transportation Plan
Location:	This amendment will affect Fort Wayne's entire planning jurisdiction
Reason for Request:	The ordinance update project is part of the continued implementation of the Plan-It Allen Comprehensive Plan; this is the first phase of that project
Applicant:	Fort Wayne Plan Commission

Related Petitions:	1244/11 and 1247/11

Effect of Passage:	The Zoning Ordinance (Chapter 157) will be reorganized and aligned
Effect of Non-Passage:	The Zoning Ordinance (Chapter 157) will not be reorganized and aligned, and the overall ordinance update project will be negatively impacted

#1245

BILL NO. G-11-06-17

ORDINANCE NO. 27-11

AN ORDINANCE amending Chapter 157
of the City of Fort Wayne Municipal Code

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the current Zoning Code Chapter 157, Sections 157.040 through 157.226, is hereby repealed; the Code is being revised as necessary and replaced in a reorganized format as follows:

CHAPTER 157: ZONING ORDINANCE

GENERAL PROVISIONS

§ 157.101 RESERVED.

§ 157.102 RESERVED.

§ 157.103 RESERVED.

§ 157.104 PURPOSE.

The regulations, requirements, standards, provisions, and procedures in this chapter are hereby established in accordance with the comprehensive plan of the City of Fort Wayne, for the purpose of:

(A) Securing adequate light, air, convenience of access, and safety from fire, flood, and other danger;

(B) Lessening or avoiding congestion in public ways;

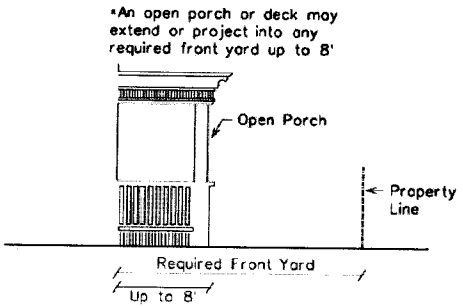
(C) Promoting the public health, safety, comfort, convenience, and general welfare;

(D) Otherwise accomplishing the purposes IC 36-7-4-600 Series, et. al., and this chapter; and, further, to

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

(F) Set forth the uses permitted in the City's residential, commercial, and industrial districts;

(G) Establish other permitted and prohibited land uses;



Permitted Yard Projections
(Porch or Deck into Front Yard)

(e) Exceptions to Yard Projections

(i) Commercial, Industrial, and Other Nonresidential Fences

A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard on a property with an existing primary structure. If there is no required front yard or if the building is considered to be legal nonconforming with regard to required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

(ii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

(5) Miscellaneous Provisions

In order to establish neighborhood centers that are compatible with other neighborhood uses, the following additional restrictions shall apply:

(a) Additional District Requirements

(i) The maximum gross floor area of the shopping center shall not exceed 25% of the net site area, or 200,000 square feet, whichever is less;

(ii) A major tenant space shall not exceed 70,000 square feet of gross floor area if there is not more than one major tenant; or

(iii) Up to two major tenants shall be permitted if each tenant space does not exceed 45,000 square feet of gross floor area; and

(iv) No single tenant space other than the permitted major tenants shall exceed 40,000 square feet.

(b) Exceptions to Additional District Requirements

To allow flexibility in shopping center development, the Plan Commission may grant requests for exceptions or waivers to the district requirements as set forth in §157.304. However, the Commission may not waive the 25% maximum site coverage by buildings or the maximum gross floor area of enclosed space for the entire center as set forth for each district. Exceptions or waivers may be granted as a part of Commission review and approval of a primary or amendment to a primary development plan, if the Commission finds that:

(i) The waiver or exception is in conformance with the purposes and intent of this chapter along with the goals, objectives, and policies of the City Comprehensive Plan;

(ii) The applicant has submitted adequate evidence in support of the requested waiver or exception; and

(iii) The requested waiver or exception will be compatible with the immediate area, and will not be unduly detrimental to the use and value of the area adjacent to the property included in the request.

§ 157.227 SC3, Metropolitan Shopping Center

(A) Purpose

The Shopping Center Districts are intended to create areas for the provision of adequate commercial facilities at suitable locations and of appropriate design, scale and intensity which will create a functional and compatible relationship with the immediate surroundings and community. It is intended that SC Districts be composed of different tenants and uses that serve the retail needs of the community. A single tenant or use may also exist if it satisfies the intent of the district. New single family residential uses are not permitted in SC Districts. In reviewing a proposal for a SC District, the Plan Commission shall consider the nature of the proposed use, the total size of the proposed project and the composition of existing development and zoning in the vicinity of the proposed SC District. Traffic generation, both pedestrian and vehicular and its impact on surrounding streets and highways will also be considered as part of the Commission's review process. All proposals in an SC District shall be subject to the provisions and requirements of §157.304 (Development Plans). The Metropolitan Shopping Center District is intended to serve a community of neighborhoods. Tenants and uses typically found in this type of center include retail and service oriented establishments such as department stores, discount stores, specialty stores, and similar medium to large scale retail uses.

(B) Permitted Uses

Permitted uses shall include all SC2 uses

(C) Special Uses

(1) Commercial communication towers, provided the Board finds the request to be in conformance with the following standards and requirements:

(a) In addition to meeting the requirements set forth in §157.404(C)(1)(b) the Board shall also find the following as a part of its approval:

(i) The proposed communications tower is reasonably necessary to serve the adjacent or nearby area; and

(ii) The applicant is unable to locate or co-locate on an existing structure.

(b) New communication towers approved by the Board of Zoning Appeals shall conform to the following development standards:

(i) The tower structure shall not exceed 150 feet in height,

(ii) The tower color shall be galvanized metal or similarly gray tone;

(iii) Guyed and self supporting lattice towers shall not be permitted;

(iv) The use of stealth technology shall be encouraged; and

(v) The setback requirement for towers shall be as follows. Setbacks shall be measured from the base of the town to the applicable property lines.

SETBACK REQUIREMENTS FOR TOWERS	
Front yard (including through lots)	75% of tower structure height
Side yard – interior lot line	50% of tower structure height
Side yard – street frontage side of corner lot	75% of tower structure height
Rear yard	50% of tower structure height

(c) A special use shall not be required for the location or co-location of antennas in any district on existing structures including but not limited to the following:

(i) rooftops of existing commercial, industrial, and institutional structures;
(ii) water towers;
(iii) church steeples;
(iv) electrical towers;
(v) communication towers;
(vi) other established utility structures; and
(vi) cabinets and shelters.

Antennae shall be permitted to extend up to 20 feet above the existing structure or up to a total height of 200 feet whichever is less. A Certificate of Compliance shall be obtained for all antennae locations and co-locations.

(D) Accessory Structures and Uses

(1) Purpose

The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar nonresidential facilities.

(2) Permitted Accessory Structures

The following non-residential accessory structures as defined in §157.410, shall be permitted provided the structures comply with the applicable setback, height, location, and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools;
(b) Arbors, trellises, or similar construction;
(c) Attached and detached decks or similar construction;
(d) Fences and walls;
(e) Freestanding satellite dishes and television aerials;
(f) Garbage dumpsters;
(g) Gazebos;
(h) Storage sheds; and
(i) Any other accessory structure which is placed on a permanent foundation.

(3) Permitted Accessory Uses

Non-residential accessory uses as defined in §157.410 shall be permitted provided the uses comply with the applicable setback, height, and other standards set forth in this subchapter with the following exceptions.

(a) Outdoor Display

(i) Nonresidential outdoor display shall only be permitted if the display complies with the applicable setback, location, and other standards and limitations set forth in this chapter.

(ii) Items, retail goods, or similar materials offered for sale (such as vehicles, equipment, or supplies) must be displayed on a paved or similar surface in accordance with the provisions of the Off-Street Parking subchapter of this chapter.

(iii) Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use, in accordance with the provisions herein.

(b) Outdoor Storage

(i) In any commercial or industrial district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, screening, buffering, and other standards and limitations set forth herein.

(ii) In any commercial or industrial district, the outdoor storage of wrecked, abandoned, dismantled, or inoperable vehicles shall be prohibited, except as an accessory use to a permitted primary use.

(E) Temporary Structures and Uses

(1) Temporary Accessory Structures

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use, subject to the following requirements:

(a) The temporary use shall only be permitted for a period of up to two years;

(b) The temporary use must meet the requirements outlined in §157.203(D)(2) for accessory structures;

(c) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit; and

(d) This subsection shall not apply mobile food service units, tents or similar structures.

(2) Temporary Primary Structures and Uses

Temporary or seasonal primary retail structures and/or uses shall be permitted as set forth in §157.104 (Permitted Uses). Such structures or uses shall be permitted on a vacant lot or development parcel, or on a lot or development parcel which has existing primary structure(s) or use(s) for up to four (4) months total in a twelve (12) month period. Any proposed temporary or seasonal primary retail structure shall conform to the following requirements:

(a) The structure shall conform with all of the applicable standards and requirements of this chapter, including minimum setback and parking requirements;

(b) Unless the proposed structure qualifies for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit;

(c) Tents or similar structures or facilities shall be permitted under this subsection; and

(d) This subsection shall not apply to mobile food service units.

(3) Temporary Special Events

Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(4) Mobile Food Service Units

(a) A mobile food service unit shall be permitted as a temporary accessory use to an existing permitted commercial (excluding professional office uses), industrial, or other nonresidential use or structure. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. In the event of a festival or similar use in a public park there shall be no limit on the number of times the unit shall be allowed on the site, however, the unit is limited to 14 days per event and the use must first be approved by the Fort Wayne - Allen County Department of Health.

(b) A mobile food service unit shall be permitted as a temporary primary use in any zoning district which permits a restaurant. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per

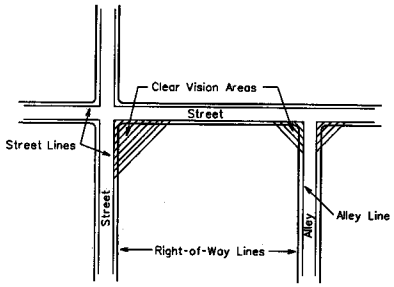
event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(F) Development Standards

(1) Corner Visibility

(a) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less than three (3) feet from the side property line which abuts a public right-of-way.

(2) Height

(a) Height Limitations

No building or structure, including accessory structures, shall be erected, altered, enlarged or reconstructed to exceed 35 feet; except that the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section.

(i) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols;

(ii) Parapet or fire walls;

(iii) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and

(iv) Roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

(3) Lot Area and Width

(a) Lot Area Standards

There shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(b) Lot Width Standards

There shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(4) Yard Requirements

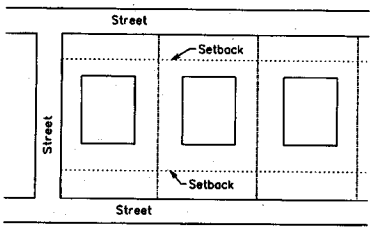
No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located, except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be a front yard for each lot, tract, or development parcel; the minimum depth shall be 50 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located.



Through Lot Front Setback Requirement

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;
(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Plat and Development Plan Front Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(b) Rear Yard Requirements

(i) Required Rear Yard

There shall be a rear yard for each lot, tract or development parcel; the minimum rear yard shall be 40 feet.

(ii) Plat and Development Plan Rear Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(iii) Nonresidential accessory structures

Nonresidential accessory structures may be located between the rear of the primary structure and the rear lot line, provided the accessory structure is located a minimum of five (5) feet from a side or rear property line, and provided the structure complies with any applicable screening or buffering provisions as set forth in §157.306 of this chapter.

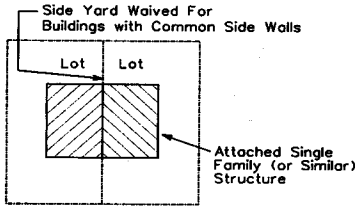
(c) Side Yard Requirements

(i) Required Side Yard

There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be 5 feet (subject to the provisions and exceptions noted in this division).

(ii) Side Yards Waived for Dwellings with Common Walls

Dwellings with common walls on a lot line (including single family attached residences, duplexes, and triplexes) shall be considered as one building occupying one lot for the purpose of determining side yard setback requirements.



Side Yard Waived

(iii) Waiver of Side Yard Requirements for Additions to Nonconforming Nonresidential Structures

The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

(iv) Plat and Development Plan Side Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

(v) Nonresidential accessory structures

Nonresidential accessory structures may be located beside a primary structure, provided the accessory structure meets the side and rear yard setback requirement, except that nonresidential dumpsters may be located a minimum of five (5) feet from a side property line, and is located no closer to the front lot line than the primary structure or the required front yard setback, whichever is less.

(vi) Nonresidential outdoor display

The following standards apply to uses permitted to have outdoor display unless further limited herein. Outdoor display shall not be permitted within the required front yard, or between the leading edge of any existing primary structure and the front property line, whichever distance is less; except in conjunction with the following uses. However, outdoor display shall be permitted in the required side and rear yards as an accessory use that is clearly incidental to a permitted primary use. On a corner lot, outdoor display shall not be permitted within the required side yard which abuts the side street.

(1) Department store with seasonal outdoor retail sales;
(2) Hardware store;
(3) Open lot Christmas tree sales, or other similar seasonal outdoor retail sales;
(4) Service stations, including automobile accessory stores, and similar automotive uses; and
(5) Similar retail uses.

(vii) Nonresidential outdoor storage

The following standards apply to uses permitted to have outdoor storage.

(1) In any commercial or industrial district, outdoor storage shall be not be permitted in any required front yard, or between the leading edge of any existing primary structure and the front property line.

(2) On an interior lot outdoor storage may be permitted in a required side or rear yard if contained within an approved screen meeting the requirements of §157.306.

(3) On a corner lot, outdoor storage shall not be permitted within the required side yard that abuts the side street. Permitted outdoor storage shall be contained within an approved screen meeting the requirements of §157.306.

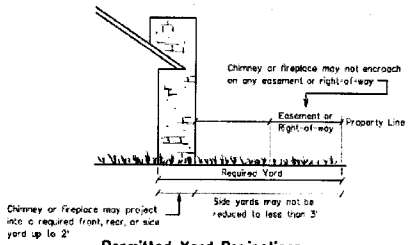
(4) In any commercial or industrial district, any automobile repair shop, body shop, or similar use which stores over ten (10) vehicles overnight shall screen the vehicle storage area as set forth in §157.306. The vehicle storage area may only be located within a side or rear yard.

(5) The outdoor storage of wrecked, dismantled, or inoperable vehicles shall only be permitted as a short-term (up to 30 days) accessory use to a permitted automobile repair shop, body shop, or similar use.

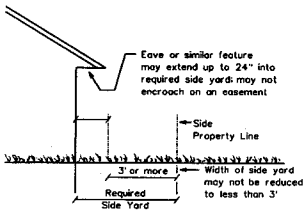
(d) Yard Projections

The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

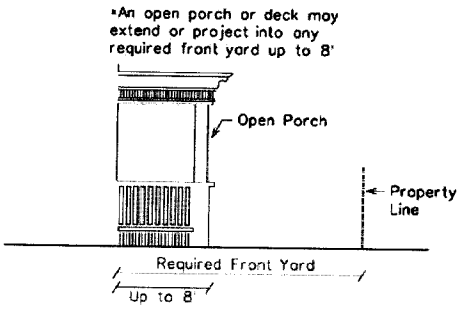
YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections (Chimneys and Fireplaces)



Permitted Yard Projections (Eave in Side Yard)



Permitted Yard Projections
(Porch or Deck into Front Yard)

(e) Exceptions to Yard Projections

(i) Commercial, Industrial, and Other Nonresidential Fences

A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard on a property with an existing primary structure. If there is no required front yard or if the building is considered to be legal nonconforming with regard to required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

(ii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

(5) Miscellaneous Provisions

In order to establish neighborhood centers that are compatible with other neighborhood uses, the following additional restrictions shall apply:

(a) Additional District Requirements

(i) The maximum gross floor area of the shopping center shall not exceed 25% of the net site area, or 300,000 square feet, whichever is less;

(ii) A major tenant space shall not exceed 110,000 square feet of gross floor area;

(iii) Up to two major tenants shall be permitted; and

(iv) No single tenant space other than the permitted major tenants shall exceed 70,000 square feet.

(b) Exceptions to Additional District Requirements

To allow flexibility in shopping center development, the Plan Commission may grant requests for exceptions or waivers to the district requirements as set forth in §157.304. However, the Commission may not waive the 25% maximum site coverage by buildings or the maximum gross floor area of enclosed space for the entire center as set forth for each district. Exceptions or waivers may be granted as a part of Commission review and approval of a primary or amendment to a primary development plan, if the Commission finds that:

(i) The waiver or exception is in conformance with the purposes and intent of this chapter along with the goals, objectives, and policies of the City Comprehensive Plan;

(ii) The applicant has submitted adequate evidence in support of the requested waiver or exception; and

(iii) The requested waiver or exception will be compatible with the immediate area, and will not be unduly detrimental to the use and value of the area adjacent to the property included in the request.

§ 157.228 SC4, Regional Shopping Center

(A) Purpose

The Shopping Center Districts are intended to create areas for the provision of adequate commercial facilities at suitable locations and of appropriate design, scale and intensity which will create a functional and compatible relationship with the immediate surroundings and community. It is intended that SC Districts be composed of different tenants and uses that serve the retail needs of the community. A single tenant or use may also exist if it satisfies the intent of the district. New single family residential uses are not permitted in SC Districts. In reviewing a proposal for a SC District, the Plan Commission shall consider the nature of the proposed use, the total size of the proposed project and the composition of existing development and zoning in the vicinity of the proposed SC District. Traffic generation, both pedestrian and vehicular and its impact on surrounding streets and highways will also be considered as part of the Commission's review process. All proposals in an SC District shall be subject to the provisions and requirements of §157.304 (Development Plans). The Regional Shopping Center District provides complete comparison and competitive shopping. The shopping center provides a wide variety of retail goods and services as well as a number of large, traffic generating uses.

(B) Permitted Uses

Permitted uses shall include all SC3 uses, along with arcades and automobile showrooms.

(C) Special Uses

(1) Commercial communication towers, provided the Board finds the request to be in conformance with the following standards and requirements:

(a) In addition to meeting the requirements set forth in §157.404(C)(1)(b) the Board shall also find the following as a part of its approval:

(i) The proposed communications tower is reasonably necessary to serve the adjacent or nearby area; and

(ii) The applicant is unable to locate or co-locate on an existing structure.

(b) New communication towers approved by the Board of Zoning Appeals shall conform to the following development standards:

(i) The tower structure shall not exceed 150 feet in height,

(ii) The tower color shall be galvanized metal or similarly gray tone;

(iii) Guyed and self supporting lattice towers shall not be permitted;

(iv) The use of stealth technology shall be encouraged; and

(v) The setback requirement for towers shall be as follows. Setbacks shall be measured from the base of the town to the applicable property lines.

SETBACK REQUIREMENTS FOR TOWERS	
Front yard (including through lots)	75% of tower structure height
Side yard – interior lot line	50% of tower structure height
Side yard – street frontage side of corner lot	75% of tower structure height
Rear yard	50% of tower structure height

(c) A special use shall not be required for the location or co-location of antennas in any district on existing structures including but not limited to the following:

(i) rooftops of existing commercial, industrial, and institutional structures;

(ii) water towers;

(iii) church steeples;

(iv) electrical towers;

(v) communication towers;

(vi) other established utility structures; and

(vi) cabinets and shelters.

Antennae shall be permitted to extend up to 20 feet above the existing structure or up to a total height of 200 feet whichever is less. A Certificate of Compliance shall be obtained for all antennae locations and co-locations.

(D) Accessory Structures and Uses

(1) Purpose

The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar nonresidential facilities.

(2) Permitted Accessory Structures

The following non-residential accessory structures as defined in §157.410, shall be permitted provided the structures comply with the applicable setback, height, location, and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools;
(b) Arbors, trellises, or similar construction;
(c) Attached and detached decks or similar construction;
(d) Fences and walls;
(e) Freestanding satellite dishes and television aerials;

(f) Garbage dumpsters;
(g) Gazebos;
(h) Storage sheds; and
(i) Any other accessory structure which is placed on a permanent foundation.

(3) Permitted Accessory Uses

Non-residential accessory uses as defined in §157.410 shall be permitted provided the uses comply with the applicable setback, height, and other standards set forth in this subchapter with the following exceptions.

(a) Outdoor Display

(i) Nonresidential outdoor display shall only be permitted if the display complies with the applicable setback, location, and other standards and limitations set forth in this chapter.

(ii) Items, retail goods, or similar materials offered for sale (such as vehicles, equipment, or supplies) must be displayed on a paved or similar surface in accordance with the provisions of the Off-Street Parking subchapter of this chapter.

(iii) Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use, in accordance with the provisions herein.

(b) Outdoor Storage

(i) In any commercial or industrial district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, screening, buffering, and other standards and limitations set forth herein.

(ii) In any commercial or industrial district, the outdoor storage of wrecked, abandoned, dismantled, or inoperable vehicles shall be prohibited, except as an accessory use to a permitted primary use.

(E) Temporary Structures and Uses

(1) Temporary Accessory Structures

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use, subject to the following requirements:

(a) The temporary use shall only be permitted for a period of up to two years;

(b) The temporary use must meet the requirements outlined in §157.228(D)(2) for accessory structures;

(c) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal

through the Site Plan Review process, prior to the issuance of an Improvement Location Permit; and

(d) This subsection shall not apply mobile food service units, tents or similar structures.

(2) Temporary Primary Structures and Uses

Temporary or seasonal primary retail structures and/or uses shall be permitted as set forth in §157.104 (Permitted Uses). Such structures or uses shall be permitted on a vacant lot or development parcel, or on a lot or development parcel which has existing primary structure(s) or use(s) for up to four (4) months total in a twelve (12) month period. Any proposed temporary or seasonal primary retail structure shall conform to the following requirements:

(a) The structure shall conform with all of the applicable standards and requirements of this chapter, including minimum setback and parking requirements;

(b) Unless the proposed structure qualifies for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit;

(c) Tents or similar structures or facilities shall be permitted under this subsection; and

(d) This subsection shall not apply to mobile food service units.

(3) Temporary Special Events

Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(4) Mobile Food Service Units

(a) A mobile food service unit shall be permitted as a temporary accessory use to an existing permitted commercial (excluding professional office uses), industrial, or other nonresidential use or structure. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. In the event of a festival or similar use in a public park there shall be no limit on the number of times the unit shall be allowed on the site, however, the unit is limited to 14 days per event and the use must first be approved by the Fort Wayne - Allen County Department of Health.

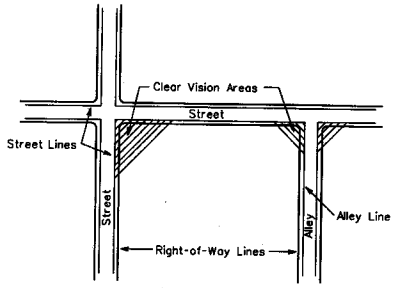
(b) A mobile food service unit shall be permitted as a temporary primary use in any zoning district which permits a restaurant. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(F) Development Standards

(1) Corner Visibility

(a) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less than three (3) feet from the side property line which abuts a public right-of-way.

(2) Height

(a) Height Limitations

No building or structure, including accessory structures, shall be erected, altered, enlarged or reconstructed to exceed 35 feet; except that the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section.

(i) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols;

(ii) Parapet or fire walls;

(iii) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and

(iv) Roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

(3) Lot Area and Width

(a) Lot Area Standards

There shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(b) Lot Width Standards

There shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(4) Yard Requirements

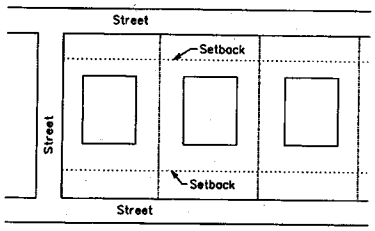
No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located, except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be a front yard for each lot, tract, or development parcel; the minimum depth shall be 50 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located.



Through Lot Front Setback Requirement

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;
(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Plat and Development Plan Front Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(b) Rear Yard Requirements

(i) Required Rear Yard

There shall be a rear yard for each lot, tract or development parcel; the minimum rear yard shall be 40 feet.

(ii) Plat and Development Plan Rear Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(iii) Nonresidential accessory structures

Nonresidential accessory structures may be located between the rear of the primary structure and the rear lot line, provided the accessory structure is located a minimum of five (5) feet from a side or rear property line, and provided the structure complies with any applicable screening or buffering provisions as set forth in §157.306 of this chapter.

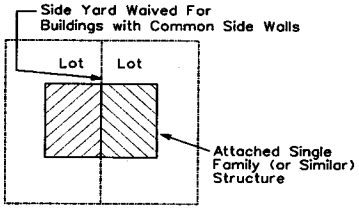
(c) Side Yard Requirements

(i) Required Side Yard

There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be 5 feet (subject to the provisions and exceptions noted in this division).

(ii) Side Yards Waived for Dwellings with Common Walls

Dwellings with common walls on a lot line (including single family attached residences, duplexes, and triplexes) shall be considered as one building occupying one lot for the purpose of determining side yard setback requirements.



Side Yard Waived

(iii) Waiver of Side Yard Requirements for Additions to Nonconforming Nonresidential Structures

The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

(iv) Plat and Development Plan Side Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

(v) Nonresidential accessory structures

Nonresidential accessory structures may be located beside a primary structure, provided the accessory structure meets the side and rear yard setback requirement, except that nonresidential dumpsters may be located a minimum of five (5) feet from a side property line, and is located no closer

to the front lot line than the primary structure or the required front yard setback, whichever is less.

(vi) Nonresidential outdoor display

The following standards apply to uses permitted to have outdoor display unless further limited herein. Outdoor display shall not be permitted within the required front yard, or between the leading edge of any existing primary structure and the front property line, whichever distance is less; except in conjunction with the following uses. However, outdoor display shall be permitted in the required side and rear yards as an accessory use that is clearly incidental to a permitted primary use. On a corner lot, outdoor display shall not be permitted within the required side yard which abuts the side street.

(1) Department store with seasonal outdoor retail sales;
(2) Hardware store;
(3) Open lot Christmas tree sales, or other similar seasonal outdoor retail sales;
(4) Service stations, including automobile accessory stores, and similar automotive uses; and
(5) Similar retail uses.

(vii) Nonresidential outdoor storage

The following standards apply to uses permitted to have outdoor storage.

(1) In any commercial or industrial district, outdoor storage shall be not be permitted in any required front yard, or between the leading edge of any existing primary structure and the front property line.

(2) On an interior lot outdoor storage may be permitted in a required side or rear yard if contained within an approved screen meeting the requirements of §157.306.

(3) On a corner lot, outdoor storage shall not be permitted within the required side yard that abuts the side street. Permitted outdoor storage shall be contained within an approved screen meeting the requirements of §157.306.

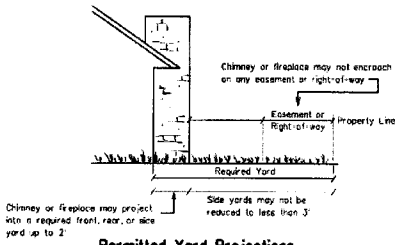
(4) In any commercial or industrial district, any automobile repair shop, body shop, or similar use which stores over ten (10) vehicles overnight shall screen the vehicle storage area as set forth in §157.306. The vehicle storage area may only be located within a side or rear yard.

(5) The outdoor storage of wrecked, dismantled, or inoperable vehicles shall only be permitted as a short-term (up to 30 days) accessory use to a permitted automobile repair shop, body shop, or similar use.

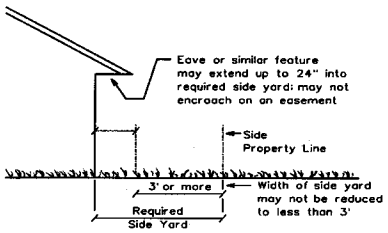
(d) Yard Projections

The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

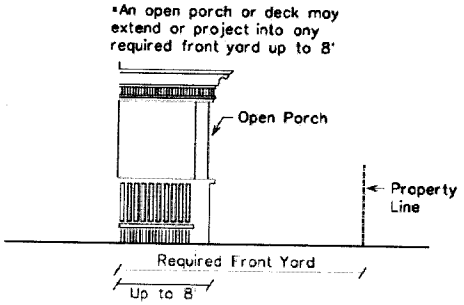
YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections
(Chimneys and Fireplaces)



Permitted Yard Projections
(Eave in Side Yard)



Permitted Yard Projections
(Porch or Deck into Front Yard)

(e) Exceptions to Yard Projections

(i) Commercial, Industrial, and Other Nonresidential Fences

A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard on a property with an existing primary structure. If there is no required front yard or if the building is considered to be legal nonconforming with regard to required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

(ii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

(8) Miscellaneous Provisions

In order to establish neighborhood centers that are compatible with other neighborhood uses, the following additional restrictions shall apply:

(a) Additional District Requirements

(i) The maximum gross floor area of the shopping center shall not exceed 25% of the net site area, although the overall site size is not limited;

(ii) Tenant space size and the number of major tenants allowed is unlimited; and

(iii) No repair, paint or body work shall be conducted in connection with any automobile showroom and there shall be no storage or display of vehicles outside of the building in a SC4 District.

(b) Exceptions to Additional District Requirements

To allow flexibility in shopping center development, the Plan Commission may grant requests for exceptions or waivers to the district requirements as set forth in §157.304. However, the Commission may not waive the 25% maximum site coverage by buildings or the maximum gross floor area of enclosed space for the entire center as set forth for each district. Exceptions or waivers may be granted as a part of Commission review and approval of a primary or amendment to a primary development plan, if the Commission finds that:

(i) The waiver or exception is in conformance with the purposes and intent of this chapter along with the goals, objectives, and policies of the City Comprehensive Plan;

(ii) The applicant has submitted adequate evidence in support of the requested waiver or exception; and

(iii) The requested waiver or exception will be compatible with the immediate area, and will not be unduly detrimental to the use and value of the area adjacent to the property included in the request.

§ 157.229 Reserved.

§ 157.230 IN1, Limited Industrial

(A) Purpose

The Limited Industrial District is intended to provide areas in which goods are produced for direct consumption by consumers. Limited industrial uses typically involve final assembly of goods produced from prepared materials, finished products or parts, or wholesale and/or storage activities. This district is intended for those industries which do not create adverse impacts on surrounding land uses. The IN1 District may serve as a buffer between heavier industrial districts and business or residential districts. Uses must conform with all federal, state and local environmental laws and regulations, including but not limited to air emissions, water discharge, and solid and hazardous waste generation and disposal. New single family residential uses are not permitted in IN zoning districts.

(B) Permitted Uses

The following uses are permitted in an IN1 District:

(1) all uses permitted in a CM4 District; excluding adult uses;
(2) accessory building and use;
(3) boat dry dock facility;
(4) carpentry, wood working, or cabinet shop;
(5) central dry cleaning plants or laundries;
(6) ceramic pottery, figurines, or other similar ceramic product fabrication;
(7) creamery and/or dairy;
(8) electrical receiving and transforming station;
(9) feed or grain storage;
(10) machine shops: metal anodizing, buffing, galvanizing, plating and/or polishing shops;
(11) metal molding and plastic molding and extrusion shops;
(12) motor vehicle repair facility not otherwise permitted;
(13) warehouse/distribution facilities for storage, wholesale, and distribution of manufactured products, supplies, and equipment, provided that storage is within an enclosed building (excluding auto wrecking, junk and salvage, automobile tires, scrap materials, or storage of materials that are flammable or explosive or that create hazardous or commonly recognized offensive conditions);
(14) tool and/or die shop;
(15) utility service yard; and
(16) welding shop.

(C) Special Uses

(1) Commercial communication towers (freestanding), provided the Board finds the request to be in conformance with the following standards and requirements:

(a) In addition to meeting the requirements set forth in §157.404(C)(1)(b) the Board shall also find the following as a part of its approval:

(i) The proposed communications tower is reasonably necessary to serve the adjacent or nearby area; and

(ii) The applicant is unable to locate or co-locate on an existing structure.

(b) New communication towers approved by the Board of Zoning Appeals shall conform to the following development standards:

(i) The tower structure shall not exceed 150 feet in height,

(ii) The tower color shall be galvanized metal or similarly gray tone;

(iii) Guyed and self supporting lattice towers shall not be permitted;

(iv) The use of stealth technology shall be encouraged; and

(v) The setback requirement for towers shall be as follows. Setbacks shall be measured from the base of the town to the applicable property lines.

SETBACK REQUIREMENTS FOR TOWERS	
Front yard (including through lots)	75% of tower structure height
Side yard – interior lot line	50% of tower structure height
Side yard – street frontage side of corner lot	75% of tower structure height
Rear yard	50% of tower structure height

(c) A special use shall not be required for the location or co-location of antennas in any district on existing structures including but not limited to the following:

(i) rooftops of existing commercial, industrial, and institutional structures;

(ii) water towers;

(iii) church steeples;

(iv) electrical towers;

(v) communication towers;

(vi) other established utility structures; and

(vi) cabinets and shelters.

Antennae shall be permitted to extend up to 20 feet above the existing structure or up to a total height of 200 feet whichever is less. A Certificate of Compliance shall be obtained for all antennae locations and co-locations.

(2) Off-premise signs, except for properties within areas where design guidelines have been adopted by the Plan Commission, to be between a 125 foot radius and a 350 foot radius from any city or county residential district, church, school, health care facility, historic district, designated historic structure, or property eligible for historic designation consistent with the following chart.

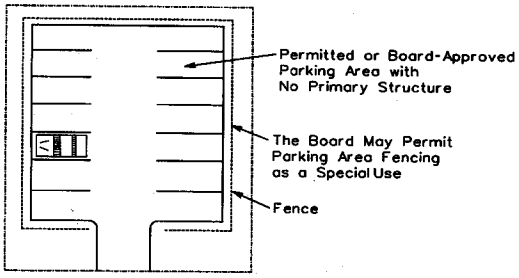
(a) In considering such a request, the Board will evaluate the height, location, and sightlines of the proposed sign and consider whether the sign would adversely affect the character of residential districts, churches, schools, health care facilities, designated historic structures, historic district, or property eligible for historic designation. The Board may impose reasonable conditions on the size, location, height and lighting of such a sign, to address any negative impact on the areas or uses noted above. Off-premise signs adjacent to historic districts, designated historic structures, or properties eligible for historic designation shall be located to ensure that all sightlines and vistas of historic features are maintained, and that such signs shall not negatively affect the historic integrity of such properties or structures.

(b) Concurrent with filing the petition with the Board of Zoning Appeals, the petitioner shall send a notice describing the proposal along with the date and time of the hearing to all property owners within a 350 foot radius of the petitioned location and any registered neighborhood associations having boundaries on the site or within a 350 foot radius of the site. A copy of the mailing list shall be submitted with the application.

OFF-PREMISE SIGNS AUTHORIZED FOR SPECIAL USES				
Zoning	**Maximum Sign Size (sq. ft.)**	**Maximum Height (feet)**	**Minimum Setback (feet)**	**Distances from Residential/Historic District, School, etc. (feet)**
CM2	100	35	15	125 - 350
CM3	100	35	15	125 - 350
CM4	300	35	20	125 - 350
IN1	100	35	15	125 - 350
IN2	300	35	20	125 - 350
IN3	675	35	30	125 - 350

(3) Off-site campus housing.

(4) Parking area fencing, as an accessory use to any permitted or Board approved public, customer, or employee parking area where there is no primary structure on the lot, tract, or development parcel. As part of its approval, the Board shall determine the location, height, and materials of the proposed fencing, subject to the visibility limitations herein.



Parking Area Fencing

(5) Railroad switching yards for truck trailers.

(D) Accessory Structures and Uses

(1) Purpose

The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar nonresidential facilities.

(2) Permitted Accessory Structures

The following non-residential accessory structures as defined in §157.410, shall be permitted provided the structures comply with the applicable setback, height, location, and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools;
(b) Arbors, trellises, or similar construction;
(c) Attached and detached decks or similar construction;
(d) Fences and walls;
(e) Freestanding satellite dishes and television aerials;
(f) Garbage dumpsters;
(g) Gazebos;
(h) Storage sheds; and
(i) Any other accessory structure which is placed on a permanent foundation.

(3) Permitted Accessory Uses

Non-residential accessory uses as defined in §157.410 shall be permitted provided the uses comply with the applicable setback, height, and other standards set forth in this subchapter with the following exceptions.

(a) Outdoor Display

(i) Nonresidential outdoor display shall only be permitted if the display complies with the applicable setback, location, and other standards and limitations set forth in this chapter.

(ii) Items, retail goods, or similar materials offered for sale (such as vehicles, equipment, or supplies) must be displayed on a paved or similar surface in accordance with the provisions of the Off-Street Parking subchapter of this chapter.

(iii) Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use, in accordance with the provisions herein.

(b) Outdoor Storage

(i) In any commercial or industrial district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, screening, buffering, and other standards and limitations set forth herein.

(ii) In any commercial or industrial district, the outdoor storage of wrecked, abandoned, dismantled, or inoperable vehicles shall be prohibited, except as an accessory use to a permitted primary use.

(E) Temporary Structures and Uses

(1) Temporary Accessory Structures

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use, subject to the following requirements:

(a) The temporary use shall only be permitted for a period of up to two years;

(b) The temporary use must meet the requirements outlined in §157.230(D)(2) for accessory structures;

(c) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit; and

(d) This subsection shall not apply mobile food service units, tents or similar structures.

(2) Temporary Primary Structures and Uses

Temporary or seasonal primary retail structures and/or uses shall be permitted as set forth in §157.104 (Permitted Uses). Such structures or uses shall be permitted on a vacant lot or development parcel, or on a lot or development parcel which has existing primary structure(s) or use(s) for up to four (4) months total in a twelve (12) month period. Any proposed temporary or seasonal primary retail structure shall conform to the following requirements:

(a) The structure shall conform with all of the applicable standards and requirements of this chapter, including minimum setback and parking requirements;

(b) Unless the proposed structure qualifies for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit;

(c) Tents or similar structures or facilities shall be permitted under this subsection; and

(d) This subsection shall not apply to mobile food service units.

(3) Temporary Special Events

Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(4) Mobile Food Service Units

(a) A mobile food service unit shall be permitted as a temporary accessory use to an existing permitted commercial (excluding professional office uses), industrial, or other nonresidential use or structure. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. In the event of a festival or similar use in a public park there shall be no limit on the number of times the unit shall be allowed on the site, however, the unit is limited to 14 days per event and the use must first be approved by the Fort Wayne - Allen County Department of Health.

(b) A mobile food service unit shall be permitted as a temporary primary use in any zoning district which permits a restaurant. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(c) A mobile food service unit shall be permitted as a temporary seasonal primary or accessory use. The unit shall be allowed on a site for a period of up to four (4) months, provided the use is first approved by the Fort Wayne - Allen County Department of Health and the applicant obtains an Improvement Location Permit. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(d) A mobile food service unit shall be permitted as a temporary primary or accessory use. The unit shall be allowed on a given site for a period of four (4) to twelve (12) months provided the use is first approved through the City's Site Plan Review process, and the applicant obtains an Improvement Location Permit.

(5) Temporary structures and uses in conjunction with approved construction and other development projects.

(a) Construction trailers shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall not be required; however, trailers shall be located in conformance with visibility standards set forth herein.

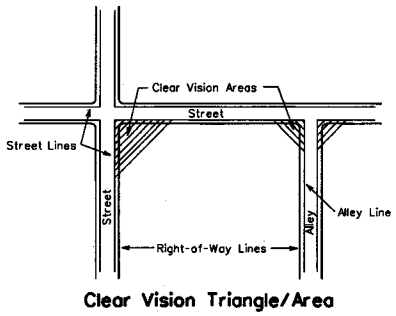
(b) Temporary sales/leasing trailer shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall be required. If the trailer contains water and/or sewer, it shall be required to be reviewed and approved through the Site Plan Review process.

(F) Development Standards

(1) Corner Visibility

(a) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less than three (3) feet from the side property line which abuts a public right-of-way.

(2) Height

(a) Height Limitations

No building or structure, including accessory structures, shall be erected, altered, enlarged or reconstructed to exceed 35 feet; except that the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section.

(i) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols;

(ii) Parapet or fire walls;

(iii) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and

(iv) Roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

(3) Lot Area and Width

(a) Residential Lot Area Standards

All new residential lots shall be a minimum of 6,000 square feet.

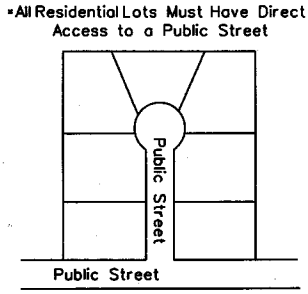
(b) Nonresidential Lot Area Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(c) Residential Lot Width Standards

All new residential lots shall be a minimum of 50 feet in width at the front building line. All residential lots, tracts, or development parcels shall have direct

access to an improved public street as defined in the Zoning Ordinance for purposes of vehicular traffic, off-street parking, utilities and other services such as mail delivery, garbage collection, fire and emergency units. The width of such frontage shall be uniform and be no less than the established minimum building line width. Other residential access provisions shall be allowed as established by the Commission's rules.



Direct Access To Public Streets

(d) Nonresidential Lot Width Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(e) Exceptions to Lot Area and Width Standards

Lots established by legally recorded plat or otherwise legally established as of March 1, 1955 which do not meet the minimum size requirements established by this section may still be used for any use permitted within the district in which the lot is located. However, all proposed structures shall meet the minimum setback and yard requirements.

(f) Waiver of Lot Area Standards

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may modify the minimum lot width and size requirements, at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(4) Yard Requirements

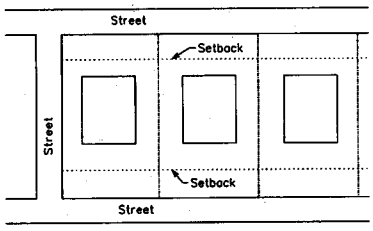
No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located (including maximum yard requirements where applicable), except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be a front yard for each lot, tract, or development parcel; the minimum depth shall be 25 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located.



Through Lot Front Setback Requirement

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;
(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Plat and Development Plan Front Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(b) Rear Yard Requirements

(i) Required Rear Yard

There shall be a rear yard for each lot, tract or development parcel; for residential uses, the minimum rear yard shall be 20% of the lot depth or 25 feet, whichever is less; for nonresidential uses, the minimum rear yard shall be 30 feet if the rear yard abuts a residential district, and 10 feet of the rear

yard does not abut a residential district (subject to the provisions and exceptions noted in this division).

(ii) Plat and Development Plan Rear Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(iii) Nonresidential accessory structures

Nonresidential accessory structures may be located between the rear of the primary structure and the rear lot line, provided the accessory structure is located a minimum of five (5) feet from a side or rear property line, and provided the structure complies with any applicable screening or buffering provisions as set forth in §157.306 of this chapter.

(c) Side Yard Requirements

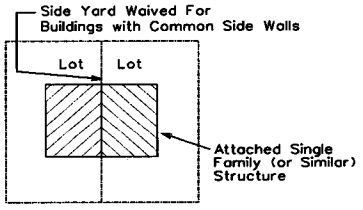
(i) Required Side Yard

There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be as listed in the following table (subject to the provisions and exceptions noted in this division).

Lot Type	**Required Side Yard**
All lots	10′ (if not adjacent to a residential district) 20′ (if adjacent to a residential district)

(ii) Side Yards Waived for Dwellings with Common Walls

Dwellings with common walls on a lot line(including single family attached residences, duplexes, and triplexes) shall be considered as one building occupying one lot for the purpose of determining side yard setback requirements.



Side Yard Waived

(iii) Waiver of Side Yard Requirements for Additions to Nonconforming Nonresidential Structures

The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

(iv) Plat and Development Plan Side Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

(v) Nonresidential accessory structures

Nonresidential accessory structures may be located beside a primary structure, provided the accessory structure meets the side and rear yard setback requirement, except that nonresidential dumpsters may be located a minimum of five (5) feet from a side property line, and is located no closer to the front lot line than the primary structure or the required front yard setback, whichever is less.

(vi) Nonresidential outdoor display

The following standards apply to uses permitted to have outdoor display unless further limited herein. Outdoor display shall not be permitted within the required front yard, or between the leading edge of any existing primary structure and the front property line, whichever distance is less; except in conjunction with the following uses. However, outdoor display shall be permitted in the required side and rear yards as an accessory use that is clearly incidental to a permitted primary use. On a corner lot, outdoor display shall not be permitted within the required side yard which abuts the side street.

(1) Agricultural implement sales;
(2) Building material sales yard;
(3) Cemetery monument sales;
(4) Department store with seasonal outdoor retail sales;
(5) Hardware store;
(6) Lawn and garden store;
(7) Light equipment rental/service;
(8) Motorized vehicle sales;
(9) Open lot Christmas tree sales, or other similar seasonal outdoor retail sales;
(10) Plant nurseries, or greenhouses;
(11) Recreational vehicle sales, including boats, trailers and mobile home sales;
(12) Retail feed store;
(13) Service stations, including automobile accessory stores, and similar automotive uses; and

(14) Similar retail uses.

(vii) Nonresidential outdoor storage

The following standards apply to uses permitted to have outdoor storage.

(1) In any commercial or industrial district, outdoor storage shall be not be permitted in any required front yard, or between the leading edge of any existing primary structure and the front property line.

(2) On an interior lot outdoor storage may be permitted in a required side or rear yard if contained within an approved screen meeting the requirements of §157.306.

(3) On a corner lot, outdoor storage shall not be permitted within the required side yard that abuts the side street. Permitted outdoor storage shall be contained within an approved screen meeting the requirements of §157.306.

(4) In any commercial or industrial district, any automobile repair shop, body shop, or similar use which stores over ten (10) vehicles overnight shall screen the vehicle storage area as set forth in §157.306. The vehicle storage area may only be located within a side or rear yard.

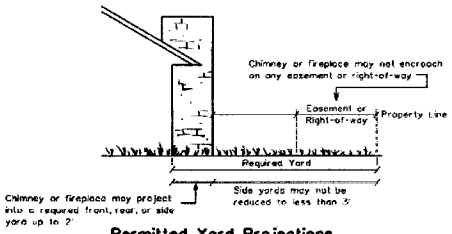
(5) The outdoor storage of wrecked, dismantled, or inoperable vehicles shall only be permitted as a short-term (up to 30 days) accessory use to a permitted automobile repair shop, body shop, or similar use.

(d) Yard Projections

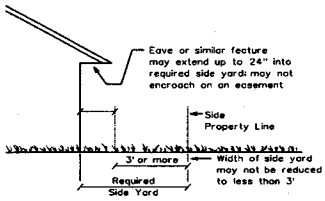
The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′

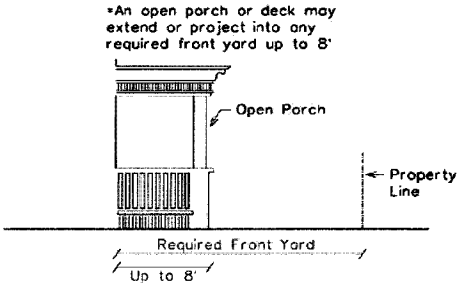
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections
(Chimneys and Fireplaces)



Permitted Yard Projections
(Eave in Side Yard)



Permitted Yard Projections
(Porch or Deck into Front Yard)

(e) Exceptions to Yard Projections

(i) Commercial, Industrial, and Other Nonresidential Fences

A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard on a property with an existing primary structure. If there is no required front yard or if the building is considered to be legal nonconforming with regard to required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

(ii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

§ 157.231 IN2, General Industrial

(A) Purpose

The General Industrial District is intended to provide areas for fabricating, manufacturing, and processing industries where the operation is enclosed within a building and conducted in such a manner that no adverse impacts are created or emitted outside of the building(s). Uses must conform with all federal, state and local environmental laws and regulations including but not limited to air emissions, water discharge, and solid and hazardous waste generation and disposal.

(B) Permitted Uses

The following uses are permitted in an IN2 District:

(1) all uses permitted in an IN1 District;

(2) accessory building and use;

(3) brewing and distilling;

(4) crematorium (animal or human);

(5) freight yard, truck depot or yard, or terminal;

(6) fuel yard, including bulk storage of petroleum products for local distribution, as distinguished from a petroleum products terminal for extensive storage and regional distributing purposes;

(7) manufacture, compounding, assembling, or treatment of articles or merchandise from previously prepared materials, excluding agricultural implements and machinery, aircraft, automobiles, boats, motorcycles, and recreational vehicles;

(8) manufacture, compounding, packaging, and processing of pharmaceutical products, household chemicals, cleaning products, ink, glue and sizing, paint, lacquers, shellac, varnish and reducers and removers, tanning materials, tar products and other similar products;

(9) manufacture of products, art goods, cosmetics and toiletries, baked goods, confections, ice cream, and non-alcoholic beverages, jewelry, clothing and garments, electrical appliances and fixtures, draperies, novelty articles, advertising displays, notions, tobacco products, gauges, jigs, optical goods, luggage and leather products, toys and household supplies, personal accessories, paper, wood, plastic, or rubber molded products;

(10) manufacture of metal products not otherwise listed which do not involve drop hammer or foundry work;

(11) manufacture and processing of food products such as, slaughtering, sugar refining, meat or fish processing, custom meat packing or butchering, poultry dressing, and similar processes including smoking, curing, or canning;

(12) motor vehicle towing service, excluding motor vehicle storage yard;

(13) painting of finished products;

(14) recycling processing facility (excluding outdoor storage); however, any use which meets the definition of a junk and salvage yard shall not be permitted; and

(15) sheet metal production fabrication, treatment or assembly of products, which does not involve forging, hammer or foundry work.

(C) Special Uses

(1) Commercial communication towers (freestanding), provided the Board finds the request to be in conformance with the following standards and requirements:

(a) In addition to meeting the requirements set forth in §157.404(C)(1)(b) the Board shall also find the following as a part of its approval:

(i) The proposed communications tower is reasonably necessary to serve the adjacent or nearby area; and

(ii) The applicant is unable to locate or co-locate on an existing structure.

(b) New communication towers approved by the Board of Zoning Appeals shall conform to the following development standards:

(i) The tower structure shall not exceed 150 feet in height,

(ii) The tower color shall be galvanized metal or similarly gray tone;

(iii) Guyed and self supporting lattice towers shall not be permitted;

(iv) The use of stealth technology shall be encouraged; and

(v) The setback requirement for towers shall be as follows. Setbacks shall be measured from the base of the town to the applicable property lines.

SETBACK REQUIREMENTS FOR TOWERS	
Front yard (including through lots)	75% of tower structure height
Side yard – interior lot line	50% of tower structure height
Side yard – street frontage side of corner lot	75% of tower structure height
Rear yard	50% of tower structure height

(c) A special use shall not be required for the location or co-location of antennas in any district on existing structures including but not limited to the following:

(i) rooftops of existing commercial, industrial, and institutional structures;

(ii) water towers;

(iii) church steeples;

(iv) electrical towers;

(v) communication towers;

(vi) other established utility structures; and

(vi) cabinets and shelters.

Antennae shall be permitted to extend up to 20 feet above the existing structure or up to a total height of 200 feet whichever is less. A Certificate of Compliance shall be obtained for all antennae locations and co-locations.

(2) Hazardous waste treatment, storage, and/or disposal facilities. A special use is required for a new hazardous waste treatment, storage, and/or disposal facility, or an expansion of an existing facility, where the proposed waste disposal area has not been previously approved by the Board or other applicable zoning authority.

(3) Motor vehicle storage yard, as either a primary use or an accessory use.

(4) Municipal solid waste landfill facilities. A special use is required for a new municipal solid waste landfill, or an expansion of an existing facility, where the proposed waste disposal area has not been previously approved by the Board or other applicable zoning authority.

(5) Off-premise signs, except for properties within areas where design guidelines have been adopted by the Plan Commission, to be between a 125 foot radius and a 350 foot radius from any city or county residential district, church, school, health care facility, historic district, designated historic structure, or property eligible for historic designation consistent with the following chart.

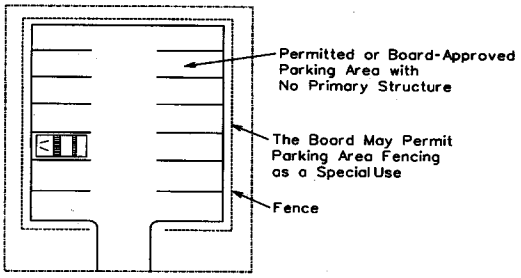
OFF-PREMISE SIGNS AUTHORIZED FOR SPECIAL USES				
Zoning	**Maximum Sign Size (sq. ft.)**	**Maximum Height (feet)**	**Minimum Setback (feet)**	**Distances from Residential/Historic District, School, etc. (feet)**
CM2	100	35	15	125 - 350
CM3	100	35	15	125 - 350
CM4	300	35	20	125 - 350
IN1	100	35	15	125 - 350
IN2	300	35	20	125 - 350
IN3	675	35	30	125 - 350

(a) In considering such a request, the Board will evaluate the height, location, and sightlines of the proposed sign and consider whether the sign would adversely affect the character of residential districts, churches, schools, health care facilities, designated historic structures, historic district, or property eligible for historic designation. The Board may impose reasonable conditions on the size, location, height and lighting of such a sign, to address any negative impact on the areas or uses noted above. Off-premise signs adjacent to historic districts, designated historic structures, or properties eligible for historic designation shall be located to ensure that all sightlines and vistas of historic features are

maintained, and that such signs shall not negatively affect the historic integrity of such properties or structures.

(b) Concurrent with filing the petition with the Board of Zoning Appeals, the petitioner shall send a notice describing the proposal along with the date and time of the hearing to all property owners within a 350 foot radius of the petitioned location and any registered neighborhood associations having boundaries on the site or within a 350 foot radius of the site. A copy of the mailing list shall be submitted with the application.

(6) Parking area fencing may be permitted by the Board, as an accessory use to any permitted or Board approved public, customer, or employee parking area where there is no primary structure on the lot, tract, or development parcel. As part of its approval, the Board shall determine the location, height, and materials of the proposed fencing, subject to the visibility limitations herein.



Parking Area Fencing

(7) Railroad switching yards for truck trailers.

(8) Solid waste transfer stations.

(9) Waste management and remediation facilities.

(D) Accessory Structures and Uses

(1) Purpose

The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar nonresidential facilities.

(2) Permitted Accessory Structures

The following non-residential accessory structures as defined in §157.410, shall be permitted provided the structures comply with the applicable setback, height, location, and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools;
(b) Arbors, trellises, or similar construction;
(c) Attached and detached decks or similar construction;

(d) Fences and walls;
(e) Freestanding satellite dishes and television aerials;
(f) Garbage dumpsters;
(g) Gazebos;
(h) Storage sheds; and
(i) Any other accessory structure which is placed on a permanent foundation.

(3) Permitted Accessory Uses

Non-residential accessory uses as defined in §157.410 shall be permitted provided the uses comply with the applicable setback, height, and other standards set forth in this subchapter with the following exceptions.

(a) Outdoor Display

(i) Nonresidential outdoor display shall only be permitted if the display complies with the applicable setback, location, and other standards and limitations set forth in this chapter.

(ii) Items, retail goods, or similar materials offered for sale (such as vehicles, equipment, or supplies) must be displayed on a paved or similar surface in accordance with the provisions of the Off-Street Parking subchapter of this chapter.

(iii) Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use, in accordance with the provisions herein.

(b) Outdoor Storage

(i) In any commercial or industrial district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, screening, buffering, and other standards and limitations set forth herein.

(ii) In any commercial or industrial district, the outdoor storage of wrecked, abandoned, dismantled, or inoperable vehicles shall be prohibited, except as an accessory use to a permitted primary use.

(E) Temporary Structures and Uses

(1) Temporary Accessory Structures

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use, subject to the following requirements:

(a) The temporary use shall only be permitted for a period of up to two years;

(b) The temporary use must meet the requirements outlined in §157.231(D)(2) for accessory structures;

(c) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit; and

(d) This subsection shall not apply mobile food service units, tents or similar structures.

(2) Temporary Primary Structures and Uses

Temporary or seasonal primary retail structures and/or uses shall be permitted as set forth in §157.104 (Permitted Uses). Such structures or uses shall be permitted on a vacant lot or development parcel, or on a lot or development parcel which has existing primary structure(s) or use(s) for up to four (4) months total in a twelve (12) month period. Any proposed temporary or seasonal primary retail structure shall conform to the following requirements:

(a) The structure shall conform with all of the applicable standards and requirements of this chapter, including minimum setback and parking requirements;

(b) Unless the proposed structure qualifies for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit;

(c) Tents or similar structures or facilities shall be permitted under this subsection; and

(d) This subsection shall not apply to mobile food service units.

(3) Temporary Special Events

Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(4) Mobile Food Service Units

(a) A mobile food service unit shall be permitted as a temporary accessory use to an existing permitted commercial (excluding professional office uses), industrial, or other nonresidential use or structure. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. In the event of a festival or similar use in a public park there shall be no limit on the number of times the unit shall be allowed on the site, however, the unit is limited to 14 days per event and the use must first be approved by the Fort Wayne - Allen County Department of Health.

(b) A mobile food service unit shall be permitted as a temporary primary use in any zoning district which permits a restaurant. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(c) A mobile food service unit shall be permitted as a temporary seasonal primary or accessory use. The unit shall be allowed on a site for a period of up to four (4) months, provided the use is first approved by the Fort Wayne - Allen County Department of Health and the applicant obtains an Improvement Location Permit. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(d) A mobile food service unit shall be permitted as a temporary primary or accessory use. The unit shall be allowed on a given site for a period of four (4) to twelve (12) months provided the use is first approved through the City's Site Plan Review process, and the applicant obtains an Improvement Location Permit.

(5) Temporary structures and uses in conjunction with approved construction and other development projects.

(a) Construction trailers shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall not be required; however, trailers shall be located in conformance with visibility standards set forth in 157.231(F).

(b) Temporary sales/leasing trailer shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall be required. If the trailer contains water and/or sewer, it shall be required to be reviewed and approved through the Site Plan Review process.

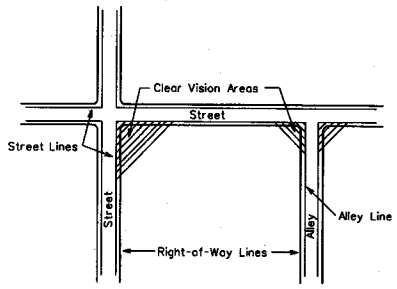
(F) Development Standards

(1) Corner Visibility

(a) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in

accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less than three (3) feet from the side property line which abuts a public right-of-way.

(2) Height

(a) Height Limitations

No building or structure, including accessory structures, shall be erected, altered, enlarged or reconstructed to exceed 50 feet; except that the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section.

(i) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols;

(ii) Parapet or fire walls;

(iii) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and

(iv) Roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

(3) Lot Area and Width

(a) Nonresidential Lot Area Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(b) Nonresidential Lot Width Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(c) Exceptions to Lot Area and Width Standards

Lots established by legally recorded plat or otherwise legally established as of March 1, 1955 which do not meet the minimum size requirements established by this section may still be used for any use permitted within the district in which the lot is located. However, all proposed structures shall meet the minimum setback and yard requirements.

(d) Waiver of Lot Area Standards

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may modify the minimum lot width and size requirements, at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(4) Yard Requirements

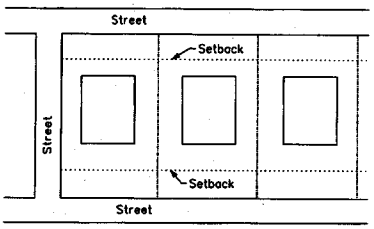
No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located, except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be a front yard for each lot, tract, or development parcel; the minimum depth shall be 25 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located.



Through Lot Front Setback Requirement

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;
(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Plat and Development Plan Front Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(b) Rear Yard Requirements

(i) Required Rear Yard

There shall be a rear yard for each lot, tract or development parcel; for residential uses, the minimum rear yard shall be 20% of the lot depth or 25 feet, whichever is less; for nonresidential uses, the minimum rear yard shall be 30 feet if the rear yard abuts a residential district, and 10 feet of the rear yard does not abut a residential district (subject to the provisions and exceptions noted in this division).

(ii) Plat and Development Plan Rear Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(iii) Nonresidential accessory structures

Nonresidential accessory structures may be located between the rear of the primary structure and the rear lot line, provided the accessory structure is located a minimum of five (5) feet from a side or rear property line, and provided the structure complies with any applicable screening or buffering provisions as set forth in §157.306 of this chapter.

(c) Side Yard Requirements

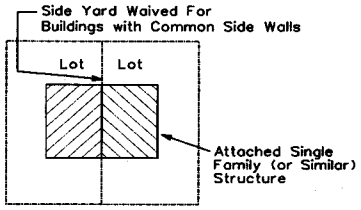
(i) Required Side Yard

There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be as listed in the following table (subject to the provisions and exceptions noted in this division).

Lot Type	**Required Side Yard**
All lots	10′ 20′ (if adjacent to a residential district)

(ii) Side Yards Waived for Dwellings with Common Walls

Dwellings with common walls on a lot line(including single family attached residences, duplexes, and triplexes) shall be considered as one building occupying one lot for the purpose of determining side yard setback requirements.



Side Yard Waived

(iii) Waiver of Side Yard Requirements for Additions to Nonconforming Nonresidential Structures

The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

(iv) Plat and Development Plan Side Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

(v) Nonresidential accessory structures

Nonresidential accessory structures may be located beside a primary structure, provided the accessory structure meets the side and rear yard setback requirement, except that nonresidential dumpsters may be located a minimum of five (5) feet from a side property line, and is located no closer to the front lot line than the primary structure or the required front yard setback, whichever is less.

(vi) Nonresidential outdoor display

The following standards apply to uses permitted to have outdoor display unless further limited herein. Outdoor display shall not be permitted within the required front yard, or between the leading edge of any existing primary structure and the front property line, whichever distance is less; except in conjunction with the following uses. However, outdoor display shall be permitted in the required side and rear yards as an accessory use that is clearly incidental to a permitted primary use. On a corner lot, outdoor display shall not be permitted within the required side yard which abuts the side street.

(1) Agricultural implement sales;
(2) Building material sales yard;
(3) Cemetery monument sales;
(4) Department store with seasonal outdoor retail sales;
(5) Hardware store;
(6) Lawn and garden store;
(7) Light equipment rental/service;
(8) Motorized vehicle sales;
(9) Open lot Christmas tree sales, or other similar seasonal outdoor retail sales;
(10) Plant nurseries, or greenhouses;
(11) Recreational vehicle sales, including boats, trailers and mobile home sales;
(12) Retail feed store;
(13) Service stations, including automobile accessory stores, and similar automotive uses; and
(14) Similar retail uses.

(vii) Nonresidential outdoor storage

The following standards apply to uses permitted to have outdoor storage.

(1) In any commercial or industrial district, outdoor storage shall be not be permitted in any required front yard, or between the leading edge of any existing primary structure and the front property line.

(2) On an interior lot outdoor storage may be permitted in a required side or rear yard if contained within an approved screen meeting the requirements of §157.306.

(3) On a corner lot, outdoor storage shall not be permitted within the required side yard that abuts the side street. Permitted outdoor storage shall be contained within an approved screen meeting the requirements of §157.306.

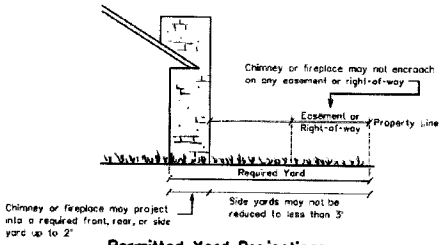
(4) In any commercial or industrial district, any automobile repair shop, body shop, or similar use which stores over ten (10) vehicles overnight shall screen the vehicle storage area as set forth in §157.306. The vehicle storage area may only be located within a side or rear yard.

(5) The outdoor storage of wrecked, dismantled, or inoperable vehicles shall only be permitted as a short-term (up to 30 days) accessory use to a permitted automobile repair shop, body shop, or similar use.

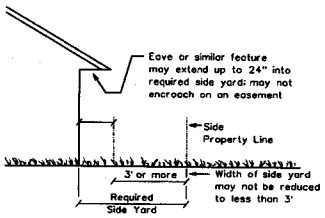
(d) Yard Projections

The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

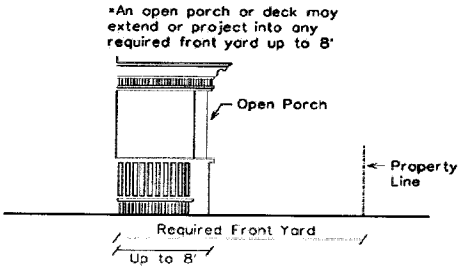
YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections
(Chimneys and Fireplaces)



Permitted Yard Projections
(Eave in Side Yard)



Permitted Yard Projections
(Porch or Deck into Front Yard)

(e) Exceptions to Yard Projections

(i) Commercial, Industrial, and Other Nonresidential Fences

A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard on a property with an existing primary structure. If there is no required front yard or if the building is considered to be legal nonconforming with regard to required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

(ii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

§ 157.232 IN3, Intensive Industrial

(A) Purpose

The Heavy Industrial District is intended to provide areas for intense industrial uses such as fabricating, manufacturing, processing, extraction, heavy repair and dismantling industries where outside operations and storage areas may be required. Due to the nature of these industries, districts are typically located away from residential areas and districts. IN3 Districts should be buffered by less intensive industrial or commercial districts to minimize adverse impacts on surrounding land uses. Uses must conform with all federal, state and local environmental laws and regulations including but not limited to air emissions, water discharge, and solid and hazardous waste generation and disposal.

(B) Permitted Uses

The following uses are permitted in an IN3 District:

(1) all uses permitted in an IN2 District;

(2) accessory building and use;

(3) chemical or gas manufacturing not otherwise listed;

(4) fabricating, manufacturing and processing industries, not otherwise listed;

(5) forging, drop hammer, and foundry uses;

(6) fuel refinery or refining of petroleum products;

(7) fuel yard for the bulk storage of petroleum products for region-wide distribution;

(8) leather processing facility/tannery;

(9) manufacture and/or assembly of agricultural implements and machinery, aircraft, automobiles, boats, motorcycles, recreational vehicles, and any associated parts;

(10) manufacture of brick, refractory, and clay products not otherwise listed;

(11) manufacture of chemicals not otherwise listed such as ammonia, acetylene, carbide, carbon black, caustic soda, cellulose, fertilizer, hydrogen, nitrates, oxygen, plastics, propylene, potash, synthetic resins, and turpentine;

(12) manufacture of ready-mix concrete, plaster, or asphalt;

(13) manufactured home construction facility;

(14) metal casing and fabrication, including ferrous metals;

(15) recycling processing facility (including outdoor storage), however any use which meets the definition of a junk and salvage yard shall not be permitted;

(16) sawmill or planing mill for the processing of timber or lumber;

(17) tire or rubber manufacturing; and

(18) warehouse/distribution facilities for storage, wholesale, and distribution of manufactured products, supplies, and equipment.

(C) Special Uses

(1) Commercial communication towers (freestanding), provided the Board finds the request to be in conformance with the following standards and requirements:

(a) In addition to meeting the requirements set forth in §157.404(C)(1)(b) the Board shall also find the following as a part of its approval:

(i) The proposed communications tower is reasonably necessary to serve the adjacent or nearby area; and

(ii) The applicant is unable to locate or co-locate on an existing structure.

(b) New communication towers approved by the Board of Zoning Appeals shall conform to the following development standards:

(i) The tower structure shall not exceed 150 feet in height,

(ii) The tower color shall be galvanized metal or similarly gray tone;

(iii) Guyed and self supporting lattice towers shall not be permitted;

(iv) The use of stealth technology shall be encouraged; and

(v) The setback requirement for towers shall be as follows. Setbacks shall be measured from the base of the town to the applicable property lines.

SETBACK REQUIREMENTS FOR TOWERS	
Front yard (including through lots)	75% of tower structure height
Side yard – interior lot line	50% of tower structure height
Side yard – street frontage side of corner lot	75% of tower structure height
Rear yard	50% of tower structure height

(c) A special use shall not be required for the location or co-location of antennas in any district on existing structures including but not limited to the following:

(i) rooftops of existing commercial, industrial, and institutional structures;

(ii) water towers;

(iii) church steeples;

(iv) electrical towers;

(v) communication towers;

(vi) other established utility structures; and

(vi) cabinets and shelters.

Antennae shall be permitted to extend up to 20 feet above the existing structure or up to a total height of 200 feet whichever is less. A Certificate of Compliance shall be obtained for all antennae locations and co-locations.

(2) Hazardous waste treatment, storage, and/or disposal facilities. A special use is required for a new hazardous waste treatment, storage, and/or disposal facility, or an expansion of an existing facility, where the proposed waste disposal area has not been previously approved by the Board or other applicable zoning authority.

(3) Junk and salvage yards, provided that the following conditions are met:

(a) No portion of the property used as a junk and/or salvage yard shall be located any closer than 300 feet from any city or county residential zoning district;

(b) All outdoor storage shall be located entirely within an enclosed seven-foot-high opaque visual barrier, except for driveway openings onto public streets or alleys. At such openings, the screen shall extend perpendicular to the perimeter screen a distance equal to the gap in the perimeter screen on each side of the opening;

(c) The opaque visual barrier shall be constructed along the front, side and rear lot lines and shall be constructed in such a manner that no outdoor storage or salvage material shall be visible from an adjacent property. Any storage between the visual barrier and any property line is prohibited;

(d) A minimum lot area of five (5) acres shall be required for any junk and salvage yard. The minimum dimension across the lot in any direction between two parallel or substantially parallel lot lines shall not be less than 300 feet;

(e) No junk and salvage yard shall be located in any designated floodplain and/or wetland areas; and

(f) The junk and salvage yard shall comply with all applicable fire and building codes.

(4) Motor vehicle storage yard, as either a primary use or an accessory use.

(5) Municipal solid waste landfill facilities. A special use is required for a new municipal solid waste landfill, or an expansion of an existing facility, where the proposed waste disposal area has not been previously approved by the Board or other applicable zoning authority.

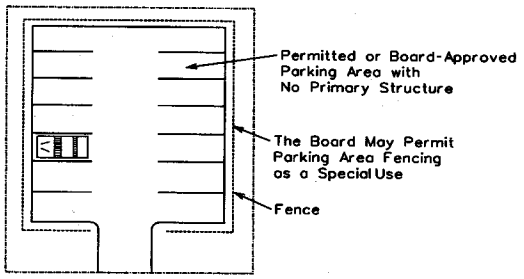
(6) Off-premise signs, except for properties within areas where design guidelines have been adopted by the Plan Commission, to be between a 125 foot radius and a 350 foot radius from any city or county residential district, church, school, health care facility, historic district, designated historic structure, or property eligible for historic designation consistent with the following chart.

OFF-PREMISE SIGNS AUTHORIZED FOR SPECIAL USES				
Zoning	**Maximum Sign Size (sq. ft.)**	**Maximum Height (feet)**	**Minimum Setback (feet)**	**Distances from Residential/Historic District, School, etc. (feet)**
CM2	100	35	15	125 – 350
CM3	100	35	15	125 - 350
CM4	300	35	20	125 - 350
IN1	100	35	15	125 - 350
IN2	300	35	20	125 - 350
IN3	675	35	30	125 - 350

(a) In considering such a request, the Board will evaluate the height, location, and sightlines of the proposed sign and consider whether the sign would adversely affect the character of residential districts, churches, schools, health care facilities, designated historic structures, historic district, or property eligible for historic designation. The Board may impose reasonable conditions on the size, location, height and lighting of such a sign, to address any negative impact on the areas or uses noted above. Off-premise signs adjacent to historic districts, designated historic structures, or properties eligible for historic designation shall be located to ensure that all sightlines and vistas of historic features are maintained, and that such signs shall not negatively affect the historic integrity of such properties or structures.

(b) Concurrent with filing the petition with the Board of Zoning Appeals, the petitioner shall send a notice describing the proposal along with the date and time of the hearing to all property owners within a 350 foot radius of the petitioned location and any registered neighborhood associations having boundaries on the site or within a 350 foot radius of the site. A copy of the mailing list shall be submitted with the application.

(7) Parking area fencing may be permitted by the Board, as an accessory use to any permitted or Board approved public, customer, or employee parking area where there is no primary structure on the lot, tract, or development parcel. As part of its approval, the Board shall determine the location, height, and materials of the proposed fencing, subject to the visibility limitations herein.



Parking Area Fencing

(8) Railroad switching yards for truck trailers.

(9) Solid waste transfer stations.

(10) Waste management and remediation facilities.

(D) Accessory Structures and Uses

(1) Purpose

The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar nonresidential facilities.

(2) Permitted Accessory Structures

The following non-residential accessory structures as defined in §157.410, shall be permitted provided the structures comply with the applicable setback, height, location, and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools;
(b) Arbors, trellises, or similar construction;
(c) Attached and detached decks or similar construction;
(d) Fences and walls;
(e) Freestanding satellite dishes and television aerials;
(f) Garbage dumpsters;
(g) Gazebos;
(h) Storage sheds; and
(i) Any other accessory structure which is placed on a permanent foundation.

(3) Permitted Accessory Uses

Non-residential accessory uses as defined in §157.410 shall be permitted provided the uses comply with the applicable setback, height, and other standards set forth in this subchapter with the following exceptions.

(a) Outdoor Display

(i) Nonresidential outdoor display shall only be permitted if the display complies with the applicable setback, location, and other standards and limitations set forth in this chapter.

(ii) Items, retail goods, or similar materials offered for sale (such as vehicles, equipment, or supplies) must be displayed on a paved or similar surface in accordance with the provisions of the Off-Street Parking subchapter of this chapter.

(iii) Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use, in accordance with the provisions herein.

(b) Outdoor Storage

(i) In any commercial or industrial district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, screening, buffering, and other standards and limitations set forth herein.

(ii) In any commercial or industrial district, the outdoor storage of wrecked, abandoned, dismantled, or inoperable vehicles shall be prohibited, except as an accessory use to a permitted primary use.

(E) Temporary Structures and Uses

(1) Temporary Accessory Structures

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use, subject to the following requirements:

(a) The temporary use shall only be permitted for a period of up to two years;

(b) The temporary use must meet the requirements outlined in §157.232(D)(2) for accessory structures;

(c) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit; and

(d) This subsection shall not apply mobile food service units, tents or similar structures.

(2) Temporary Primary Structures and Uses

Temporary or seasonal primary retail structures and/or uses shall be permitted as set forth in §157.104 (Permitted Uses). Such structures or uses shall be permitted on a vacant lot or development parcel, or on a lot or development parcel which has existing primary structure(s) or use(s) for up to four (4) months total in a twelve (12) month period. Any proposed temporary or seasonal primary retail structure shall conform to the following requirements:

(a) The structure shall conform with all of the applicable standards and requirements of this chapter, including minimum setback and parking requirements;

(b) Unless the proposed structure qualifies for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit;

(c) Tents or similar structures or facilities shall be permitted under this subsection; and

(d) This subsection shall not apply to mobile food service units.

(3) Temporary Special Events

Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(4) Mobile Food Service Units

(a) A mobile food service unit shall be permitted as a temporary accessory use to an existing permitted commercial (excluding professional office uses), industrial, or other nonresidential use or structure. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. In the event of a festival or similar use in a public park there shall be no limit on the number of times the unit shall be allowed on the site, however, the unit is limited to 14 days per event and the use must first be approved by the Fort Wayne - Allen County Department of Health.

(b) A mobile food service unit shall be permitted as a temporary primary use in any zoning district which permits a restaurant. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(c) A mobile food service unit shall be permitted as a temporary seasonal primary or accessory use. The unit shall be allowed on a site for a period of up to four (4) months, provided the use is first approved by the Fort Wayne - Allen County Department of Health and the applicant obtains an Improvement Location Permit. As part of its review of the Improvement Location Permit application, the

Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(d) A mobile food service unit shall be permitted as a temporary primary or accessory use. The unit shall be allowed on a given site for a period of four (4) to twelve (12) months provided the use is first approved through the City's Site Plan Review process, and the applicant obtains an Improvement Location Permit.

(5) Temporary structures and uses in conjunction with approved construction and other development projects.

(a) Construction trailers shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall not be required; however, trailers shall be located in conformance with visibility standards set forth in 157.232(F)(2).

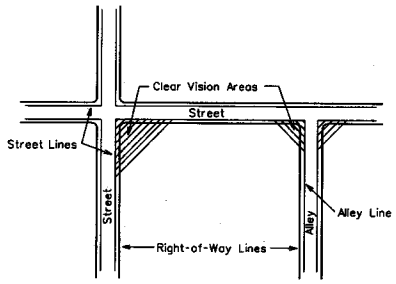
(b) Temporary sales/leasing trailer shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall be required. If the trailer contains water and/or sewer, it shall be required to be reviewed and approved through the Site Plan Review process.

(F) Development Standards

(1) Corner Visibility

(a) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less than three (3) feet from the side property line which abuts a public right-of-way.

(2) Height

(a) Height Limitations

No building or structure, including accessory structures, shall be erected, altered, enlarged or reconstructed to exceed 75 feet; except that the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section.

(i) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols;

(ii) Parapet or fire walls;

(iii) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and

(iv) Roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

(3) Lot Area and Width

(a) Nonresidential Lot Area Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(b) Nonresidential Lot Width Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(c) Exceptions to Lot Area and Width Standards

Lots established by legally recorded plat or otherwise legally established as of March 1, 1955 which do not meet the minimum size requirements established by this section may still be used for any use permitted within the district in which the lot is located. However, all proposed structures shall meet the minimum setback and yard requirements.

(d) Waiver of Lot Area Standards

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may modify the minimum lot width and size requirements, at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(4) Yard Requirements

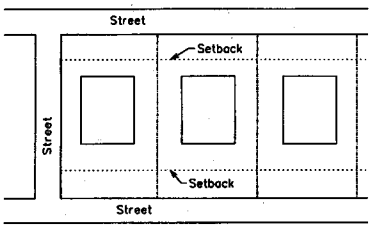
No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located (including maximum yard requirements where applicable), except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be a front yard for each lot, tract, or development parcel; the minimum depth shall be 50 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located.



Through Lot Front Setback Requirement

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

(1) The location of adjacent structures;

(2) The location of existing structures in the immediate area;

(3) The location of the proposed driveway in terms of street or alley access; and

(4) The provision of an attached or detached garage.

(iii) Plat and Development Plan Front Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(H) of this chapter.

(b) Rear Yard Requirements

(i) Required Rear Yard

There shall be a rear yard for each lot, tract or development parcel; the minimum rear yard shall be 30 feet if the rear yard abuts a residential district, and 10 feet of the rear yard does not abut a residential district (subject to the provisions and exceptions noted in this division).

(ii) Plat and Development Plan Rear Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(iii) Nonresidential accessory structures

Nonresidential accessory structures may be located between the rear of the primary structure and the rear lot line, provided the accessory structure is located a minimum of five (5) feet from a side or rear property line, and provided the structure complies with any applicable screening or buffering provisions as set forth in §157.306 of this chapter.

(c) Side Yard Requirements

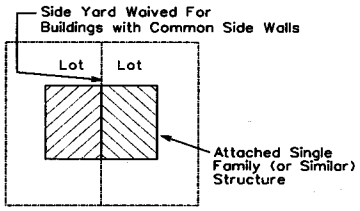
(i) Required Side Yard

There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be as listed in the following table (subject to the provisions and exceptions noted in this division).

Lot Type	**Required Side Yard**
All lots	15′ 20′ (if adjacent to a residential district)

(ii) Side Yards Waived for Dwellings with Common Walls

Dwellings with common walls on a lot line(including single family attached residences, duplexes, and triplexes) shall be considered as one building occupying one lot for the purpose of determining side yard setback requirements.



Side Yard Waived

(iii) Waiver of Side Yard Requirements for Additions to Nonconforming Nonresidential Structures

The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

(iv) Plat and Development Plan Side Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

(v) Nonresidential Accessory Structures

Nonresidential accessory structures may be located beside a primary structure, provided the accessory structure meets the side and rear yard setback requirement, except that nonresidential dumpsters may be located a minimum of five (5) feet from a side property line, and is located no closer to the front lot line than the primary structure or the required front yard setback, whichever is less.

(vi) Nonresidential Outdoor Display

The following standards apply to uses permitted to have outdoor display unless further limited herein. Outdoor display shall not be permitted within the required front yard, or between the leading edge of any existing primary structure and the front property line, whichever distance is less; except in conjunction with the following uses. However, outdoor display shall be permitted in the required side and rear yards as an accessory use that is clearly incidental to a permitted primary use. On a corner lot, outdoor display shall not be permitted within the required side yard which abuts the side street.

(1) Agricultural implement sales;

(2) Building material sales yard;
(3) Cemetery monument sales;
(4) Department store with seasonal outdoor retail sales;
(5) Hardware store;
(6) Lawn and garden store;
(7) Light equipment rental/service;
(8) Motorized vehicle sales;
(9) Open lot Christmas tree sales, or other similar seasonal outdoor retail sales;
(10) Plant nurseries, or greenhouses;
(11) Recreational vehicle sales, including boats, trailers and mobile home sales;
(12) Retail feed store;
(13) Service stations, including automobile accessory stores, and similar automotive uses; and
(14) Similar retail uses.

(vii) Nonresidential outdoor storage

The following standards apply to uses permitted to have outdoor storage.

(1) In any commercial or industrial district, outdoor storage shall be not be permitted in any required front yard, or between the leading edge of any existing primary structure and the front property line.

(2) On an interior lot outdoor storage may be permitted in a required side or rear yard if contained within an approved screen meeting the requirements of §157.306.

(3) On a corner lot, outdoor storage shall not be permitted within the required side yard that abuts the side street. Permitted outdoor storage shall be contained within an approved screen meeting the requirements of §157.306.

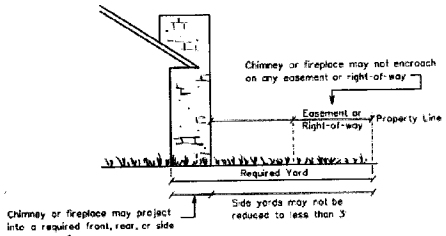
(4) In any commercial or industrial district, any automobile repair shop, body shop, or similar use which stores over ten (10) vehicles overnight shall screen the vehicle storage area as set forth in §157.306. The vehicle storage area may only be located within a side or rear yard.

(5) The outdoor storage of wrecked, dismantled, or inoperable vehicles shall only be permitted as a short-term (up to 30 days) accessory use to a permitted automobile repair shop, body shop, or similar use

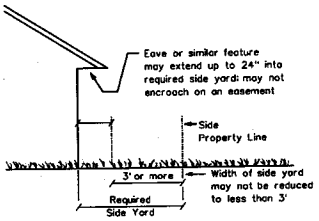
(d) Yard Projections

The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

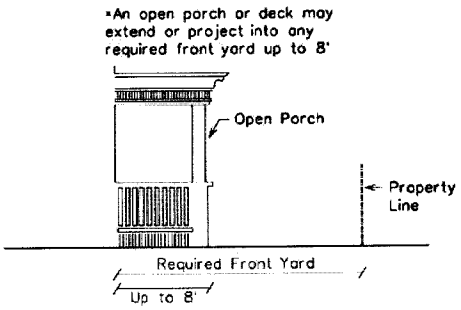
YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections (Chimneys and Fireplaces)



Permitted Yard Projections (Eave in Side Yard)



Permitted Yard Projections
(Porch or Deck into Front Yard)

(e) Exceptions to Yard Projections

(i) Commercial, Industrial, and Other Nonresidential Fences

A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard on a property with an existing primary structure. If there is no required front yard or if the building is considered to be legal nonconforming with regard to required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

(ii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

§ 157.233 Reserved

§ 157.234 Reserved

§ 157.235 Reserved

§ 157.301 Reserved

§ 157.302 Accessory Structures and Uses

(A) Residential Accessory Structures and Uses

(1) Purpose

The purpose of this section is to provide standards for the placement and erection of fences, walls, hedges and similar construction or elements for the conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with neighborhood character.

(2) Accessory Structures

See the individual residential zoning district sections for the accessory structures permitted in that zoning district

(3) Fence and Wall Standards

(a) Purpose

The purpose of this section is to provide standards for the placement and erection of fences, walls, hedges and similar construction or elements for the conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with neighborhood character.

(b) Construction and Maintenance

Fences and walls shall be constructed in a sound and sturdy manner, according to standard construction practices, and shall be maintained in a good state of repair, including the replacement of defective parts, painting, and other acts required for maintenance.

(c) Permitted Materials

All fences shall be constructed of customarily used materials such as chain link, split rail, split rail with welded wire mesh, masonry, wrought iron, wood, polyvinylchoride (PVC), or similar fencing material.

(d) Prohibited Materials

The use of materials such as corrugated or sheet metal, chicken wire, woven wire, welded wire mesh as a primary material, temporary construction fencing, snow fencing or other similar materials shall not be permitted for permanent fencing. In residential districts, or areas abutting residential districts, a fence or wall may not be designed to cause pain or injury to humans or animals. This includes the use of spikes, broken glass, barbed wire, razor wire, nails, electric charge or similar materials. For the purposes of this provision, "abutting" shall include any area separated from a residential district by an alley right-of-way.

(e) Swimming Pool Fencing

Any pool which meets the definition set forth in §157.410 of this chapter shall comply with the residential swimming pool safety feature requirements set forth in 675 IAC 20-4-27(c) (as may be amended). In accordance with

and to supplement this section access to a pool must be restricted by one of the following:

(i) A wall or fence not less than five (5) feet in height which completely surrounds the pool and deck area with the exception of self-closing and latching gates and doors both capable of being locked; or

(ii) A rigid power safety pool cover which meets the requirements set forth in 675 IAC 20-4-27(c)(4); all automatic pool covers shall be kept operable and in good working order; such pool covers shall not be operated in ways that create safety or access hazards, such as being permitted to be left open for extended periods of time, or to accumulate large amounts of water on top of the cover; or

(iii) For above ground swimming pools other structural methods not less than five (5) feet in height may be permitted if determined to provide adequate safety by the Planning staff.

(f) Exceptions to Standards

(i) Hedge or Retaining Wall

A hedge or retaining wall not exceeding three (3) feet in height above the grade of the adjacent sidewalk or ground, may be located in the required front yard with no minimum setback, subject to the corner visibility provisions herein.

(ii) Ornamental Fence

An ornamental fence, as defined herein, not exceeding three (3) feet in height or 100 total lineal feet may be located in the required front yard with no minimum setback, subject to the corner visibility provisions herein.

(iii) Parking Lot Screening

If a fence or other screening is required to comply with the provisions of the parking lot improvement section, the provisions of that section shall supersede this section, except for the corner visibility provisions herein.

(g) Waiver of Standards

As part of its review of a proposed primary plat or development plan, the Plan Commission may waive or modify the requirements of this section.

(4) Accessory Uses

See the individual residential zoning district sections for the accessory uses permitted in that zoning district. Staff may also determine that additional accessory uses may be permitted.

(a) Outdoor Display

Outdoor display as defined in §157.410 shall be prohibited except for yard and garage sales. Yard, garage, and similar sales on residential properties may be held up to three (3) times in a calendar year, for up to three (3) days per sale.

(b) Outdoor Storage

In any residential district, the outdoor storage of the following materials shall be prohibited:

(i) Automobile or machinery equipment or parts including automobile/motor vehicle tires;

(ii) Building construction materials except in conjunction with a permitted ongoing construction project;

(iii) Home appliances and fixtures such refrigerators, stoves, and sinks;

(iv) Indoor furniture;

(v) Inoperable, wrecked or dismantled automobiles.

(vi) Scrap metal, wood and similar materials; and

(vii) Shelving, racks or similar structures.

(c) Parking and Vehicle Storage

(i) Operable automobiles, vans and motorcycles shall be permitted to be parked in residential districts in a driveway, street, or alley only.

(ii) Operable recreational vehicles, campers, boats, small (one-ton, panel or pickup) trucks, and pull trailers up to 32 square feet in size shall be permitted to be parked in residential districts in a driveway only;

(d) Prohibited Vehicles

The following vehicles shall be prohibited to be parked or otherwise stored in residential districts:

(i) Inoperable automobiles, motorcycles, vans, recreational vehicles, campers, boats, small (one-ton, panel or pickup) trucks or other similar vehicles parked or stored outdoors;

(ii) Semi-trucks;

(iii) Semi trailers;

(iv) Agricultural or other tractors unless used in conjunction with a permitted agricultural use;

(v) Pull trailers over 32 square feet in size;

(vi) School, church or similar buses;

(vii) Large pick up or panel trucks (over one ton); and

(viii) Other large commercial vehicles, tractors or trailers not otherwise listed.

(B) Nonresidential Accessory Structures and Uses

(1) Purpose

The purpose of this section is to provide standards for the placement and erection of fences, walls, hedges and similar construction or elements for the conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with neighborhood character.

(2) Accessory Structures

See the individual residential zoning district sections for the accessory structures permitted in that zoning district

(3) Fence and Wall Standards

(a) Purpose

The purpose of this section is to provide standards for the placement and erection of fences, walls, hedges and similar construction or elements for the conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with neighborhood character.

(b) Construction and Maintenance

Fences and walls shall be constructed in a sound and sturdy manner, according to standard construction practices, and shall be maintained in a good state of repair, including the replacement of defective parts, painting, and other acts required for maintenance.

(c) Permitted Materials

All fences shall be constructed of customarily used materials such as chain link, split rail, split rail with welded wire mesh, masonry, wrought iron, wood, polyvinylchoride (PVC), or similar fencing material. In CM5A and CM5B districts, fencing and wall materials shall be further limited as follows:

(i) Permitted CM5A fence materials:

[1] Wrought iron or similar metal;

[2] Wood may also be permitted for a fence used to screen service, storage, or delivery areas.

(ii) Permitted CM5B fence materials:

[1] Dark vinyl coated chain link, if supplemented with a continuous row of shrub plant material a minimum of three feet (3') in height;

[2] Polyvinylchloride (PVC) vertical slat or picket style;

[3] Wood vertical slat or picket style; and

[4] Wrought iron or similar metal.

(iii) Permitted CM5A and CM5B wall materials:

[1] Brick;

[2] Stone; or

[3] Similar masonry material, if approved by the Zoning Administrator.

(d) Prohibited Materials

The use of materials such as corrugated or sheet metal, chicken wire, woven wire, welded wire mesh as a primary material, temporary construction fencing, snow fencing or other similar materials shall not be permitted for permanent fencing.

(e) Swimming Pool Fencing

Commercial, industrial, and other nonresidential swimming pools shall be completely surrounded by a fence, wall, building, or other enclosure as

determined acceptable by a Zoning Enforcement Officer, of not less than 6 feet in height.

(f) Exceptions to Standards

(i) Hedge or Retaining Wall

A hedge or retaining wall not exceeding three (3) feet in height above the grade of the adjacent sidewalk or ground, may be located in the required front yard with no minimum setback, subject to the corner visibility provisions herein.

(ii) Ornamental Fence

An ornamental fence, as defined herein, not exceeding three (3) feet in height or 100 total lineal feet may be located in the required front yard with no minimum setback, subject to the corner visibility provisions herein.

(iii) Parking Lot Screening

If a fence or other screening is required to comply with the provisions of the parking lot improvement section, the provisions of that section shall supersede this section, except for the corner visibility provisions herein.

(g) Waiver of Standards

As part of its review of a proposed primary plat or development plan, the Plan Commission may waive or modify the requirements of this section.

(4) Accessory Uses

(a) Outdoor Display

(i) In all CM, SC, and IN Districts, nonresidential outdoor display shall only be permitted if the display complies with the applicable setback, location, and other standards and limitations set forth in this chapter.

(ii) Items, retail goods, or similar materials offered for sale (such as vehicles, equipment, or supplies) must be displayed on a paved or similar surface in accordance with the provisions of the Off-Street Parking subchapter of this chapter.

(iii) Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use, in accordance with the provisions of §157.303.

(iv) In the CM5C District, outdoor display shall be further limited to 10% of the building ground floor area or 120 square feet, whichever is less; the display shall only be permitted in conjunction with permitted indoor display area(s), during normal business operating hours. All outdoor display items shall be taken inside each day as part of the closing of the business.

(b) Outdoor Storage

(i) In any commercial or industrial district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, screening, buffering, and other standards and limitations set forth in this chapter

(ii) In any commercial or industrial district, outdoor storage shall be not be permitted in any required front yard, or between the leading edge of any existing primary structure and the front property line.

(iii) On an interior lot outdoor storage may be permitted in a required side or rear yard if contained within an approved screen meeting the requirements of §157.306.

(iv) On a corner lot, outdoor storage shall not be permitted within the required side yard that abuts the side street. Permitted outdoor storage shall be contained within an approved screen meeting the requirements of §157.306.

(v) In any commercial or industrial district, the outdoor storage of wrecked, abandoned, dismantled, or inoperable vehicles shall be prohibited, except as an accessory use to a permitted primary use.

(vi) In any commercial or industrial district, any automobile repair shop, body shop, or similar use which stores over ten (10) vehicles overnight shall screen the vehicle storage area as set forth in §157.306. The vehicle storage area may only be located within a side or rear yard.

§ 157.303 Temporary Structures and Uses

(A) Temporary Accessory Structures

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or other permitted nonresidential use, subject to the following requirements:

(1) The temporary use shall only be permitted for a period of up to two years;

(2) The temporary use must meet the requirements outlined herein for accessory structures;

(3) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the site plan review process, prior to the issuance of an Improvement Location Permit; and

(4) This subsection shall not apply to mobile food service units, tents or similar structures.

(B) Temporary Special Events

Temporary special events shall be permitted as an accessory use to an existing church, school, or other permitted nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(C) Temporary Construction Structures

(1) Construction trailers shall be permitted, provided the project is proceeding with due diligence, until the project is complete. Trailers shall be located in conformance with the corner visibility standards set forth herein.

(2) A temporary sales/leasing trailer shall be permitted, provided the project is proceeding with due diligence, until the project is complete. If the trailer contains water and/or sewer, it shall be required to be reviewed and approved through the site plan review process.

(3) A model home within an approved residential subdivision may be used as a temporary sales office for that subdivision for a period of up to 2 years unless otherwise extended by the Plan Commission.

(D) Mobile Food Service Units

(1) A mobile food service unit shall be permitted as a temporary accessory use to an existing permitted commercial (excluding professional office uses), industrial, or other nonresidential use or structure. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. In the event of a festival or similar use in a public park there shall be no limit on the number of times the unit shall be allowed on the site, however, the unit is limited to 14 days per event and the use must first be approved by the Fort Wayne - Allen County Department of Health.

(2) A mobile food service unit shall be permitted as a temporary primary use in any zoning district which permits a restaurant. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the site plan review process.

(3) A mobile food service unit shall be permitted as a temporary seasonal primary or accessory use in any zoning district which permits a restaurant. The unit shall be allowed on a site for a period of up to four (4) months, provided the use is first approved by the Fort Wayne - Allen County Department of Health and the applicant obtains an Improvement Location Permit. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the site plan review process.

(4) A mobile food service unit shall be permitted as a temporary primary or accessory use in any zoning district which permits a restaurant. The unit shall be allowed on a given site for a period of four (4) to twelve (12) months provided the use is first approved through the City's site plan review process, and the applicant obtains an Improvement Location Permit.

§ 157.304 Development Plans

(A) Purpose and Intent

(1) The purpose of this section is to:

(a) Designate zoning districts in which a development plan is required;

(b) Designate development proposals which require the submission of a development plan;

(c) Establish plan documentation and supporting information that must be submitted to allow for the review and action on a development plan;

(d) Establish development requirements that must be satisfied before the Plan Commission or its designated representative may approve a development plan;

(e) Establish procedures for the submission and review of a development plan;

(f) Establish development requirements which may be waived, along with procedures and conditions for the granting of waivers by the Plan Commission or its designated representative, as part of the review and consideration of a development plan;

(g) Establish procedures and conditions to allow the Plan Commission to delegate the responsibility for the review and action on certain development plans to the Planning staff;

(h) Establish procedures and conditions to allow for the waiver of the development plan requirement; and

(i) Establish procedures and requirements to provide for design review for certain projects in the CM5A and CM5B districts.

(2) Intent

The intent of requiring development plan submission and review is to:

(a) Promote and encourage quality development which has a positive impact on surrounding land uses and the overall community;

(b) Allow for public, Plan Commission and City staff review of and input on certain development proposals. This input may include comments, recommendations and/or requirements on the following:

(i) The compatibility of the proposed development with surrounding zoning and land uses;

(ii) The availability, coordination, and adequacy of water, sanitary sewer, storm water drainage, and other utilities and/or facilities proposed to serve the development;

(iii) Traffic and transportation safety, roadway capacity, and traffic congestion in the immediate vicinity of the proposed development site;

(iv) Proposed entrance locations, street facilities, roadway improvements, and internal traffic circulation patterns;

(v) Proposed signage, pedestrian circulation facilities, recreation space and facilities, outdoor lighting, landscaping, buffering, and screening;

(vi) The relationship between the design of the proposed development and public safety issues such as fire safety and crime prevention; and

(vii) The impact of the proposed development on existing natural site features.

(c) In the CM5A and CM5B districts, to promote: attractive and functional building forms; attractive and functional streetscape and public space design; compatibility of design, use, character, and pattern; increased pedestrian oriented design; and the use of high quality, durable materials.

(B) Zoning Districts Requiring Development Plan Approval

The development proposals listed in division (C) below located in the following zoning districts shall carry with them a requirement for the submission, review, and approval of a development plan in accordance with the procedures and requirements of this subchapter.

(1) Proposals located in AR, R1, R2, R3, RP and MR Districts.

(2) Proposals in CM1, CM2, CM3, and CM4 Districts, if the property where the development is proposed to be located is adjacent to an existing residential land use or vacant residentially zoned property. This shall include development proposals for a portion of a tract or development parcel where the overall parcel is adjacent to an existing residential land use or vacant residentially zoned property. For the purposes of this section, "adjacent" shall also include any property which is located directly across from the development site boundaries, and separated by a public right-of-way of 60 feet or less in width. "Existing residential land use" shall include:

(a) A lot or residential dwelling unit in a platted subdivision in a residential zoning district;

(b) An individual single or two family residence in a residential zoning district;

(c) An apartment or multiple family structure or complex; and

(d) A manufactured home park or subdivision.

(3) Proposals located in CM5 Districts as further set forth in (C) below.

(4) Proposals located in SC1, SC2, SC3, and SC4 Districts.

(5) Proposals located in IN1, IN2, and IN3 Districts, if the property where the development is proposed to be located is within 300 feet of an existing residential land use or vacant residentially zoned property.

(C) Proposals Requiring Development Plan Approval

If the development request is located in a zoning district as specified in division (B) above, the following proposals shall require the submission and approval of a development plan, according to the procedures set forth in this section.

(1) Residential proposals as follows:

(a) Multiple family structures with six or more units, and multiple family complexes;

(b) Residential condominium developments;

(c) Manufactured home parks which are not proposed to be platted;

(d) Single family residential subdivision projects which do not meet the requirements of §155.022(A) of the Subdivision Control Ordinance, or do not meet the yard requirements herein;

(e) Off-site campus housing , fraternity/sorority house, or dormitory, located in R3 and RP Districts; and

(f) Other similar multiple lot single family residential projects which do not meet the requirements of §155.022(A) of the Subdivision Control Ordinance, or do not meet the yard requirements herein.

(2) Commercial and industrial proposals which meet the following:

(a) Except in the CM5 Districts as set forth in (g) below, any proposal for a new primary commercial structure which is over 3,000 square feet gross floor area in size; or

(b) Except in the CM5 Districts as set forth in (g) below, any proposal for a new primary industrial structure which is over 10,000 square feet gross floor area in size; or

(c) Any proposal for a new commercial or industrial development involving multiple lots/development parcels where the overall project area is over two acres in size; or

(d) Except in the CM5 Districts as set forth in (g) below, any proposed addition to a primary commercial or industrial structure which increases the gross

floor area of the structure by over 50% or any addition over 50,000 square feet; or

(e) Commercial, industrial, or other nonresidential condominium developments; or

(f) Any proposal for a new shopping center, or expansion of an existing shopping center or development in a SC District which constitutes a substantial change to a previously approved plan or development; or

(g) In the CM5 districts, any proposal for a new structure of over 1000 square feet gross floor area; an addition to an existing structure which increases its gross floor area by over 25%; or any addition of over 10,000 square feet to an existing structure; or

(h) In addition to (g) above, in the CM5A and CM5B districts, a development plan shall be required for:

(i) Master Sign Plans; and

(ii) any submitted project, including an Improvement Location Permit application for a fence or sign, if waivers are requested of the standards in: §157.309 (Design and Additional Standards), the Commercial Districts section of §157.316(B) (Signs), the Yard requirements (setbacks) herein, or the fence/wall location, height, or materials requirements herein.

(i) In addition to the provisions above, an applicant or property owner may choose to voluntarily submit a commercial and/or industrial project or development through the development plan process if the nature of the proposed development would justify such a submission.

(3) Proposals for other nonresidential uses or projects which meet the following:

(a) In any zoning district, a new police station, fire station, or similar public use proposed to be located on property adjacent to an existing residential land use (as set forth in division (B)(2) above) or vacant residentially zoned property; or

(b) In any zoning district, a new church, synagogue, or other religious building or facility used for religious assembly over 10,000 square feet in size which is proposed to be located on property adjacent to an existing residential land use (as set forth in division (B)(2) above) or vacant residentially zoned property; or

(c) In any zoning district, any proposed addition to an existing church, synagogue, or other religious building or facility used for religious assembly which increases the gross floor area by 50% or greater or any addition that has a gross floor area of 10,000 square feet or greater and is located on property adjacent to an existing residential land use (as set forth in division (C)(2) above) or vacant residentially zoned property; or

(d) Nursing homes; or

(e) As part of its consideration and approval of a request for a contingent use, special use, or use variance, the Board of Zoning Appeals may require the submission and approval of a development plan, or

(f) In addition to the provisions above, an applicant or property owner may choose to voluntarily submit a nonresidential project or development through the development plan process, if the nature of the proposed development would justify such a submission; an example of this would be an overall master plan for an institutional or other nonresidential development.

(D) Primary Development Plans

(1) Pre-application Discussion

Prior to the submission of an application for approval of a primary development plan, a pre-application discussion between the Planning staff and the developer is required. The purpose of the pre-application discussion is as follows:

(a) To acquaint the applicant with the standards, procedures, and requirements of this chapter, the comprehensive plan, and any other applicable plans, ordinances, or laws;

(b) To review the intent of the development plan procedures and application requirements; and

(c) To make the applicant familiar with any potential issues or problems regarding the specific site or surrounding area.

(2) Application

To apply for a primary development plan approval, an application form must be completed and required plans submitted along with the appropriate filing fee. The application form for a primary development plan shall be signed by the owner of record of the real estate included in the development plan. Complete submissions shall be placed on the Plan Commission's agenda for the next available public hearing. The Planning staff shall provide notice in accordance with the rules of the Commission and IC 5-3-1 (as may be amended). The Commission shall adopt filing fees, filing deadlines, meeting dates, and a hearing procedure for this process by rule.

(3) Primary Development Plan Submission Requirements

All development plans submitted for primary approval shall contain the items listed below if applicable. It is intended that the primary development plan show the overall concept for the proposed development, with additional engineering and site design information as necessary to allow for an adequate preliminary review. The Planning staff reserves the right to not accept incomplete submissions, or to accept the submission but defer placing the item on the public hearing agenda until it is

complete. The development plan shall be drawn at a scale of not less than one (1) inch equals 100 feet on a 24 by 36 inch sheet, unless the size of the proposed project requires a different scale or sheet size. The plan shall be prepared and certified by the appropriate licensed architect, engineer or land surveyor. The following items must be included on the development plan(s) unless otherwise determined by the Planning staff:

(a) Date, north arrow, scale and proposed name of the development;

(b) Name, address, and phone numbers of the developer(s), and the land surveyor, architect or engineer who prepared the development plan;

(c) A boundary survey of the property, prepared and certified by a licensed land surveyor, which complies with Title 865 Rule 12 of the Indiana Administrative Code. The survey shall have been performed within one (1) year of the submission of the development plan and reflect the current conditions of the site. The following items shall be included on the boundary survey:

(i) Property boundary lines, giving length and bearing (including reference or basis) on each straight line; and interior angles, radius, point of tangency and length of curved lines. The perimeters of the property shall be dimensioned in feet and decimals as accurately as possible to the nearest one-hundredth (0.01);

(ii) The width of all adjoining street and highway rights of way, and the street width;

(iii) Existing sidewalks on or adjacent to the development parcel;

(iv) Existing encroachments, including fences, structures, pavement and other improvements, either way across property lines;

(v) Existing fences and walls located with respect to property lines;

(vi) Recorded or otherwise dedicated easements or similar rights of way, including type of easement;

(vii) Existing lot or tract lines within the development parcel;

(viii) Addresses of existing structures;

(ix) Current zoning of the development parcel;

(x) Existing platted building setback lines; and

(xi) Development parcel legal description.

(d) A topographic/utility survey of the property, prepared and certified by a licensed land surveyor, which complies with Title 865 Rule 12 of the Indiana Administrative Code. The survey shall have been performed within one (1)

year of the submission of the development plan and reflect the current conditions of the site. The following items shall be included on the topographic/utility survey:

(i) Benchmarks in USGS datum;

(ii) Existing site contours at 1 foot intervals based on USGS datum unless the Planning staff determines that the slope of the property requires a different contour interval;

(iii) Location of all existing structures on the development parcel and all off-site structures within 10 feet of the property lines, if the off-site structure locations can be determined from the subject property;

(iv) If applicable, the location of the special flood hazard area of the regulatory flood as mapped by scale on the Flood Insurance Rate Maps for Allen County, including all on-site established base flood elevations, and the base flood elevation at the property line. If the elevations on the topographic/utility survey indicates an area subject to inundation by the regulatory flood which lies outside of the floodplain identified on the Flood Insurance Rate Map, the information on the topographic/utility survey shall govern and that area shall be considered a special flood hazard area subject to the regulations of this subchapter;

(v) Existing finished floor elevations of the lowest floor of all structures located within a special flood hazard area;

(vi) The approximate location of all wetlands on the development parcel according to the current National Wetland Inventory Maps;

(vii) The location of any natural water features such as lakes, ponds, streams or drainage ways;

(viii) The location of any Allen County regulated drain(s) on or immediately adjacent to the development parcel, including existing statutory drain easement(s);

(ix) The location of existing vegetation and significant tree masses;

(x) The location and size of all existing water facilities, including the location of all meters, valves and fire hydrants on or serving the development parcel;

(xi) The location, size, depth, and direction of flow of all existing sanitary sewers, combination sewers, storm drains and culverts on and/or immediately serving the development parcel, including the location of catch basins and manholes with rim elevations and inverts of each pipe;

(xii) The location and size of existing natural gas distribution facilities on the development parcel;

(xiii) The location and size of existing communication systems on the development parcel, including the location of all poles, towers, and equipment; and

(xiv) Names of the utility service providers.

(e) Proposed structures within the development parcel;

(f) Any proposed subdivisions of individual parcels, showing proposed lot, tract or development parcel numbers and dimensions, if applicable;

(g) The point(s) of connection to existing sanitary sewer, storm sewer and water facilities;

(h) The proposed location and general sizes of any public sanitary sewer, storm sewer, and water lines;

(i) Proposed storm water drainage flow lines, and the location of swales and retention/detention areas (if applicable);

(j) Proposed street and site light fixture locations;

(k) Proposed public or private streets, including proposed names and right-of-way widths;

(l) Generalized landscaping proposals which address the treatment of the perimeter of the site and parking areas, including landscaping, screening, buffering, shade trees, and fencing proposals;

(m) Any common areas, including proposed recreation amenities;

(n) Existing parks and/or recreation areas adjacent to the development parcel;

(o) Proposed sidewalk locations;

(p) Proposed sign locations and sign types;

(q) Off-street parking areas, service areas, loading areas, and points of access to public or private rights-of-way;

(r) Proposed easements, showing widths and types; and

(s) Areas to be used for the outdoor storage or display of materials, merchandise, machinery, or other such items.

(4) Additional Submission Requirements

In addition to the required development plan documents, the following information shall be submitted unless determined by staff to not be applicable to the project:

(a) Quantitative data indicating the gross residential density and type of dwelling units;

(b) A copy of any proposed restrictive covenants; and

(c) For projects in the CM5A and CM5B districts, the information necessary to allow for a design review shall be submitted, including but not limited to:

(i) Preliminary building elevations, showing generalized sizes and locations of awnings, balconies, building bays, canopies, entrances and entrance features, façade horizontal and vertical divisions, building lighting and signage, and windows; and descriptions of proposed building façade materials;

(ii) A site plan showing proposed site lighting; freestanding sign locations, types, and general sizes; fence locations, heights, and materials; mechanical/service area screening;

(iii) Descriptions of proposed façade renovations (if applicable); and

(iv) Any other information necessary to show compliance with the applicable provisions of §157.309 (Design and Additional Standards).

(5) Primary Development Plan Review and Approval

(a) Plan Commission Public Hearing

The Plan Commission shall hold a public hearing on any primary development plan request, in accordance with the Commission's established public hearing calendar and rules.

(b) Plan Commission Review Standards

As part of its review of a primary development plan, the Commission shall consider the plan against the following standards:

(i) The purpose and intent of this subchapter;

(ii) The goals, objectives and policies of the City's comprehensive plan, thoroughfare plan;

(iii) In the CM5A and CM5B districts, the provisions of §157.309 (Design and Additional Standards) and the recommendations of the Downtown Design Manual and Design Review Committee; and

(iv) The purposes set forth in IC 36-7-4-601(c) and the standards listed in IC 35-7-4-1405(a)(as may be amended).

(c) Plan Commission Decision

At the next regular business session following the public hearing, the Commission shall approve, with or without conditions, or deny the proposed development plan. The Commission may also defer action on the proposed development plan if it needs more information or time to determine if the development plan is eligible for approval. In deferring action on a primary development plan, the Commission shall notify the applicant in writing of the reasons for the deferral, in accordance with the rules of the Commission. The following standards and requirements shall also apply to the Commission's decision on a primary development plan.

(i) Conditional approval

The Commission may place conditions on its approval of a primary development plan if the conditions are reasonably necessary to satisfy the development requirements of this subchapter.

(ii) Findings

The Commission shall enter written findings, setting forth the reasons for its action on a primary development plan request. The findings shall be signed by the Commission's secretary.

(iii) Notice of decision

Notice of the Commission's decision on a primary development plan shall be provided by furnishing a copy of its decision and findings to the applicant and any interested party as established by rule.

(iv) Appeal of decision

A decision of the Commission on a primary development plan may be reviewed by certiorari procedure, as provided in IC 36-7-4-1016 (as may be amended).

(v) Period of valid approval

Primary approval of the development plan by the Commission is valid for twelve (12) months from the date of approval. Within this twelve (12) month period, the applicant may ask the Commission for an extension of time to apply for secondary approval. If the applicant does not apply for secondary development plan approval for any part of the development within the twelve (12) month period, or any approved extension of time, then the primary approval shall lapse and be considered null and void. Once a secondary development plan has been submitted and approved for at least a portion of the primary development plan, subsequent secondary submissions which were part of the same approved primary development plan shall not be constrained by time.

(d) Written Commitments

As part of its approval of a primary development plan, the Plan Commission may permit or require the owner of the property included in the request to make a written commitment concerning the use or development of that property, in accordance with IC 36-7-4-613 (as may be amended), this chapter, and the Commission's rules.

(e) Appeal of Decision by Planning Staff

A decision or determination made by the Planning staff with regard to a primary development plan application may be appealed to the Plan Commission in accordance with the Commission's rules.

(6) Waiver of Development Plan

(a) In any case where this chapter requires the submission of a primary or secondary development plan, an applicant or property owner may request that the development plan requirement be waived by the Zoning Administrator. The Plan Commission may also waive a required secondary development plan as part of its approval of a primary development plan, including Master Sign Plans. To request a waiver, the applicant/owner shall submit a written request setting forth the reasons why a waiver should be granted. Either a primary or secondary development plan may be waived. The Zoning Administrator or Plan Commission may place conditions on the approval of a development plan waiver. In reviewing the request, the Zoning Administrator or Plan Commission shall consider the following:

(i) The size of the property;

(ii) The character and condition of existing structures on the property;

(iii) The existing zoning and development patterns in the vicinity of the site;

(iv) The size, site layout, and potential impact of the proposal on surrounding land uses;

(v) The location and proximity of existing residential zoning and/or land uses relative to the development site;

(vi) The benefit of public input of the development proposal;

(vii) The need for Plan Commission review of the development proposal; or

(viii) Whether the proposal complies with the intent of Plan Commission-adopted design standards for the area.

(b) Upon receiving a request for a waiver of a required development plan, the Zoning Administrator shall review and either approve or deny the request. The Zoning Administrator shall notify the applicant of the action and reasons for the approval or denial.

(c) If a waiver of the development plan requirement is granted, the development proposal shall be reviewed according to the provisions of §157.305 (Site Plan Review).

(d) Any person aggrieved by a decision of the Zoning Administrator with regard to a request for a waiver of a required development plan may appeal that decision to the Board of Zoning Appeals.

(E) Secondary Development Plans

(1) Application

Following Plan Commission approval of a primary development plan, the applicant may apply for secondary development plan approval. An applicant may apply for secondary development plan approval prior to Plan Commission approval of a primary development plan, provided the Planning staff determines that such a submission is appropriate. In no case shall a primary and secondary development plan be submitted for the same filing deadline. The application form must be completed and required plans submitted along with the appropriate filing fee within the time period of valid approval for the primary development plan. The application form for a secondary development plan approval shall be signed by the owner(s) of record of the real estate included in the development plan. The application may include all or a portion of the property contained in the approved primary development plan. The Commission shall adopt filing fees and other procedures for this process by rule.

(2) Secondary Development Plan Submission Requirements

All development plans submitted for secondary approval shall contain the items listed below. Additional information may be required by City or County staff for individual projects in order to evaluate compliance with applicable regulations and standards It is intended that the secondary development plan show specific site design and engineering details to allow for an adequate final review for permit issuance. The Planning staff reserves the right to not accept incomplete submissions, or to accept the submission but defer placing the item on the business meeting agenda until it is complete. The development plan shall be drawn at a scale of not less than one (1) inch equals 100 feet on a 24 by 36 inch sheet, unless the size of the proposed project requires a different scale or sheet size. The plan shall be prepared and certified by the appropriate licensed architect, engineer, or land surveyor. The following items must be included on the development plan(s) unless otherwise determined by the Planning staff:

(a) Date, north arrow, scale and proposed name of the development;

(b) Name, address, and phone numbers of the developer(s), and the land surveyor, architect or engineer who prepared the development plan;

(c) A boundary survey of the property, prepared and certified by a licensed land surveyor, which complies with Title 865 Rule 12 of the Indiana Administrative Code. The survey shall have been performed within two (2) years of the submission of the development plan and reflect the current

conditions of the site. The following items shall be included on the boundary survey:

(i) Property boundary lines, giving length and bearing (including reference or basis) on each straight line; and interior angles, radius, point of tangency and length of curved lines. The perimeters of the property shall be dimensioned in feet and decimals as accurately as possible to the nearest one-hundredth (0.01);

(ii) The width of all adjoining street and highway rights of way, and the street width;

(iii) Existing sidewalks on or adjacent to the development parcel;

(iv) Existing encroachments, including fences, structures, pavement and other improvements, either way across property lines;

(v) Existing fences and walls located with respect to property lines;

(vi) Recorded or otherwise dedicated easements or similar rights of way, including type of easement;

(vii) Existing lot or tract lines within the development parcel;

(viii) Addresses of existing structures;

(ix) Current zoning of the development parcel;

(x) Existing platted building setback lines; and

(xi) Development parcel legal description.

(d) A topographic/utility survey of the property, prepared and certified by a licensed land surveyor, which complies with Title 865 Rule 12 of the Indiana Administrative Code. The survey shall have been performed within two (2) years of the submission of the development plan and reflect the current conditions of the site. The following items shall be included on the topographic/utility survey:

(i) Benchmarks in USGS datum;

(ii) Existing site contours at 1 foot intervals based on USGS datum unless the Planning staff determines that the slope of the property requires a different contour interval;

(iii) Location of all existing structures on the development parcel and all off-site structures within 10 feet of the property lines, if the off-site structure locations can be determined from the subject property;

(iv) If applicable, the location of the special flood hazard area of the regulatory flood as mapped by scale on the Flood Insurance Rate Maps

for Allen County, including all on-site established base flood elevations, and the base flood elevation at the property lines. If the elevations on the topographic/utility survey indicates an area subject to inundation by the regulatory flood which lies outside of the floodplain identified on the Flood Insurance Rate Map, the information on the topographic/utility survey shall govern and that area shall be considered a special flood hazard area subject to the regulations of this subchapter;

(v) Existing finished floor elevations of the lowest floor of all structures located within a special flood hazard area;

(vi) The approximate location of all wetlands on the development parcel according to the current National Wetland Inventory Maps;

(vii) The location of any natural water features such as lakes, ponds, streams or drainage ways;

(viii) The location of any Allen County regulated drain(s) on or immediately adjacent to the development parcel, including existing statutory drain easement(s);

(ix) The location of existing vegetation including the perimeter of all wooded areas, other significant vegetation, and individual trees at and above 2 inches in trunk caliper (measured in accordance with standard horticultural practices);

(x) The location and size of all existing water facilities, including the location of all meters, valves and fire hydrants on or serving the development parcel;

(xi) The location, size, depth, and direction of flow of all existing sanitary sewers, combination sewers, storm drains and culverts on and/or immediately serving the development parcel, including the location of catch basins and manholes with rim elevations and inverts of each pipe;

(xii) The location and size of existing natural gas distribution facilities on the development parcel;

(xiii) The location and size of existing communication systems on the development parcel, including the location of all poles, towers, and equipment; and

(xiv) Names of the utility service providers.

(e) Proposed structures within the development parcel;

(f) Finished floor elevations of the lowest floor of all proposed structures located within a special flood hazard area;

(g) Proposed building elevation drawings;

(h) Dimensions showing the distances from the proposed structures and/or parking areas to property and right-of-way lines;

(i) Any proposed subdivisions of individual parcels, showing proposed lot, tract or development parcel numbers and dimensions, if applicable;

(j) Grading, drainage and erosion control plans which include storm drainage flow lines, location of swale and/or retention/detention areas, calculations, elevations and pipe materials;

(k) Location of proposed public sanitary sewer, storm sewer, and water lines, showing sizes, elevations, materials, and sewer rim and invert elevations of each manhole;

(l) The point of connection to existing sanitary sewer, storm sewer, and water facilities;

(m) Proposed water and/or sewer main line extension plans and profiles, if applicable;

(n) Internal plumbing plans including isometrics, and expected flows of the proposed land use(s);

(o) Placement of all exits and exit and emergency lighting;

(p) Proposed street, site and building lighting plans including fixture locations, pole types, fixture types (including wattage), service source, and photometrics;

(q) Proposed public or private streets, including plan profiles and cross sections, names, and traffic control devices (signals, signs, and/or pavement markings);

(r) Proposed auxiliary street lanes (passing turning, deceleration and recovery) according to the current Fort Wayne - New Haven - Allen County Access Standards Manual;

(s) A detailed landscape plan meeting the requirements of §157.306 and §157.313(E) which includes provisions for perimeter screening and buffering, parking area screening and buffering, shade tree and greenspace locations and fencing proposals;

(t) Proposed street tree locations if required;

(u) Any common areas, including proposed recreation amenities;

(v) Proposed sidewalk locations and widths;

(w) The location, size, and type of proposed signage;

(x) Details and specifications for proposed off-street parking areas, service areas, loading areas, and points of access to public or private rights-of-way;

(y) Proposed easements, showing widths and types; and

(z) Areas to be used for the outdoor storage or display of materials, merchandise, machinery, or other such items.

(aa) In addition to the required development plan documents, the following information shall be submitted, if applicable to the project:

(i) For projects within a special flood hazard area, an analysis of the proposed effect of the project on the floodplain certified by a registered professional engineer with expertise in water resources engineering shall be submitted. This analysis may be subject to review by an engineering consultant chosen by the Plan Commission or other applicable City department;

(ii) Where applicable, quantitative data indicating the gross residential density and type of dwelling units;

(iii) Proposed method of preserving and maintaining all common areas;

(iv) For multiple tenant or multiple unit structures the location and square footage of individual units or tenant spaces;

(v) A copy of proposed restrictive covenants; and

(vi) For projects in the CM5A and CM5B districts, the information necessary to allow for a design review shall be submitted, including but not limited to:

[1] Building elevations, showing sizes and locations of awnings, balconies, canopies, entrances, lighting, signage and windows, and detailed descriptions of proposed building façade materials;

[2] A site plan showing proposed site lighting; freestanding sign locations, types, and sizes; fence locations, heights, and materials;

[3] Detailed descriptions of proposed façade renovations (if applicable); and

[4] Any other information necessary to show compliance with the applicable provisions of §157.309 (Design and Additional Standards).

(3) Secondary Development Plan Review and Approval

(a) Review and Approval

Secondary development plans shall be reviewed and approved by the Planning staff, in accordance with the procedures set forth in §157.305, (Site

Plan Review). However, nothing shall prohibit the Plan Commission from requiring Commission review and approval of any secondary development plan.

(b) Conditional Approval

The Planning staff and other reviewing departments may place conditions on its approval of a secondary development plan, if the conditions are reasonably necessary to satisfy the development requirements of this subchapter.

(c) Findings

If the site plan routing review committee reviews and takes action on a secondary development plan, the Planning staff shall enter written findings, setting forth the reasons for its action on a secondary development plan request to be signed by a Zoning Enforcement Officer. If the Plan Commission reviews and takes action on a secondary development plan, the Commission shall enter written findings, setting forth the reasons for its action on a secondary development plan request to be signed by the Commission's secretary.

(d) Appeal of Decision by Plan Commission

A decision of the plan Commission of a secondary development plan may be reviewed by certiorari procedure, as provided in IC 36-7-4-1016 (as may be amended).

(e) Appeal of Decision by Planning Staff

A decision of the Planning staff on a secondary development plan may be appealed to the Plan Commission, in accordance with the Commission's rules.

(f) Time Period for Valid Approval

Secondary approval of a development plan shall remain valid for a period of 24 months from the date of approval. Within this 24 month time period, the applicant, owner, or successor may request that an extension of the approval be granted by staff. However, the approval of any project which is under construction shall remain valid as long as construction continues to proceed with due diligence. If the construction has not proceeded with due diligence, or an extension of the 24 month time period has not been granted, then the secondary approval shall lapse and no longer be valid. The applicant, owner, or successor shall be required to submit a new secondary development plan for consideration in accordance with the applicable provisions of this chapter and the Plan Commission rules.

(g) Certification and Recordation

All approved secondary development plans shall be stamped approved and kept on file in the Planning Department. If the approved plan proposes the

dedication of public right-of-way or utility easements, the development plan shall be certified and recorded as set forth for a secondary plat in §155.069 of the Subdivision Control Ordinance.

(4) Issuance of Permits

Prior to the issuance of an Improvement Location Permit for any use or structure in a project where a development plan is required, all of the following requirements shall be satisfied.

(a) The Commission shall have granted primary approval of the development plan in accordance with the applicable provisions of this chapter and the Commission's rules, or the development plan requirements shall gave been waived.

(b) The Commission or Planning staff shall have granted secondary approval of the development plan in accordance with the applicable provisions of this chapter and the Commission's rules.

(c) The applicant shall have met or adequately committed to meet all of the conditions of approval placed on the development plan.

(d) The applicant shall have installed or adequately committed to have installed all of the public improvements and infrastructure required to serve the development.

(e) The applicant shall have recorded in the Allen County Recorder's Office all of the required documents, rights-of-way, utility easements, plans, deed restrictions, restrictive covenants, written commitments, and any other legal instruments required by the Commission or staff.

(F) Development Plan Design Standards

(1) Access and Traffic Management

The design, layout, and construction of all access facilities, roadway improvements, internal traffic and circulation facilities, and other traffic management facilities shall comply with all applicable policies, standards, and specifications of the Board of Public Works, the City Street Engineering Department, the City Traffic Engineering Department, the City Right of Way Department or other appropriate regulatory agency. As part of its review of a proposed development plan, the Commission shall consider and determine if the development's access and traffic management proposals manage traffic in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community, and accomplishes the following:

(a) That the design and location of proposed street and highway access points minimizes safety hazards and congestion;

(b) That the capacity of adjacent streets and highways is sufficient to safely and efficiently accept traffic that will be generated by the new development; and

(c) That the entrances, streets, and internal traffic circulation facilities in the development plan are compatible with existing and planned streets and adjacent developments.

(2) Building Separation

As part of its review of a proposed development plan, the Commission shall determine that all proposed structures are located to allow for: adequate light and air; ease of access and entry for vehicles, occupants and pedestrians; and safety from fire, flood and other safety hazards. All minimum building separations required by this chapter shall be maintained, unless specifically waived or modified by the Commission as part of the development plan approval.

(3) Pedestrian Circulation

(a) Pedestrian walkways and circulation paths shall be provided to serve the proposed development. Sidewalks or other circulation paths shall be designed to allow for:

(i) Access from parking areas to individual buildings;

(ii) Access between individual buildings and/or uses within the development; and

(iii) Coordination with and connection to existing or proposed sidewalks or uses.

(b) Public sidewalks shall be provided on both sides of any new public street(s) or existing public streets proposed to serve the development, unless specifically waived or modified by the Plan Commission as part of the development plan approval. The Commission and City staff may also require replacement of existing sidewalks along existing streets which abut the proposed development.

(c) The Plan Commission may require the provision of sidewalks along any existing or proposed private streets within the proposed development.

(d) The design and construction of all sidewalks shall comply with the applicable requirements of the Americans with Disabilities Act (ADA).

(4) Easements

Easements shall be provided as necessary for utility lines, storm water drainage facilities, and other similar facilities and uses. Easements shall be designed and laid out so that adequate utility service and storm drainage can be provided, and proper continuity exists between areas, uses, structures, parcels, and developments. Easement widths and locations shall comply with all applicable policies, standards, and specifications of the Board of Public Works, City Utilities, or other applicable utility or regulatory agency.

(5) Height

All height limitations required by this chapter shall be maintained, unless specifically waived or modified by the Commission as part of the development plan approval.

(6) Landscaping and Natural Features

(a) Natural features

As part of its review of a proposed development plan, the Plan Commission shall consider whether the development is compatible with surrounding zoning and land uses. To help achieve compatibility and appropriate site design and development, the applicant or developer is encouraged to preserve as many existing trees and other natural site features as is practical. The location and nature of these site features shall be considered by the applicant or developer in the planning and design of the site development.

(b) Landscaping

To help achieve compatibility and appropriate site design and development, landscaping shall be provided in accordance with the parking area landscaping requirements (§157.313(E)) and the screening and buffering requirements (§157.306) unless specifically waived or modified by the Commission or its designated representative as part of the development plan approval.

(c) Shade trees

Existing shade trees shall be retained or new trees planted along all public streets in accordance with the standards and specifications of the City.

(7) Street and Site Lighting

Street lighting facilities shall be installed as necessary to serve the proposed development. Additional outdoor site lighting may also be provided as needed. The design, layout, and construction of the proposed street and other outdoor site lighting facilities shall comply with all applicable policies, standards, and specifications of the Board of Public Works, City Utilities, and the Street Lighting Department, or other appropriate regulatory agency.

(8) Parking

Adequate off-street parking facilities shall be provided to serve the proposed development according to the provisions and requirements of this chapter. The minimum number of parking spaces shall be provided, unless specifically waived as part of the development plan approval.

(9) Recreation Space and Amenities

Developed recreation space shall be provided to serve all proposed residential developments, to meet the recreation needs of the residents of the development. Recreation space shall be provided at a minimum standard of 750 square feet per dwelling unit, and shall be designed, provided and installed in accordance with the provisions of §155.025 (B), (C), and (D) of the City of Fort Wayne Subdivision Control Ordinance, and in compliance with all applicable policies, standards, and specifications of the Fort Wayne Department of Parks and Recreation. If the total required recreation space for the proposed development is less than 10,000 square feet, the Plan Commission may waive the recreation space requirement.

(10) Sanitary Sewer

Complete sanitary sewer facilities shall be installed to serve the proposed development. The design, layout, and construction of the proposed facilities shall comply with all applicable policies, standards, and specifications of the Board of Public Works, City Utilities, and the City Water Pollution Control Department, or other appropriate regulatory agency.

(11) Signage

All proposed signage shall conform with the applicable provisions and requirements of §157.316 (Signs). As part of its review and approval of a proposed development plan, the Commission or its designated representative may grant waivers to those signage provisions and requirements.

(12) Storm Drainage

Complete storm water drainage facilities shall be installed to serve the proposed development. The design, layout, and construction of the proposed facilities shall comply with all applicable policies, standards, and specifications of the Board of Public Works, City Utilities, and the City Stormwater Engineering Department, or other appropriate regulatory agency.

(13) Streets

Adequate street facilities shall be installed as necessary to serve the proposed development. Proposed streets shall be constructed and maintained as private streets, unless otherwise required or permitted by the Board of Public Works and the Plan Commission. The design, layout, construction, dedication, and acceptance of any proposed public street shall comply with all applicable policies, standards, and specifications of the Board of Public Works, the City Street Engineering Department, or other appropriate regulatory agency.

(14) Yard and Setback Requirements

All minimum yard and setback requirements required by this chapter shall be maintained, unless specifically waived or modified by the Commission as part of the development plan approval.

(15) Water

Complete water supply facilities shall be installed to serve the proposed development. The design, layout, and construction of the proposed facilities shall comply with all applicable policies, standards, and specifications of the Board of Public Works, City Utilities, and the City Water Engineering Department, or other appropriate regulatory agency.

(16) Other Design and Review Standards

(a) As part of its review of any proposed primary development plan, the Commission may require the preparation and submission of a traffic impact study and/or any other studies or information the Commission determines is necessary for proper consideration and review of the request.

(b) Any proposal for a new shopping center in a SC District shall include a projected trade area study and analysis as part of the primary development plan submission.

(c) Any site proposed for a new manufactured home park in a MR1 or MR2 District shall be at least five (5) acres in size.

(d) The Plan Commission shall establish a Design Review Committee for conducting reviews, making recommendations, or taking action on certain CM5A and CM5B development proposals; all Plan Commission-reviewed development plan projects in the CM5A and CM5B districts shall also be reviewed in terms of the recommendations of the Downtown Design Manual and the Design Review Committee, except that projects located within Local Historic Districts shall not be subject to design review. It is intended that the design review process generally take place as set forth in the table below:

DESIGN REVIEW PROCESS

Project Type	Primary and Secondary Development Plan (with Design Review Committee [DRC] Recommendation)	Major Facade Renovation (with DRC Decision)	Site Plan Routing (with DRC Decision)	Staff Review	Permit Type
New development projects (including accessory structures)	greater than 1,000 sq ft gross floor area (gfa)	N/A	less than 1,000 sq ft gfa	N/A	Improvement Location Permit (ILP)
Additions to primary or accessory structures, excluding additions to single and two family structures	greater than 25% of structure gfa or greater than 10,000 sq ft gfa	N/A	less than 25% of structure gfa or less than 10,000 sq ft gfa	N/A	ILP
Major facade renovation	N/A	All projects	N/A	N/A	ILP
Signs only	N/A	N/A	N/A	All projects	ILP
Fencing only	N/A	N/A	N/A	All projects	ILP
Minor facade renovation	N/A	N/A	N/A	N/A	N/A

(G) Plan Commission Waiver of Required Design Standards

(1) As noted in §157.304(G), the Plan Commission or its designated representative may waive or modify certain development plan design standards as part of its approval of a primary or secondary development plan. Such a waiver or modification may be granted provided that:

(a) The waiver or modification is in conformance with the purposes and intent of this chapter along with the goals, objectives, and policies of the City Comprehensive Plan;

(b) The Commission or its designated representative determines the applicant has submitted adequate evidence in support of the requested waiver or modification;

(c) The requested waiver or modification will be compatible with the immediate area, and will not be unduly detrimental to the use and value of the area adjacent to the property included in the request; and

(d) The failure to grant the requested waiver would result in practical difficulties in the use of the property for the proposed development.

(2) The Plan Commission may grant waivers or modifications to the following development plan standards as part of its approval of a primary or secondary development plan:

(a) Building separation;
(b) Yard and setback requirements;
(c) Height limitations;
(d) Recreation space and amenities;
(e) Parking (minimum parking space requirements);
(f) The 30,000 square foot maximum CM2 tenant space limitation;
(g) Landscaping;
(h) Parking area screening and buffering;
(i) Public sidewalks; and
(j) Signage.

(3) The Plan Commission's designated representative may grant waivers or modifications to the following development plan design standards as part of its approval of a primary or secondary development plan:

(a) Landscaping;
(b) Parking area screening and buffering; and
(c) Public sidewalks.

(4) A decision by the Plan Commission's designated representative to deny a requested waiver may be appealed to the Plan Commission, in accordance with the Commission's rules.

(5) The Plan Commission may also waive or modify the standards in §157.309 (Design and Additional Standards), as set forth therein.

(H) Amendments to Approved Development Plans

Proposed amendments to an approved development plans shall be reviewed in accordance with the following:

(1) Amendments after Primary Approval

Proposed amendments to an approved primary development plan prior to the submittal of a secondary development plan shall be reviewed in accordance with the following:

(a) If a Zoning Enforcement Officer determines that the amendment does not constitute a substantial change to the previously approved plan, the revised plan may be submitted with the application for a secondary development plan; or

(b) If a Zoning Enforcement Officer determines that the amendment constitutes a substantial change to the previously approved plan, the submission of a new primary development plan shall be required. The previous submission shall be void once the new primary development plan is approved. The new primary development plan shall require a new application and filing fee, and shall be reviewed under the provisions of this subchapter.

(2) Amendments after Secondary Approval Prior to Issuance of the ILP

(a) Proposed amendments to an approved primary development plan prior to the submittal of a secondary development plan shall be reviewed in accordance with the following:

(i) If a Zoning Enforcement Officer determines that the amendment does not constitute a substantial change to the previously approved plan, the revised plan may be submitted with the application for a secondary development plan; or

(ii) If a Zoning Enforcement Officer determines that the amendment constitutes a substantial change to the previously approved plan, the submission of a new primary development plan shall be required. The previous submission shall be void once the new primary development plan is approved. The new primary development plan shall require a new application and filing fee, and shall be reviewed under the provisions of this subchapter.

(3) Amendments after Secondary Approval and the Issuance of the ILP

A proposed amendment or addition to an approved secondary development plan where Improvement Location Permits have been issued, but where no construction on any structures has taken place, shall be reviewed in accordance with the following:

(a) If a Zoning Enforcement Officer determines that the amendment does not constitute a substantial change to the previously approved plan, the revised plan may be submitted with an application for an Improvement Location Permit and routed to other City departments as necessary; or

(b) If a Zoning Enforcement Officer determines that the amendment constitutes a substantial change to the previously approved plan the submission of a new secondary development plan shall be required. The previously issued Improvement Location Permit shall be revoked once the new secondary development plan is approved. The previously approved development plan shall be void, and The amended secondary development plan shall require a new application and filing fee, and shall be reviewed under the provisions of this subchapter; or

(c) If a Zoning Enforcement Officer determines that the amendment is extensive enough that another public hearing should be required, the applicant shall resubmit the revised plan as a new primary development plan. The previously issued Improvement Location Permit shall be revoked. Once the new primary development plan is approved the previous submission shall be void. The new primary development plan shall require a new application and filing fee and shall be reviewed under the provisions of this subchapter.

§ 157.305 Site Plan Review

(A) Purpose and Intent

(1) Purpose

The purpose of this section is to:

(a) Allow for proper review of certain proposed residential, commercial, industrial, and other nonresidential projects;

(b) Establish procedures for the submission and review of a site plan routing; and

(c) Establish plan documentation and supporting information that must be submitted to allow for the review of a project, including design review for projects in the CM5A and CM5B districts.

(2) Intent

The intent of requiring site plan review is to promote development which has a positive impact on surrounding land uses and the overall community, by allowing City staff review and feedback on certain development proposals. This input may include comments, recommendations and/or requirements on the following issues:

(a) The compatibility of the proposed development with surrounding zoning and land uses;

(b) The availability, coordination, and adequacy of water, sanitary sewer, storm water drainage, and other utilities and/or facilities proposed to serve the development;

(c) Traffic and transportation safety, roadway capacity, and traffic congestion in the immediate vicinity of the proposed development site;

(d) Proposed entrance locations, street facilities, roadway improvements, and internal traffic circulation patterns;

(e) Proposed signage, pedestrian circulation facilities, recreation space and facilities, outdoor lighting, landscaping, buffering, and screening;

(f) The relationship between the design of the proposed development and public safety issues such as fire safety and crime prevention;

(g) The impact of the proposed development on existing natural site features; and

(h) In the CM5A and CM5B districts, how the project promotes: attractive and functional building forms; attractive and functional streetscape and public space design; compatibility of design, use, character, and pattern; increased pedestrian oriented design; and the use of high quality, durable materials.

(B) Proposals Requiring Site Plan Review

Any proposal for a new structure or an addition to an existing structure under the following categories, which does not require the submission of a development plan under the provisions of §157.304, requires submittal, review and approval through the site plan review process:

(1) Commercial structures;

(2) Industrial structures;

(3) New individual multiple family three (3) or four (4) unit structures;

(4) Any other nonresidential structures not otherwise listed, including churches under 10,000 square feet, schools, and similar structures; and

(5) As part of its consideration and approval of a request for a contingent use, special use, or use variance, the Board of Zoning Appeals may require review and approval through the site plan review process.

(C) Waiver of Site Plan Review

A Zoning Enforcement Officer may waive the site plan review requirements if the proposal meets one of the following:

(1) Attached or detached nonresidential storage structures which:

(a) Will not exceed 1,500 square feet in size;
(b) Will not contain any water or sanitary sewer facilities, or require any additional access points;
(c) Can be adequately served by existing storm drainage facilities; or

(2) Attached or detached nonresidential uninhabited structures such as entrance areas, canopies, awnings, open decks, storage space, or similar structures.

(D) Application and Submittal Requirements

All requests for site plan review shall be accompanied by a completed Improvement Location Permit application and the applicable permit fee. Requests must also be accompanied by the required number of complete sets of building plans and site plans, which shall be prepared and certified by the applicable licensed engineer, architect, or land surveyor and meet the minimum submittal requirements outlined in this section or as otherwise determined by Planning staff. It is intended that plans submitted for site plan review show specific site design and engineering details to allow for an adequate final review for permit issuance. The Planning staff reserves the right to not accept incomplete submissions, or to accept the submission but defer routing the plans for review until it is complete. All site plan routing projects located in CM5A or CM5B districts shall submit plans for design review; the design review process shall be completed prior to staff accepting the site plan routing submittal.

(1) Full Submittal Requirements

(a) All plans submitted for site plan review must contain the items listed below if applicable to the project. All site plan routing projects located in CM5A and CM5B districts shall require full submittal information. Additional information may be required by City or County staff for individual projects in order to evaluate compliance with applicable regulations and standards. The following items must be included on the submitted plans unless otherwise determined by the Planning staff, with the exception of the projects as described under division (2) below:

(i) Date, north arrow, scale and proposed name of the development;

(ii) Name, address, and phone numbers of the developer(s), and the land surveyor, architect or engineer who prepared the plans;

(iii) A boundary survey of the property, prepared and certified by a licensed land surveyor, which complies with Title 865 Rule 12 of the Indiana Administrative Code (as may be amended). The survey shall have been performed within one (1) year of the submission of the site plan and reflect the current conditions of the site. The following items shall be included on the boundary survey:

[1] Property boundary lines, giving length and bearing (including reference or basis) on each straight line; and interior angles, radius, point of tangency and length of curved lines. The perimeters of the property shall be dimensioned in feet and

decimals as accurately as possible to the nearest one-hundredth (0.01);

[2] The width of all adjoining street and highway rights of way, and the street width;

[3] Existing sidewalks on or adjacent to the development parcel;

[4] Existing encroachments, including fences, structures, pavement and other improvements, either way across property lines;

[5] Existing fences and walls located with respect to property lines;

[6] Recorded or otherwise dedicated easements or similar rights of way, including type of easement;

[7] Existing lot or tract lines within the development parcel;

[8] Addresses of existing structures;

[9] Current zoning of the development parcel;

[10] Existing platted building setback lines; and

[11] Development parcel legal description.

(iv) A topographic/utility survey of the property, prepared and certified by a licensed land surveyor, which complies with Title 865 Rule 12 of the Indiana Administrative Code (as may be amended). The survey shall have been performed within one (1) year of the submission of the site plan and reflect the current conditions of the site. The following items shall be included on the topographic/utility survey:

[1] Benchmarks in USGS datum;

[2] Existing site contours at 1 foot intervals based on USGS datum unless the Planning staff determines that the slope of the property requires a different contour interval;

[3] Location of all existing structures on the development parcel and all off-site structures within 10 feet of the property lines, if the off-site structure locations can be determined from the subject property;

[4] If applicable, the location of the special flood hazard area of the regulatory flood as mapped by scale on the Flood Insurance Rate Maps for Allen County, including all on-site established base flood elevations, and the base flood elevation at the property lines. If the elevations on the topographic/utility survey indicates an area subject to inundation by the regulatory flood which lies outside of the floodplain identified on the Flood Insurance Rate

Map, the information on the topographic/utility survey shall govern and that area shall be considered a special flood hazard area and subject to the regulations of this subchapter;

[5] Existing finished floor elevations of the lowest floor of all structures located within a special flood hazard area;

[6] The approximate location of all wetlands on the development parcel according to the current National Wetland Inventory Maps;

[7] The location of any natural water features such as lakes, ponds, streams or drainage ways;

[8] The location of any Allen County regulated drain(s) on or immediately adjacent to the development parcel, including existing statutory drain easement(s);

[9] The location of existing vegetation including the perimeter of all wooded areas, other significant vegetation, and individual trees at and above 2 inches in trunk caliper (measured according to standard horticultural practices);

[10] The location and size of all existing water facilities, including the location of all meters, valves and fire hydrants on or serving the development parcel;

[11] The location, size, depth, and direction of flow of all existing sanitary sewers, combination sewers, storm drains and culverts on and/or immediately serving the development parcel, including the location of catch basins and manholes with rim elevations and inverts of each pipe;

[12] The location and size of existing natural gas distribution facilities on the development parcel;

[13] The location and size of existing communication systems on the development parcel, including the location of all poles, towers, and equipment; and

[14] Names of the utility service providers.

(v) Proposed structures within the development parcel;

(vi) Finished floor elevations of the lowest floor of all proposed structures located within a special flood hazard area;

(vii) Proposed building elevation drawings;

(viii) Dimensions showing the distances from the proposed structures and/or parking areas to property and right-of-way lines;

(ix) Any proposed subdivisions of individual parcels, showing proposed lot, tract or development parcel numbers and dimensions, if applicable;

(x) Grading, drainage and erosion control plans which include storm drainage flow lines, location of swale and/or retention/detention areas, calculations, elevations and pipe materials;

(xi) Location of proposed public sanitary sewer, storm sewer, and water lines, showing sizes, elevations, materials, and sewer rim and invert elevations of each manhole;

(xii) The point of connection to existing sanitary sewer, storm sewer, and water facilities;

(xiii) proposed water and/or sewer main line extension plans and profiles, if applicable;

(xiv) Internal plumbing plans including isometrics, and expected flows of the proposed land use(s);

(xv) Placement of all exits and exit and emergency lighting;

(xvi) Proposed street, site and building lighting plans including fixture locations, pole types, fixture types (including wattage), service source, and photometrics;

(xvii) Proposed public or private streets, including plan profiles and cross sections, names, traffic control devices (signals, signs, and/or pavement markings);

(xviii) Proposed auxiliary street lanes (passing turning, deceleration and recovery) according to the current Fort Wayne - New Haven - Allen County Access Standards Manual;

(xix) A detailed landscape plan which meets the requirements of §157.306 and §157.313(E) which includes provisions for perimeter screening and buffering, parking area screening and buffering, shade tree and greenspace locations and fencing proposals;

(xx) Proposed street tree locations if required;

(xxi) Proposed sidewalk locations and widths;

(xxii) The location, size, and type of proposed signage;

(xxiii) Details and specifications for proposed off-street parking areas, service areas, loading areas, and points of access to public or private rights-of-way;

(xxiv) Proposed easements, showing widths and types; and

(xxv) Areas to be used for the outdoor storage or display of materials, merchandise, machinery, or other such items.

(b) In addition to the required plan documents, the following information shall be submitted, if applicable to the project:

(i) For projects within a special flood hazard area an analysis of the proposed effect of the project on the floodplain certified by a registered professional engineer with expertise in water resources engineering shall be submitted unless specifically waived by the Plan Commission as a part of the primary approval. This analysis may be subject to review by an engineering consultant chosen by the Plan Commission or other applicable City department;

(ii) For multiple tenant or multiple unit structures the location and square footage of individual units or tenant spaces; and

(iii) For projects in the CM5A and CM5B districts, the information necessary to allow for a design review shall be submitted, including but not limited to:

[1] Building elevations showing sizes and locations of awnings, balconies, canopies, entrances, lighting, signage and windows, and detailed descriptions of proposed building façade materials;

[2] A site plan showing proposed site lighting; freestanding sign locations, types, and sizes; fence locations, heights, and materials;

[3] Detailed descriptions of proposed façade renovations (if applicable); and

[4] Any other information necessary to show compliance with the applicable provisions of §157.309 (Design and Additional Standards).

(2) Limited Submittal Requirements

The submittal requirements listed below shall apply to projects which are not located in a special flood hazard area, for additions to existing structures and/or new accessory structures on development parcels where the existing primary structures will remain. Additional information may be required by City or County staff for individual projects in order to evaluate compliance with applicable regulations and standards. The following items must be included on the submitted plans unless otherwise determined by the Planning staff:

(a) Date, north arrow, scale and proposed name of the development;

(b) Name, address, and phone numbers of the developer(s), and the land surveyor, architect or engineer who prepared the plans;

(c) Property boundary lines, the perimeters of the property shall be dimensioned in feet and decimals as accurately as possible to the nearest one-hundredth (0.01);

(d) The width of any street and highway rights of way, including width of street adjacent to the proposed structure;

(e) Existing encroachments including fences, structures, pavement and other improvements, either way across property lines;

(f) Existing fences and walls located with respect to property lines;

(g) Recorded or otherwise dedicated easements or similar rights of way including type of easement;

(h) Existing lot or tract lines located within the development parcel;

(i) Platted building setback lines;

(j) Development parcel legal description;

(k) Existing site contours at 1 foot intervals based on USGS datum unless the Planning staff determines that the slope of the property requires a different contour interval;

(l) The location of any natural water features such as lakes, ponds, streams or drainage ways adjacent to the proposed structure;

(m) The location of any Allen County regulated drain adjacent to the proposed structure, including existing statutory drain easements;

(n) The location of existing vegetation adjacent to the proposed structure;

(o) The location and size of all existing water lines;

(p) The location size, depth and direction of flow of all existing sanitary sewers, combination sewers, storm drains and culverts on and/or immediately serving the development parcel, including the location of catch basins and manholes, with rim elevations and inverts of each pipe;

(q) The location of proposed new structures or additions to existing structures;

(r) Proposed building elevation drawings;

(s) Dimensions showing the distances from the proposed structures and/or parking areas to the property and right-of-way lines;

(t) Grading, drainage, and erosion control plans which include storm drainage flow lines, location of swale and or retention/detention areas calculations elevations and pipe materials, as applicable;

(u) The location of proposed sanitary sewer, storm sewer, and water lines showing sizes, elevations, materials, and sewer rim and invert elevations of each manhole;

(v) The point of connection to existing sanitary sewer, storm sewer and water lines;

(w) Proposed water and/or sewer main line extension plans and profiles, if applicable;

(x) Internal plumbing plans including isometrics, and expected flows of the proposed land use(s), if applicable;

(y) Placement of all exits and exit and emergency lighting;

(z) Proposed street, site and building lighting plans including fixture locations, pole types, fixture types (including wattage), service source, and photometrics, if applicable;

(aa) A detailed landscape plan which meets the requirements of §157.306 and §157.313(E) which includes provisions for perimeter screening and buffering, parking area screening and buffering, shade tree and greenspace locations and fencing proposals, as applicable;

(bb) Details and specifications for proposed off-street parking areas, service areas, loading areas, and points of access to public or private rights-of-way, if applicable;

(cc) Proposed easements, showing widths and types; and

(dd) Areas to be used for the outdoor storage or display of materials, merchandise, machinery, or other such items, if applicable.

(3) Foundation Improvement Location Permit

A request may be made for a "Foundation Only" Improvement Location Permit which would allow construction of overall site improvements, the foundation footers and slab, and any below grade utility work. All requests for "Foundation Only" site plan review shall be accompanied by a completed Improvement Location Permit application, the applicable permit fee and follow the procedures outlined in this section. Requests must also be accompanied by the required number of plans, which shall be prepared and certified by the applicable licensed engineer, architect, or land surveyor. Submitted plans must contain all information required for review and approval of the proposed construction by applicable departments. A second Improvement Location Permit which complies with the requirements outlined above must be obtained under a new application along with another permit fee in order to receive approval for construction of the remainder of the project.

(4) Building Shell Improvement Location Permit

A request may be made for a "Building Shell" Improvement Location Permit for multiple tenant or speculative tenant buildings which would allow construction of overall site improvements, the perimeter foundation footers, and exterior building walls and roof of the structure. As part of the application for the permit, the applicant shall pay the applicable permit fee along with additional fees for the maximum number of Certificates of Compliance needed for individual tenant spaces and follow the site plan routing procedures outlined in this section. Requests must also be accompanied by the required number of plans, which shall be prepared and certified by the applicable licensed engineer, architect, or land surveyor. Submitted plans must contain all information required for review and approval of the proposed construction by applicable departments. Certificates of Compliance shall not be released for any tenant space until tenant finish plans are submitted, reviewed and approved by those departments holding the Certificate of Compliance. Any substantial changes to the project prior to final project build out, may require that plans be resubmitted through the site plan review process if deemed necessary by the Planning staff.

(5) Proposals Containing Multiple Primary Structures

Site plan review proposals containing multiple primary structures shall be required to obtain a separate Improvement Location Permit under a separate application for each primary structure proposed.

(E) Application and Submittal Requirements

(1) Filing Deadline and Meeting Schedule

Application submission deadlines and routing meeting dates shall be according to the schedule and times established by the Planning staff. Incomplete submissions shall not be accepted.

(2) Site Plan Review Committee Meeting

Proposals submitted prior to the application deadline shall be reviewed and discussed at the scheduled routing meeting dates. A representative should attend the meeting in order to answer questions about the proposal and receive comment information.

(3) Site Plan Review Committee Action

Upon review of a submitted site plan the following actions may be taken by reviewing members:

(a) Additional information may be required;

(b) Changes to the site plan may be recommended or required;

(c) The proposed site plan may be approved, with or without conditions; if no response is received from an applicable reviewing department/agency, the Planning staff may consider the lack of response to constitute approval of the plan; or

(d) The proposed site plan may be denied, if it does not comply with applicable standards, specifications or requirements.

(4) Design Review Committee

The Plan Commission shall establish a Design Review Committee for conducting reviews and taking action on CM5A and CM5B plan review projects; all site plan review projects in the CM5A and CM5B districts shall also be reviewed in terms of the recommendations of the Downtown Design Manual and the standards of §157.309 (Design and Additional Standards). For these projects, the Design Review Committee shall be considered a reviewing department for the purpose of taking action on these two specific aspects of the project.

(5) Improvement Location Permit

(a) After the site plan review committee meeting, it is the responsibility of the designated project representative to provide the reviewer with any requested information or revised site plans.

(b) Once all of the reviewing departments/agencies have sent approvals for the proposal to the Planning Department and the applicant has met or adequately committed to meet all of the conditions of approval, an Improvement Location Permit shall be issued for the project to the Allen County Building Department.

(6) Certificate of Compliance

(a) Planning Staff Release

For new structures the applicant may be required to submit a certified survey to document that the structure(s) meet setback requirements, in addition to satisfying any other conditions of approval established by the Planning staff.

(b) Certificate of Compliance Release

During the site plan review committee meeting, reviewers may choose to place a hold on the Certificate of Compliance. It is the designated project representative's responsibility to contact the reviewers and provide any requested information or schedule any required inspections. When all of the reviewing departments/agencies have approved the release of the Certificate of Compliance, indicating compliance with all applicable standards and specifications, and the Planning staff has granted final approval, the Planning Department will issue the Certificate to the Allen County Building Department.

(c) Multiple Tenant Structures

In the case of new multiple tenant commercial, industrial, or other nonresidential structures, the Planning staff may issue a Certificate of Compliance for an individual tenant space at the request of the

owner/applicant. A tenant space Certificate of Compliance may be issued provided all applicable requirements pertaining to the tenant space have been resolved and the applicant has adequately met or committed to meet all other applicable conditions of approval pertaining to the overall project. Additional tenant spaces shall not be occupied until a separate Certificate of Compliance has been applied for and issued by the Planning staff.

(d) Additional Certificates of Compliance

In the case of a multiple tenant commercial, industrial, or other nonresidential structures, the Planning staff may issue additional Certificates of Compliance for individual tenant spaces. The applicant must pay the additional fees as required and submit plans showing the tenant space break down of the building. The project may need to be resubmitted through the site plan review process for review and approval of the breakdown of tenant spaces if deemed necessary by the Planning staff.

§ 157.306 Screening and Buffering

(A) Purpose

The purpose of this section is to establish standards for providing adequate screening and buffering of structures, parking areas, driveways, land uses and other facilities, to carry out the following objectives:

(1) Provide screening and buffering between structures, parking areas, land uses, and other facilities and adjacent uses, structures, public alleys, and roadways;

(2) Promote compatibility between different land uses;

(3) Assist in delineating separations of spaces, structures, uses, and activities on a site, or between adjacent sites;

(4) Conserve energy, and moderate the effects of sun and wind;

(5) Conserve or enhance property values;

(6) Decrease storm water run-off and erosion; and

(7) Improve the appearance of individual developments and the overall area.

(B) Landscape Plan

(1) General Plan Requirements

A landscape plan shall be submitted as necessary to show conformance with this section. The plan shall be prepared by an individual knowledgeable of plant materials, landscape and site design, construction processes, and growing conditions in this region (USDA Zone 5).

(2) Specific Primary Plan Requirements

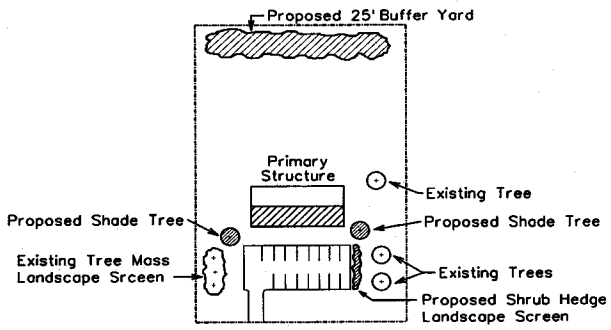
A landscape plan shall be submitted as part of a request for approval of a primary plat or development plan, or preliminary site plan. A landscape plan shall not be required if the proposed project does not require landscaping based on the requirements set forth in this section and §157.313(E), or for improvement location permit requests which do not require site plan review. However, the Board of Zoning Appeals or Plan Commission may also require the submission of a landscape plan as a condition of approval of any request. The landscape plan shall include:

(a) The approximate location of existing mature trees;

(b) Existing tree and shrub mass locations;

(c) The location and size of proposed screening and buffering yard areas; and

(d) Preliminary tree and shrub locations and types (shade tree, evergreen tree, ornamental tree, large shrub, etc.) as necessary to meet the applicable provisions of this chapter and City Code.



Primary Development Plan Landscape Plan

(3) Specific Secondary Plan Requirements

A landscape plan shall be submitted as part of a request for approval of a secondary plat or development plan, or final site plan. A landscape plan shall not be required if the proposed project does not require landscaping based on the requirements set forth in this section and §157.313(E). However, the Board of Zoning Appeals or Plan Commission may also require the submission of a landscape plan as a condition of approval of any request. The plan shall be prepared by an individual knowledgeable of plant materials, landscape and site design, construction processes, and growing conditions in this region (USDA Zone 5). The landscape plan shall include:

(a) The location of existing mature trees to be preserved, and existing mature trees to be removed;

(b) The approximate canopy lines of existing mature trees to be preserved;

(c) The location of existing tree masses to be preserved, including proposals for protecting existing plants which are to remain from construction damage;

(d) The location and width of required screening and buffering yard areas; and

(e) Proposed tree, shrub, and other plant material locations, along with information indicating the quantity, size at installation, and botanical name of the proposed plantings.

(C) Screening and Buffering Standards

(1) General Requirements

All required screening, buffering, and landscaping shall be designed and installed to carry out the purposes and objectives of this subchapter. In addition, the following general requirements shall apply:

(a) Existing Vegetation

The preservation of existing trees, tree masses, shrubs, and shrub masses is encouraged and should be done wherever such preservation is practical. Existing vegetation may be used to meet the requirements of this chapter. To help ensure the survival of existing vegetation which is proposed to be preserved, adequate provisions must be made to protect the trees, shrubs, or other vegetation during the construction of the project.

(b) Location of Screening and Buffering

All required screening and buffering shall be provided on the same lot, tract, or development parcel as the building, structure, or use for which the screening and buffering is required.

(c) Plant Hardiness

All required screening, buffering, and landscaping shall consist of plantings hardy to this region (USDA Zone 5). The use of native plant material or similar low-maintenance plant material is recommended.

(d) Corner Visibility

All required screening and buffering shall be subject to the corner visibility limitations set forth herein.

(2) Specific Requirements

(a) Overall Standards

SCREENING AND BUFFERING REQUIREMENT CODES*

Proposed Use	Adjacent Use or Zoning Classification						
	Residential zoning classification	Public alley right-of-way **	Public alley right-of-way ***	Public street right-of-way	Institutional or similar nonresidential use	Commercial use or zoning classification	Industrial use or zoning classification
Single or two family residential structure	None	None	None	None	None	None	None
Multiple family complex or structure	3	2	1	None	1	1	1
Manufactured home park	3	2	1	2	2	3	3
Institutional or other nonresidential use	3	2	1	None	None	None	None
Parking area, for other than single or two family use	3	3`	2	1	1	1	1
Commercial structure	3	3	2	None	1	None	None
Industrial structure	4	3	2	None	1	None	None

***See table below for code descriptions**

**** If adjacent to a residential zoning district**

***** If not adjacent to a residential zoning district**

CODE DESCRIPTIONS FOR SCREENING AND BUFFERING REQUIREMENTS

Screening/ buffering code	Requirement	Ultimate minimum height of screen/buffer	Minimum width of buffer yard	Required minimum coverage in buffer yard
1	Deciduous and/or evergreen shrubs	2-3′	5′	30% if screening a structure 75% if buffering a parking area
2	Deciduous and/or evergreen shrubs	3-4′	5′	50% if screening a structure 75% if buffering a parking area
3	Evergreen trees, or	6′	15′	50% if screening a structure 75% if buffering a parking area
	Mounding*, and/or	6′	20′	Continuous (mound)
	Solid fence and evergreen and/or deciduous shrubs	6′	10′	Continuous (fence) 30% (shrubs) if screening a structure 75% if buffering a parking area
4	Evergreen trees, or	8′	15′	50%
	Mounding* and deciduous and/or evergreen shrubs	8′	25′	Continuous (mound) 30% (shrubs)

***Any mounding used in meeting screening or buffering requirements shall be a minimum of 3′ in height and the minimum width of the buffer yard shall be adequate to accommodate the height of the proposed mounding**

(b) Additional Standards

Screening and buffering shall be provided for the miscellaneous uses, structures, and facilities set forth below. The proposed screening and buffering shall be reviewed and approved as necessary as part of any secondary development plan or site plan review.

(i) Refuse dumpsters

Landscape plantings or an opaque screen fence or solid wall shall be provided to adequately screen all refuse dumpsters from public rights-of-way and adjacent properties.

(ii) Drive through facilities

Landscape plantings shall be provided to adequately buffer drive through vehicle stacking lanes and menu boards from public rights-of-way and adjacent properties.

(iii) Outdoor storage

Landscape plantings or an opaque screen fence shall be provided to adequately screen outdoor storage areas from public rights-of-way and any adjacent residential zoning districts.

(iv) Off street loading and unloading areas

Landscape plantings shall be provided to buffer truck loading and unloading areas from public rights-of-way and any adjacent residential zoning districts.

(v) Vehicle storage areas

Landscape plantings or an opaque screen fence shall be provided to screen any accessory outdoor vehicle storage area where over ten (10) vehicles are stored overnight.

(c) Calculation of Coverage

In determining whether a proposed landscape screen or buffer meets the required range of coverage, the Planning staff shall divide the total lineal feet of the buffer yard into the total lineal feet of the continuous plantings provided.

(d) Installation and Planting Size

(i) All plant material required by the provisions of this section shall be properly installed in accordance with standard horticultural practices.

(ii) All plant material required by the provisions of this section shall meet the minimum sizes and spacing at installation as established in the Commission's rules.

(iii) All mounding installed to meet the provisions of this section shall be covered with grass or other acceptable ground cover, in order to prevent erosion.

(iv) All mounding installed to meet the provisions of this section shall be designed and installed to provide adequate storm water drainage to ensure that the mounding does not create ponding or other storm drainage problems on adjacent properties. The side slope of the mounding shall not exceed a slope of 35% to allow for adequate maintenance.

(e) Maintenance

All plant material required by the provisions of this section shall be properly maintained in accordance with standard horticultural practices. Any required plant or other screening material which dies, is removed, or destroyed, shall be replaced with equivalent plant or screening material by the developer or subsequent owner. If necessary, the Planning staff shall determine what new plant or other screening material shall be adequate to replace the dead, removed, or destroyed plant or other screening material.

(D) Waiver of Screening and Buffering Requirements

(1) The Plan Commission or its designated representative may waive or modify the screening and buffering requirements as part of the review and approval of a primary or secondary development plan, in accordance with §157.304(G).

(2) The Planning staff may waive or modify the screening and buffering requirements as part of the review and approval of a site plan routing submission, upon a written request by the applicant. Such a waiver or modification may be granted provided that:

(a) The waiver or modification is in conformance with the purpose of this subchapter;

(b) The staff determines that the applicant has submitted adequate documentation in support of the requested waiver or modification;

(c) The staff determines the required screening and/or buffering is not necessary, based on the existing site or area conditions or characteristics;

(d) The requested waiver or modification will not be unduly detrimental to the use and value of the area adjacent to the property included in the request; and

(e) The requested waiver will improve the relationship between the site design of the proposed development and public safety issues such as fire safety and crime prevention.

(3) A decision by the Plan Commission's designated representative to grant or deny a requested waiver or modification of screening and buffering requirements as part of a secondary development may be appealed to the Plan Commission, in accordance with the Commission's rules.

§ 157.307 Reserved

§ 157.308 Reserved

§ 157.309 Design and Additional Standards

(A) Purpose

The purpose of including design standards as part of the review of development plans, site plan routings, and certain other development proposals is to:

(1) Implement the design-based recommendations of the Plan-it Allen Comprehensive Plan, the Downtown BluePrint plan, the BluePrint Plus plan, the Around the Square Sub Area Plan; and additional Council-adopted plans.

(2) Preserve and enhance the unique character of the community, including the Downtown area, by maintaining the integrity of areas with special significance;

(3) Foster attractive and functional design solutions;

(4) Protect and encourage public and private investments;

(5) Encourage new development and redevelopment which is compatible with the character and pattern of existing development; and

(6) Provide design direction to property owners, developers, designers, and decision-makers.

(B) Applicability

(1) This section shall be applicable to the following development proposals in the CM5A and CM5B districts:

(a) Primary and secondary development plans;

(b) Major façade renovations;

(c) Site plan routing projects;

(d) Conversions of single-family and two-family structures to commercial/mixed-use structures, or to multiple family structures that are

determined to be development plans, major façade renovations, or site plan routing projects; and

(e) Fence, parking lot, and sign proposals.

(C) Design Standards

The following design standards shall apply as noted. The Downtown Design Manual is also available and is intended to provide additional information and assistance on, and recommended alternatives for CM5A and CM5B development proposals to property owners, developers, designers, and decision-makers.

(1) Awnings, canopies, and marquees

(a) Fiberglass and plastic awnings shall not be permitted.

(b) Awnings shall not be internally lit.

(c) At their lowest point, awnings, canopies, and marquees shall be a minimum of eight feet (8') above the grade of the sidewalk.

(2) Balconies

At their lowest point, balconies shall be a minimum of eight feet (8') above the grade of the sidewalk.

(3) Building additions

Additions to the front or side of an existing structure that are visible from a public street shall be similar in material and design to the primary facade.

(4) Building lighting

(a) Building-mounted light fixtures shall be shielded or full cut-off such that glare is not created on adjacent public rights-of-way.

(b) Building-mounted light fixtures in pedestrian areas such as sidewalks, pathways, and plazas shall not be mounted higher than twelve feet (12'), as measured from the adjacent grade.

(5) Building Materials

(a) Mirrored glass is prohibited for all new construction, façade renovations, and building conversions.

(b) In the CM5A district, aluminum and/or vinyl residential style lap siding is prohibited on the first two stories of structures, for all new construction, façade renovations, and building conversions.

(c) Thin-set brick, corrugated metal, Exterior Insulation Finishing Systems (EIFS), and wood shake, shingle, or other wood lap siding is prohibited on

the bottom three feet of the primary façade of the structure for new non-residential and mixed use buildings, façade renovations, and building conversions.

(6) Cornice/roof layer screening

Roof-mounted mechanical equipment such as roof vents, metal chimneys, solar panels, television antennae/satellite dishes, or air conditioning units shall be screened so as to not be visible from any adjacent sidewalk or street.

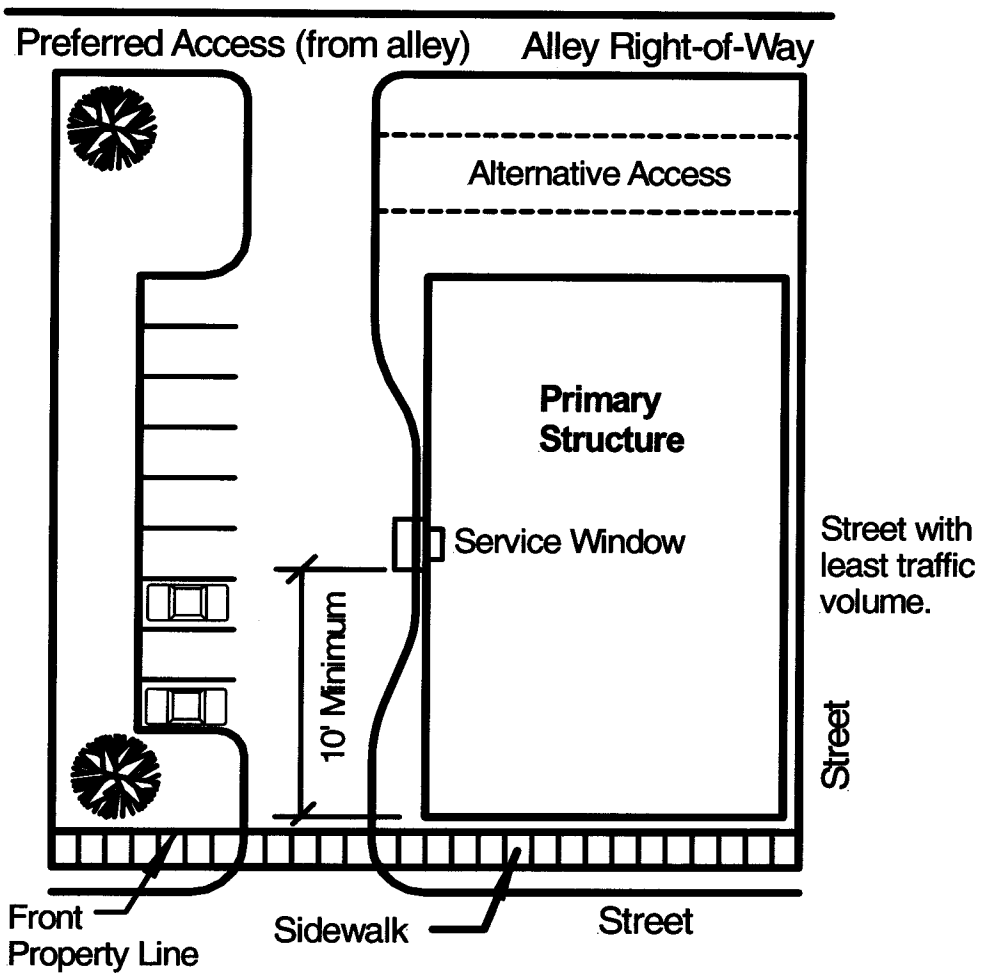
(7) Drive-Through Facilities

(a) The following requirements shall apply to all drive-through facilities:

(i) There shall be a direct pedestrian access between the primary entrance and the adjacent public sidewalk.

(ii) The drive-through facility shall not have more than two (2) service lanes.

(iii) If an additional access point is required to serve a new facility, the access should be provided from an alley if feasible; if alley access is not feasible, the access should be provided from the street with the least traffic volume.

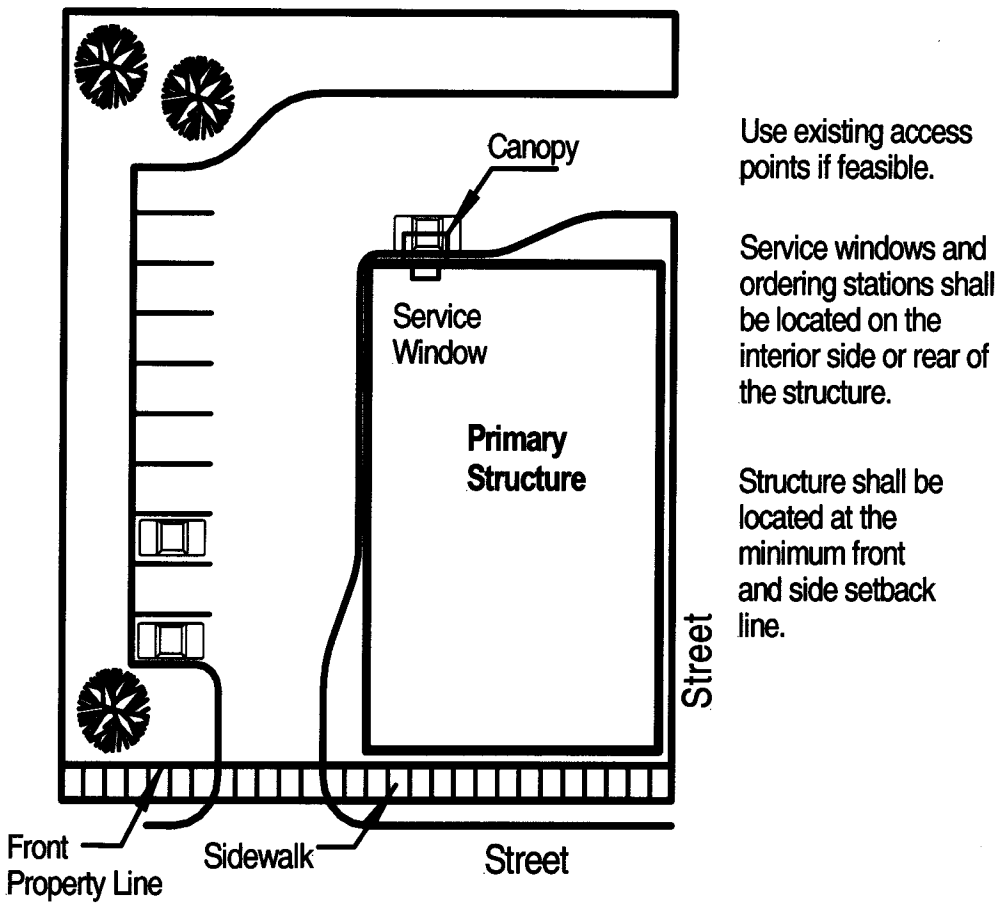


Preferred Additional Vehicular Access Locations

(b) The following requirements shall apply to drive-through facilities proposed as part of a new primary structure:

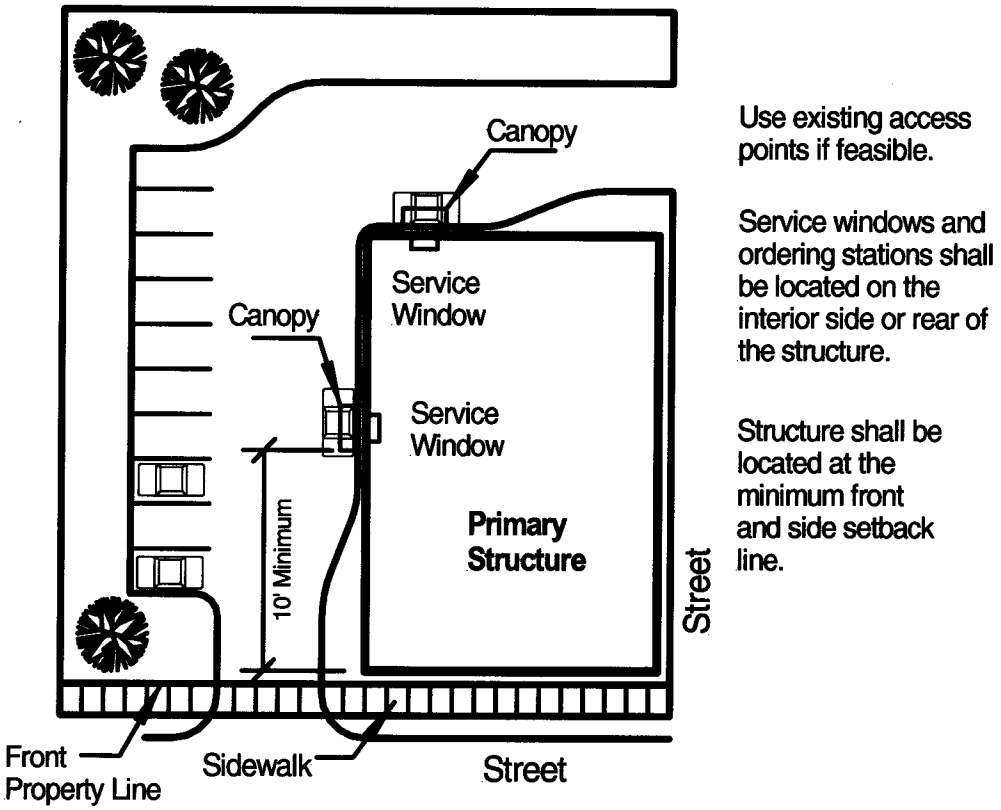
(i) The structure shall be located at the minimum front setback line as established in the Zoning Ordinance for the associated zoning district. Structures located on a corner lot/development parcel shall be considered to have two (2) front setback lines. In this situation, the Plan Commission or Zoning Administrator shall determine the location of any required rear yard.

(ii) In CM5A districts, drive-through service windows and ordering stations shall be located on the rear of a structure.



CM5A Drive-Through Canopy/Service Window Locations - New Primary Structures

(iii) In CM5B districts, drive-through service windows and ordering stations shall be located on the interior side or rear of a structure.



CM5B Drive-Through Canopy/Service Window Locations - New Primary Structures

(iv) In CM5B districts, if the drive-through service window is located on the interior side of the structure, canopies for the drive-through windows shall be attached to the structure and recessed from the front of the structure by a minimum of ten feet (10').

(v) In CM5B districts, the drive-through exit lane shall be located a minimum of ten feet (10') from the structure at the location where the exit lane meets the public sidewalk.

(c) The following requirements shall apply to drive-through facilities proposed as an addition to an existing primary structure:

(i) In CM5A districts, drive-through service windows and ordering stations shall be located either on the interior side or rear of a structure, with access to the window provided by new or existing alley access points; an existing street access point may also be used.

(ii) In CM5B districts, drive-through service windows and ordering stations shall be located either on the interior side or rear of a structure, with access to the window provided by new or existing alley or street access points.

(iii) If the drive-through service window is located on the interior side of the structure, canopies for the drive-through lanes shall be attached to the structure and recessed from the front of the structure by a minimum of ten feet (10').

(iv) If the drive-through service window is located on the interior side of the structure, the drive-through lanes shall be located a minimum of ten feet (10') from the building at the location where the exit lane meets the public sidewalk.

(8) Entrances

(a) There shall be at least one (1) unobstructed pedestrian walkway at least five feet (5') wide connecting the primary facade entrance to an adjacent public sidewalk.

(b) For new non-residential and mixed use buildings, there shall be a minimum of one (1) direct pedestrian entrance accessed directly from the primary street frontage of a building. A corner entrance shall be permitted as a way of meeting this standard.

(c) For new non-residential and mixed use buildings, architectural features shall be provided at primary façade entrances and shall include at least one (1) of the following at each primary entrance:

(i) An arch;

(ii) An awning or canopy;

(iii) Architectural design elements, projecting from the vertical plane of the main exterior wall and raised above the adjoining parapet wall/roof;

(iv) Architectural details such as tile work and moldings that are integrated into the building design;

(v) Enhanced exterior lighting such as wall sconces, building mounted accent lights, or decorative pedestal lights;

(vi) Pilasters projecting from the plane of the wall by a minimum of eight inches (8") and/or architectural or decorative columns that create visual breaks and interest in the facade walls;

(vii) A raised corniced parapet over the door; or

(viii) A recessed entry.

(c) For new non-residential and mixed use buildings, building mounted lighting shall be provided at primary and secondary entrances.

(d) For new residential buildings, the primary exterior entrance(s) shall face a primary street frontage or be oriented to the corner, and shall be highlighted with architectural elements and/or details, including at least one (1) of the following at each primary entrance:

(i) An arch;

(ii) An awning or canopy;

(iii) Architectural design elements, projecting from the vertical plane of the main exterior wall;

(iv) Architectural details such as tile work and decorative moldings that are integrated into the building design;

(v) Enhanced exterior lighting such as wall sconces, building mounted accent lights, or decorative pedestal lights;

(vi) Pilasters projecting from the plane of the wall and/or architectural or decorative columns that create visual breaks and interest in the facade walls;

(vii) A porch: or

(viii) A recessed entry.

(9) Façade horizontal divisions (primary facades)

(a) For new non-residential and mixed use buildings, a clear delineation/division between the street level facade and upper façade shall be created by providing one of the following elements:

(i) Awnings;

(ii) Variation in window pattern such as large store-front windows at street level and smaller, separated windows on the upper facade level; or

(iii) A flush or projecting horizontal band of a different material, color, or pattern.

(b) For new non-residential and mixed use buildings, one of the following elements shall be included on the cornice layer:

(i) A cornice or other three-dimensional element; or

(ii) A flush or projecting horizontal band of a different material, color, or pattern.

(10) Façade vertical divisions (primary facades)

(a) For new non-residential and mixed use buildings, the façade shall consist of building bays that are a maximum of thirty feet (30') in width. Building bay

widths shall be measured to the center of the column, pilaster, or other element/change in plane.

(b) Bays shall be established using at least one of the following architectural features:

(i) Changes in texture or materials;
(ii) Columns, ribs, or pilasters;
(iii) Enhanced entries; or
(iv) A change in plane (a recess or projection).

(11) Façade transparency

For new non-residential and mixed use buildings, a minimum of fifty percent (50%) of the street level façade shall be transparent, as measured by the window and door openings compared to the area of the façade. The length of the area of the façade shall be measured from the top of any foundation wall to the bottom of the first floor ceiling.

(12) Facade design (secondary)

For new non-residential and mixed use buildings, building walls that are visible from public streets, public gathering areas, connecting walkways, or adjacent development shall be subdivided horizontally and vertically as further set forth in (9) and (10) above on at least fifty percent (50%) of the façade.

(13) Mechanical and Service Area Screening

(a) For new non-residential and mixed use buildings, roof-mounted mechanical equipment such as roof vents, metal chimneys, solar panels, television antennae/satellite dishes, or air conditioning units shall be screened so as not to be visible from any adjacent street or sidewalk.

(b) For new non-residential and mixed use buildings, loading berths, service areas, trash storage, exterior work areas, storage yards, and truck parking shall be adequately screened from public streets, public open spaces and residential properties using building mass, freestanding walls and gates, and/or landscaping, except at access points. The screening shall be a minimum of six feet (6') in height.

(c) For new non-residential and mixed use buildings except for dumpsters recessed into a building, the minimum height service area or dumpster enclosure screening shall be six feet (6'). Gates shall be provided.

(d) For new non-residential and mixed use buildings, ground-mechanical equipment shall be screened with an enclosure constructed of materials that are compatible with the primary structure materials or with evergreen landscaping which is not less than the height of the mechanical equipment at the time of planting.

(e) For new residential buildings, dumpsters and mechanical equipment located on the ground shall be screened on all sides from any adjacent street or sidewalk by the building, walls, plant material, or fences.

(14) Site Lighting

(a) Site lighting shall be required to illuminate pedestrian areas outside of the public right-of-way including parking areas, service areas, sidewalks and pathways, and plazas.

(b) Lighting intended for pedestrian pathway illumination shall have a maximum height of fifteen feet (15').

(c) All parking lot lighting requirements shall also apply to interior drives and other areas on the property used by vehicles.

(d) The maximum height for all parking lot illuminating light fixtures, including both the pole and the base, shall be twenty-five feet (25') above grade.

(e) The maximum average maintained illumination level of parking areas, service areas, pathways, and plazas shall be no more than one and six-tenths (1.6) horizontal footcandles at grade.

(f) Cut-off fixtures shall be used for parking lots or building-mounted lighting. Lighting fixtures shall be fully shielded (no direct light emitted past a specified point or property line) or full cut-off (no light emitted above the horizontal plan of the lowest edge of the fixture) in accordance with dark sky principles.

(g) The use of spotlights, floodlights, and searchlights shall be prohibited except for short-term events of up to seven (7) days.

(h) Holiday lighting shall be exempt from the provisions of this section.

(i) Lighting of outdoor display or open sales areas

(i) Light fixtures serving areas designated as exterior display or open sales areas shall be full cutoff and/or fully shielded fixtures.

(ii) Areas designated as exterior display or open sales areas shall be illuminated so that the average maintained horizontal illumination at grade level does not exceed four (4) foot-candles.

(iii) Light fixtures located on the perimeter of display or sales areas and within twenty feet (20') of a property line shall utilize "house-side" shielding to minimize light spillage beyond that property line.

(15) Townhouse complexes

(16) Townhouse complexes

(a) Townhouse units shall only be connected to other units on the sides of the unit (each unit shall have its own exterior front and rear walls).

(b) No single building shall have more than 10 ground floor units.

(c) Units shall not have garage doors facing public streets.

(17) Waivers of design standards

(a) As part of the review and approval of a primary development plan, the Plan Commission may waive or modify the standards in this section, along with the design standards included in §157.302(A) and §157.302(B) (Fence and Wall Standards) and the Off-Street Parking subchapter, based on a written request by the applicant setting forth the reasons why the waiver or modification should be approved, and after consideration of a recommendation by the Design Review Committee. Design standards waivers may only be granted by the Plan Commission, as part of a primary development plan. It is intended that the Commission not grant waivers based solely on financial considerations or representations of additional costs or expenses. The Plan Commission may grant a waiver or modification if the Plan Commission determines in writing that:

(i) the applicant has submitted adequate documentation in support of the requested waiver or modification;

(ii) the proposed building or site design, after the granting of the requested waiver or modification, will be an attractive and functional design that meets the intent of the design standards and is compatible with the character and pattern of existing development in the surrounding area;

(iii) the need for the waiver arises from conditions specific to existing site or area characteristics, such that it is not practical to provide the required design feature on the site; and

(iv) the approval of the waiver or modification will not be unduly detrimental to existing public and/or private investments in the surrounding area.

§ 157.310 Reserved

§ 157.311 Floodplain

(A) General Provisions

(1) Reserved

(2) Purpose

The purpose of this subchapter is to guide and regulate development in the floodplain areas under the jurisdiction of the City of Fort Wayne in order to reduce the potential for: loss of life and property; health and safety hazards; and extraordinary public expenditures for flood protection and relief. Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, the City of Fort Wayne hereby adopts the following floodplain management regulations for the following purposes:

(a) Protect human life and health from the hazards of flooding;

(b) Minimize public and private property damage;

(c) Protect individuals from investing in or purchasing land and structures which are unsuited for intended purposes because of flood hazards;

(d) Protect new buildings and major improvements to buildings from flood damage;

(e) Prevent development from increasing flood or drainage hazards to others;

(f) Lessen the burden on the taxpayer for flood control projects, repairs to flood damaged public facilities and utilities, and flood rescue and relief operations;

(g) Maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas;

(h) Provide for public awareness of flooding potential;

(i) Regulate floodplain uses and activities such as filling, storage of materials, and construction of structures and buildings which may cause damaging flood heights and velocities by obstructing flows and reducing water storage capacities; and

(j) Make federally subsidized flood insurance available for structures in the floodplain, and their contents, in the City of Fort Wayne by fulfilling the requirements of the National Flood Insurance Program.

(3) Reserved

(4) Reserved

(5) Reserved

(6) Disclaimer of Liability

(a) The degree of flood protection required by this subchapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice or debris jams.

(b) This subchapter does not imply that areas outside the floodplain district as defined herein, will be free from flooding or flood damages.

(c) This subchapter does not create liability on the part of the community, the Indiana Department of Natural Resources, the City of Fort Wayne, the Board of Zoning Appeals, the Plan Commission or any elected or appointed official or employee thereof for any flood damages that result from reliance on this subchapter or any administrative decision lawfully made thereunder.

(7) Map Discrepancies

In cases where a submitted topographic or topographic/utility survey indicates an area that by elevation would be subject to inundation by the regulatory flood which lies outside of the floodplain identified on the Flood Insurance Rate Map, the information on the survey shall govern and that area shall be considered a special flood hazard area subject to the regulations of this subchapter.

(8) Protection Standard

This subchapter's protection standard is the regulatory flood. Any reference in this subchapter to the Flood Insurance Rate Map, or FIRM, refers to the Flood Insurance Rate Map for Allen County and Incorporated Areas dated August 3, 2009, and any future revisions thereto. These maps, along with any subsequent revisions and/or updates, are hereby adopted by reference and made a part of this subchapter. The best available regulatory flood data is listed below. If a party disagrees with the best available data, the party needs to replace the existing data with data based on a detailed engineering study and submit it to the Department of Natural Resources for review and approval.

(a) The regulatory flood elevation for the floodplain of all studied watercourses shall be as delineated on the flood profiles in the current Flood Insurance Study of Allen County and Incorporated Areas prepared by the Federal Emergency Management Agency dated August 3, 2009, and any future revisions thereto, and as shown on the current Flood Insurance Rate Maps of Allen County and Incorporated Areas.

(b) The regulatory flood elevation for each SFHA delineated as an "AH Zone" or "AO Zone" shall be that elevation (or depth) delineated on the current Flood Insurance Rate Maps of Allen County and Incorporated Areas.

(c) The regulatory Flood Elevation for each SFHA delineated as an "A Zone" on the current Flood Insurance Rate Maps of Allen County and Incorporated Areas shall be according to the best available data as provided by the Department of Natural Resources.

(B) Permitted and Prohibited Uses

(1) Floodway

(a) Purpose

The purpose of this section is to guide development away from areas identified as floodway. The floodway is not to be considered a zoning district. The floodway is identified as such by the Federal Emergency Management Agency on the current Allen County and Incorporated Areas Flood Insurance Study and Flood Insurance Rate Maps. These maps, along with any subsequent revisions, are hereby adopted by reference and made a part of this section

(b) Permitted Uses

The following uses shall be permitted, excluding any enclosed structures, if the use is permitted by the zoning district in which the property is located:

(i) Agricultural uses;

(ii) Wildlife areas, nature preserves, forests, and wetlands;

(iii) Parks and recreational uses, such as golf courses and driving ranges, and play areas, provided that no structures or fill will be located within the floodway;

(iv) Public and quasi-public utility collection and/or transmission lines, pipes, cables, and the like;

(v) Public transportation facilities, such as roads, streets, and bridges, which are located in public rights-of-way;

(vi) Public works projects for flood control improvements such as levees, dikes, floodwalls, and dams;

(vii) Private transportation facilities such as roads, bridges, or driveways which are necessary to access private property, and parking lots or parking areas; and

(viii) Projects within the floodplain of the Junk Ditch which have received approval by the Indiana Department of Natural Resources, subject to the applicable damage prevention, flood protection and building protection standards of this subchapter.

Any proposed use which requires a permit from the Indiana Department of Natural Resources shall also be subject to the requirements and conditions of that review and approval process.

(c) Prohibited Uses

Any non-permitted encroachments, including structures and fill, except the fill needed for public transportation facilities, utility collection or transmission lines, public flood control improvement projects, or fill approved as part of the Indiana Department of Natural Resources review of an application for other work for public projects within a floodway.

(2) Floodway Fringe

(a) Purpose

The purpose of this section is to regulate and minimize development in areas subject to potential flooding which are outside of an identified floodway. The floodway fringe is not to be considered a zoning district. The floodway fringe is that area identified by the Federal Emergency Management Agency on the current Allen County and Incorporated Areas Flood Insurance Study and Flood Insurance Rate Maps as outside of the floodway, but subject to inundation by the regulatory flood.

(b) Permitted Uses

(i) All uses permitted in the floodway, provided the use is permitted by the zoning district in which the property is located.

(ii) All structures permitted in the applicable zoning district, which meet all applicable requirements of the Zoning Ordinance, provided the structure also meets all applicable damage prevention, flood protection, and building protection standards of this subchapter.

(iii) Accessory uses and structures permitted in the applicable zoning district, which meet all applicable requirements of the Zoning Ordinance, provided any accessory structure also meets all applicable damage prevention, flood protection, and building protection standards of this subchapter.

(c) Prohibited Uses

Fill placed for any purpose other than for: public transportation facilities; utility collection or transmission lines; public flood control improvement projects; compensatory storage as permitted in §157.311(C)(2)(b); or approved structures as permitted above.

(C) Flood Protection and Damage Prevention

(1) Building Protection Standards

In addition to the damage prevention requirements of §157.311(C)(2), all buildings to be located in the SFHA shall be protected from flood damage below the flood protection grade.

(a) Applicability

This building protection requirement applies to the following situations:

(i) Construction, reconstruction or placement of a new primary structure;

(ii) Construction or reconstruction of an addition to an existing building, that constitutes substantial improvement, or is proposed for a building after the one-time exclusion noted in §157.311(D)(6) has been used for that building;

(iii) Structural alterations and/or renovations made to an existing building, that constitute substantial improvement; or are proposed for a building after the one-time exclusion noted in §157.311(D)(6) has been used for that building;

(iv) Construction, reconstruction, or placement of a permitted deck, open porch, gazebo, or detached accessory structure over 144 square feet in size;

(v) Reconstruction or repairs made to a building that experienced substantial damage. Any structure receiving substantial damage must comply with all applicable requirements of this subchapter, regardless of the level of repairs actually made to the structure;

(vi) Installing a manufactured home on a new site or a new manufactured home on an existing site. This subchapter does not apply to returning an existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage or installing/replacing a manufactured or mobile home on an existing site within a legal nonconforming mobile or manufactured home park or subdivision; and

(vii) Installing a travel trailer or recreational vehicle on a site for more than 180 days.

(b) Protection Methods

The building protection standards may be met by one of the following methods. The Zoning Enforcement Officer shall maintain a record of compliance with these building protection standards as required in §157.311(D)(2) of this subchapter.

(i) Elevated Structures

A structure or addition to a structure may be elevated in accordance with the following:

[1] The structure or addition shall be elevated on posts, piers, columns, extended walls, or other types of similar foundation provided:

[a] The walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade; and

[b] Any enclosure below the elevated floor is only used for storage and building access;

[2] The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as current, waves, ice, and floating debris;

[3] All areas below the flood protection grade shall be constructed of materials resistant to flood damage, including but not limited to poured concrete or treated lumber. The top of the lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection grade. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the flood protection grade.

(ii) Structures on Fill

A structure or addition to a structure may be constructed on a site within the floodway fringe on permanent fill in accordance with the applicable portions of §157.31(C)(1)(b), and the following:

[1] The fill shall be placed in layers no greater than one foot deep before compacting to 95 percent dry density obtainable according to the Standard Proctor or Modified Proctor test method;

[2] The fill shall extend at least ten feet beyond the foundation of the building or to the property line, whichever is less, before sloping below the flood protection grade;

[3] The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, bulkheading, or other acceptable method. If vegetative cover is used, the slopes shall be no steeper than 3 to 1 (horizontal to vertical);

[4] The fill shall not adversely affect the flow of surface drainage from or onto any adjacent properties;

[5] The top of the lowest floor of the structure or addition shall be at or above the flood protection grade.

[6] The applicant shall submit a plan, certified by a registered Professional Engineer, showing how items 1(b) and 1(d) above will be met prior to the issuance of the Improvement Location Permit for the project. The applicant shall submit compaction test results after the fill has been placed. Compliance with the remaining applicable items listed under section (B)(1) above shall be verified as necessary after the fill has been placed, prior to the issuance of the certificate of compliance for the project. If necessary, the Zoning Enforcement Officer may rely on other appropriate City departments for any required assistance in documenting compliance with the fill requirements.

(iii) Floodproofing

A non-residential structure or addition(s) to a structure may be floodproofed to the flood protection grade (in lieu of elevating) if done in accordance with the following:

[1] A registered professional engineer or architect shall certify that the portion of the structure and attendant utility facilities located below the flood protection grade have been designed to be watertight and capable of resisting the effects of the regulatory flood; the building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice; and

[2] Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(iv) Manufactured Homes

Manufactured homes to be installed or substantially improved on a site must meet one of the following anchoring requirements:

[1] The manufactured home shall be elevated on a permanent foundation so that the lowest floor shall be at or above the flood protection grade and securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site:

[a] Outside a manufactured home park or subdivision;

[b] In a new manufactured home park or subdivision;

[c] In an expansion to an existing manufactured home park or subdivision; or

[d] In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.

[2] The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

(v) Recreation Vehicles

Recreational vehicles placed on a site shall either:

[1] Be on the site for less than 180 consecutive days; or

[2] Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and having no permanently attached additions); or

[3] Meet the requirements for "manufactured homes" in §157.313(C)(1)(b)(iii).

(vi) Accessory Structures

Any detached accessory structure which receives approval of a flood protection grade elevation waiver from the Board of Zoning Appeals shall also meet the following building protection standards, as required by the Indiana Department of Natural Resources:

[1] The structure shall be designed with an unfinished interior and constructed of flood resistant materials;

[2] Any proposed utilities shall be located above the base flood elevation, or shall be floodproofed;

[3] The structure shall be less than 500 square feet in size and used only for personal storage; and

[4] The structure shall meet the 44 CFR §60.3(C)(5) openings requirement.

(2) Damage Prevention Standards

No development shall be allowed in the floodplain which creates a damaging or potentially damaging increase in flood heights or velocity, or a threat to public health and safety.

(a) Floodway

Within the floodway identified on the Flood Insurance Rate Map, the following standards shall apply:

(i) No development shall be allowed in the floodplain which creates a damaging or potentially damaging increase in flood heights or velocity, or a threat to public health and safety.

(ii) For all public projects involving channel modifications or fill (including levees) that affect flood heights, the City shall submit a request to the Federal Emergency Management Agency to revise the regulatory flood data and applicable FIRM as necessary.

(b) Floodway Fringe

Within the floodway fringe identified on the Flood Insurance Rate Map, the following standards shall apply:

(i) Structures shall be constructed as far from the floodway as possible, provided that all applicable building setback and separation requirements are maintained, unless it is demonstrated that an alternative location would have less of an impact on the floodplain due to a decreased need for fill and/or excavation;

(ii) The total cumulative effect of the proposed development within the same watershed shall not increase the regulatory base flood;

(iii) Fill material taken from within the floodplain shall offset the fill needed for an approved building project or other permitted development so the water storage capacity of the floodplain is not diminished; excavation of the fill shall take place in the same immediate watershed in which the building site or development is located; an excavated area within the floodplain shall provide for true storage of flood water, and shall not be subject to ponding when not inundated by flood water; and the fill shall not obstruct a drainage way leading to the floodplain. The compensatory storage portions of these fill requirements may be waived by the Zoning Enforcement Officer for approved public works projects for flood control improvements and public transportation projects such as roads, streets, and bridges;

(iv) Fill shall be of a material deemed stable enough to remain firm and in place during periods of flooding. Runoff and drainage protection shall be provided as necessary to adjacent property owners;

(v) For all permitted projects except for public transportation facilities, public utility collection or transmission lines, or public flood control improvement projects, plans depicting the area to be excavated and filled according to paragraph (3) above shall be submitted by the applicant prior to the issuance of the Improvement Location Permit for the use, structure, or development. Once site work is complete, the applicant shall provide to the Zoning Enforcement Officer a certified survey of the excavation and fill locations demonstrating that the fill and excavation comply with this subchapter;

(vi) Floodway fringe development which does not include structures as defined and included in this subchapter, such as signs, fences, open wooden residential handicap ramps, decks and open porches of less than 144 square feet, in-ground swimming pools, and other permitted accessory construction and/or development shall be allowed if:

[1] Constructed and/or located on the site so as to avoid major damage by flood and minimize obstructions to the flow of floodwater; and

[2] Firmly anchored to prevent flotation.

(c) Public Health

Within the floodplain the following public health and safety standards shall apply to protect the community from nuisances and hazards:

(i) No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection grade, unless such materials are stored in a floodproofed storage tank or building constructed according to the requirements of §157.311(C)(2)(c) of this subchapter;

(ii) New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings are located above the flood protection grade, or those which are located below the flood protection grade are watertight;

(iii) Outside storage of materials and equipment shall be permitted if not subject to major damage by flood and firmly anchored to prevent flotation (if applicable); or readily portable to another location outside the floodplain in the event of a flood. All proposed above-ground storage tanks must either be elevated above the flood protection grade, or floodproofed to the flood protection grade. All storage tanks must also be firmly anchored to prevent flotation.

(3) Development Plan and Subdivision Standards

(a) General Standards

As part of the review of a development plan, subdivision plat, or site plan routing the Planning staff shall review the proposed project to determine whether any part of the proposed development lies within a special flood hazard area. The Planning staff may route the proposed plans to other appropriate City departments to assist in this review. If the project is located in a Zone A, the developer shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. If the site contains areas within a special flood hazard area, those portions within a special flood hazard area will be subject to the permitted use and other applicable requirements of this subchapter. Any proposed subdivision shall comply with the requirements of §155.026 of the Subdivision Control Ordinance. The following shall also apply to all proposed plats, development plans, and site plan routings:

(i) No structures or fill shall be located or placed within the floodway, except for fill as permitted in §157.311(B);

(ii) All public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize flood damage; and

(iii) In cases where a submitted topographic or topographic/utility survey indicates an area that by elevation would be subject to inundation by the regulatory flood which lies outside of the floodplain identified on the Flood Insurance Rate Map, the information on the survey shall govern and that area shall be considered a special flood hazard area subject to the regulations of this subchapter.

(b) Flood Elevations

Developers shall show the regulatory flood elevation and any applicable flood protection grades on all secondary development plans, subdivision plats, and site plan routings containing land identified as lying within the floodplain prior to submitting the plans or plats for approval by the Plan Commission, Plat Committee, or Planning staff.

(c) Manufactured Housing Developments

All owners of existing manufactured home parks or manufactured home subdivisions located within a floodplain identified as Zone A on the Flood Insurance Rate Map must develop an evacuation plan for those lots which are located in Zone A. The plan must be approved by the Allen County Office of Emergency Management or successor agency.

(4) Reserved

(5) Reserved

(D) Administration

(1) Administration Official

The Zoning Enforcement Officer shall ensure compliance with all provisions of this subchapter. In doing so, the Zoning Enforcement Officer shall perform the duties listed below.

(2) Duties

(a) Obtain the "as built" elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved structures in the floodplain; or

(b) Obtain, for all structures that have been floodproofed (whether or not such structures include a basement), the elevation (in relation to mean sea level) to which the structure was floodproofed;

(c) Maintain a record of all such information;

(d) Ensure that all new development proposals requiring review under the terms of this subchapter are reviewed by persons with the necessary technical expertise to correctly apply the requirements of this subchapter. If necessary, the Zoning Enforcement Officer shall rely on other appropriate City Departments for that review;

(e) Require any reports or technical data that are necessary to ensure compliance;

(f) Place conditions on any Improvement Location Permit to ensure compliance with the intent, purpose, and regulations of this subchapter, or any similar applicable regulation set forth by a state or federal agency;

(g) Maintain copies and/or a record of any Improvement Location Permit issued within the floodplain, along with any applicable supporting data as needed to document compliance with the requirements of this subchapter;

(h) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;

(i) Maintain for public inspection and furnish upon request the following information: regulatory flood data, FIRM maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and letters of recommendation, federal permit documents, and "as built" elevations and floodproofing data for all structures constructed subject to this ordinance; and

(j) Notify any affected adjacent communities and the State Coordinating Office prior to any City initiated substantial alteration or relocation of a watercourse which lies within a SFHA, and submit copies of such notifications to FEMA.

(3) Improvement Location Permit

(a) No construction or development which requires an Improvement Location Permit according to the terms of this subchapter shall commence within a floodplain prior to the issuance of an Improvement Location Permit from the

Zoning Enforcement Officer. The Zoning Enforcement Officer shall not issue an Improvement Location Permit if the proposed use, structure, site work, or development does not meet the applicable requirements of this subchapter.

(b) Any use permitted within the floodway or the floodway fringe which does not involve the construction of structures shall not require an improvement location permit. This shall include but not be limited to:

(i) Agricultural uses;

(ii) Wildlife areas, nature preserves, forests and wetlands;

(iii) Public parks and recreational uses, such as golf courses and driving ranges, and play areas;

(iv) Public and quasi-public utility collection and/or transmission lines, pipes, cables, and the like;

(v) Public transportation facilities such as roads, streets, and bridges which are located in public rights-of-way;

(vi) Public works projects for flood control improvements such as levees, dikes, floodwalls, and dams;

(vii) Private transportation facilities such as roads, bridges, or driveways which are necessary to access private property;

(viii) Parking lots or parking areas; however, any parking lot or parking area proposed to be located within the floodway must be reviewed and approved by the Department of Natural Resources prior to the issuance of a City parking lot permit.

However, these uses shall still be subject to review as necessary to determine compliance with the applicable provisions of this subchapter.

(4) Permit Procedures

Upon receipt of an application for an Improvement Location Permit, the Zoning Enforcement Officer shall determine if the site is located within an identified floodway, floodway fringe, or within the floodplain where the limits of the floodway have not yet been determined. If necessary, the Zoning Enforcement Officer may route the application to other appropriate City Departments for assistance in this determination.

(a) If the site is located within an identified floodway, the Zoning Enforcement Officer shall inform the applicant that the permit cannot be issued, unless the request is for a use or development permitted under §157.311(B)(2). In that instance, prior to the issuance of the Improvement Location Permit, the applicant must furnish a copy of any applicable Indiana Department of Natural Resources construction permit required by IC 14-28-1.

(b) If the site is located in an identified floodway fringe, the Zoning Enforcement Officer may issue an Improvement Location Permit provided there is compliance with the applicable provisions of §157.311(B), and §157.311(C) of this subchapter.

(c) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined (shown as Zone A on the Flood Insurance Rate Map), the Zoning Enforcement Officer shall require the applicant to forward plans and specifications to the Department of Natural Resources, requesting a review and letter of recommendation.

(i) If the review indicates the site is in the floodway, the Zoning Enforcement Officer shall not issue an Improvement Location Permit, unless the request is for a use or development permitted under §157.311(B). In that instance, prior to the issuance of the Improvement Location Permit, the applicant must furnish a copy of any applicable Indiana Department of Natural Resources construction permit required by IC 14-28-1.

(ii) If the review indicates the site is in the floodway fringe, the Improvement Location Permit may be issued provided there is compliance with the applicable provisions of §157.311(B), and §157.311(C) of this subchapter.

(iii) If the review indicates the upstream drainage area is less than one square mile, an engineering study of the site shall be completed by the applicant and submitted to the Zoning Enforcement Officer. A determination shall then be made by the Zoning Enforcement Officer with assistance if needed by other appropriate City Departments, or the Allen County Surveyor's office, as to whether the site is in the floodway or floodway fringe. No permit shall be issued by the Zoning Enforcement Officer if the site is within the floodway, unless the request is for a use or development permitted under §157.311(B). In that instance, prior to the issuance of the Improvement Location Permit, the applicant must furnish a copy of any applicable Indiana Department of Natural Resources construction permit required by IC 14-28-1. If the site is in the floodway fringe, the Improvement Location Permit may be issued provided there is compliance with the applicable provisions of §157.311(B) and §157.311(C)2 of this subchapter.

(d) The application for an Improvement Location Permit shall be accompanied by the following:

(i) A plan showing the location of existing and proposed structures, and existing and proposed land grades on the site;

(ii) The proposed elevation of the top of the lowest floor (including basement) of all proposed development. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD) or North American

Vertical Datum (NAVD). In either case, the conversion formula should be included;

(iii) A plan showing the location of existing and proposed structures in relation to any stream, drain, ditch, or waterway; and

(iv) Any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this subchapter.

(e) After the Zoning Enforcement Officer has determined that a requested Improvement Location Permit can be issued for any structure in the floodway fringe, the permit shall be issued for the construction of the foundation and lowest floor only. Prior to the Zoning Enforcement Officer issuing a release for the remaining construction, the applicant shall submit a completed Elevation Certificate showing the elevation of the lowest floor. The Zoning Enforcement Officer shall maintain a record of all submitted Elevation Certificates.

(5) Certificate of Compliance

No certificate of compliance shall be issued by the Zoning Enforcement Officer unless it has been confirmed the structure has been built in compliance with the terms of this subchapter. The Zoning Enforcement Officer may require the applicant to submit any information which may be needed to confirm compliance.

(6) Nonconforming Structures and Uses

Any building, structure, or use that does not conform to this subchapter is a nonconforming structure or use. Any legal nonconforming structure which is not in the floodway may be enlarged or improved at the existing grade and floor elevations on a one-time basis only, provided the addition or improvement does not constitute substantial improvement. For the purposes of this subchapter and determining whether the one-time exclusion has been used, substantial improvement shall be calculated based on any additions and/or improvements made to any given floodway fringe property since March 30, 1985. For any proposed addition or improvement which constitutes substantial improvement, or is proposed after the one-time exclusion has been used, the addition or improvement shall conform to the building protection standards in §157.311(C)(1).

(7) Variances

(a) Justification

The Board of Zoning Appeals may issue a variance from the provisions of this subchapter provided the applicant demonstrates that:

(i) There exists a sufficient cause for the requested variance;

(ii) The strict application of the terms of this subchapter will constitute an unnecessary and exceptional hardship to the property; and

(iii) The granting of the requested variance will not be injurious to the public health, safety and welfare, in that the approval will not appreciably increase flood heights, create significant additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

(b) Conditions

The Board of Zoning Appeals may issue a variance from the provisions of this subchapter subject to the following standards and conditions:

(i) All variance requests shall be subject to a public hearing, with notice provided as required in IC 5-3-1;

(ii) No variance shall be granted for a use or structure in the floodway unless the proposed use or structure has been approved by the Indiana Department of Natural Resources (if necessary), and the applicant can submit evidence showing that the proposed use or structure will not result in an increased flood elevation or an increase in potential flood damages;

(iii) Variances from the Building Protection Standards of §157.311(C)(1) should only be granted for a new structure when it is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade; or, in the case of a request for an elevation waiver for a detached accessory structure, if it meets the additional requirements listed in §157.311(C)(1)(vi);

(iv) All variances shall not affect the use and value of the area adjacent to the property in a substantially adverse manner by giving the minimum relief necessary and giving the maximum practical flood protection to the proposed construction; and

(v) The Board shall require in each case a written waiver of liability from any flood damage due to a flood larger than the regulatory flood, on a form approved by the Board, from the owners, or developers if the developers are different from the owners. The Board shall also issue a written notice to the recipient of a variance that the proposed construction will be subject to increased risks to life and property and could require payment of increased flood insurance premiums. This notice shall be recorded by the applicant in the Allen County Recorder's office.

(vi) As part of the consideration of any floodplain variance request, the BZA staff may route the request to the Indiana Department of Natural Resources for review and comment.

(8) Definitions

For the purposes of this subchapter, the following definitions are adopted; the definitions in §157.410 apply to this subchapter also.

BASE FLOOD ELEVATION (BFE).

The elevation of the regulatory flood.

BUILDING.

See "structure."

CRITICAL FACILITY.

Any facility with the purpose of aiding and promoting the health, safety, and welfare of the community.

DEVELOPMENT.

Any change or improvement to land brought about by human activity, including but not limited to:

(1) Renovation, remodeling, construction, reconstruction, or placement of a structure or any addition to a structure. This includes construction such as decks, open porches, gazebos, signs, swimming pools or fences;

(2) Installation of a manufactured home on a site, preparing a site for a manufactured home or installation of a recreational vehicle on a site for more than 180 days;

(3) Installation of utilities, erection of walls, construction of roads, or similar projects;

(4) Construction of flood control structures and improvements such as levees, dikes, dams, channel improvements, and other similar construction;

(5) Mining, dredging, filling, grading, excavating, or drilling operations;

(6) Construction and/or reconstruction of bridges or culverts;

(7) Outside storage of materials; or

(8) Any other activity that might change the direction, height, or velocity of flood waters.

"Development" does not include activities such as: the maintenance of existing buildings and facilities (such as painting or re-roofing); improvements to structures to correct violations of state or local health, safety, or building code requirements; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavating, or the construction of permanent structures.

FEMA.

Federal Emergency Management Agency.

FIRM.

Flood Insurance Rate Map.

FLOOD.

A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, unusual and rapid accumulation, or runoff of surface waters from any source.

FLOOD RESISTANT MATERIALS.

Building or construction materials which are not subject to damage from exposure to or inundation by floodwater.

FLOODPLAIN.

The channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be inundated by the regulatory flood. The floodplain includes both the floodway and the floodway fringe. For the purposes of this subchapter, the floodplain is the area covered by a "regulatory flood", as generally shown and delineated on the current FEMA Flood Insurance Rate Map for Allen County and Incorporated Areas. However, if a submitted topographic or topographic/utility survey indicates an area that by elevation would be subject to inundation by the regulatory flood which lies outside of the floodplain identified on the Flood Insurance Rate Map, the information on the survey shall govern and that area shall be considered a special flood hazard area and subject to the regulations of this subchapter.

FLOODPROOFING.

A combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages to properties, water and sanitary sewer facilities, structures and contents of buildings in a floodplain. Floodproofing must be watertight below the flood protection grade.

FLOODPROOFED BUILDING.

A commercial or industrial building designed to exclude floodwater from the interior of that building. All such floodproofing shall be adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regulatory flood.

FLOOD PROTECTION GRADE.

The elevation of the regulatory flood plus two feet at any given location in the Special Flood Hazard Area (SFHA).

FLOODWAY.

The channel of a river, stream, or other watercourse and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the peak flood flow of the regulatory flood of any river or stream.

FLOODWAY FRINGE.

Those portions of the floodplain lying outside the floodway area.

HISTORIC STRUCTURE.

Any structure that is:

(1) Listed individually on the National Register of Historic Places (a listing maintained by the Department of the Interior) or determined by the United States Secretary of the Interior as eligible for individual listing on the National Register; or

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district; or

(3) Listed on or determined eligible for the National Register of Historic Places as contributing to the significance of a historic district; or

(4) Individually listed on the Indiana Register of Historic Sites and Structures; or

(5) Located in an area designated as a local historic district under Chapter; or

(6) Individually listed on or designated as a contributing resource in a historic district listed in the Fort Wayne Cultural Resources Survey.

LETTER OF MAP AMENDMENT (LOMA).

An amendment to the currently effective FEMA map that establishes that a property is not located in a Special Flood Hazard Area (SFHA). A LOMA can only be issued by FEMA.

LETTER OF MAP REVISION (LOMR).

An official revision to the currently effective FEMA map. It is issued by FEMA and can change flood zones, floodplain delineations, and flood elevations.

LOWEST FLOOR.

The lowest of the following:

(1) The top of the basement floor;

(2) The top of the garage floor, if the garage is the lowest level of the building;

(3) The top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings;

(4) The top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless as otherwise provided by these regulations; or

(5) The lowest interior ground level elevation of any structure which does not have a finished floor.

MANUFACTURED HOME.

A structure, fabricated in an off-site manufacturing facility, which is transportable in one or more sections and is designed for use as a dwelling with or without a permanent foundation when connected to the required utilities. Such a structure may or may not be built on a permanent chassis. The term "manufactured home" shall not include a "recreational vehicle."

MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING.

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before March 30, 1985.

MANUFACTURED HOME PARK OR SUBDIVISION, EXPANSION.

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

MANUFACTURED HOME PARK OR SUBDIVISION, NEW.

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this subchapter.

MARKET VALUE.

The value of a structure as established by a professional appraisal.

NEW CONSTRUCTION.

Structures for which "start of construction" commenced on or after the effective date of these floodplain management regulations, including any subsequent improvements to such structures.

OBSTRUCTION.

A structure, object or other matter in, along, across or projecting into any channel, watercourse, floodplain, river, stream, or flood hazard area which may impede, retard or change the direction of flow of water.

RECREATIONAL VEHICLE.

A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projections, designed to be self-propelled or permanently towable, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.

REGULATORY FLOOD.

A flood having a 1% probability of being equaled or exceeded in any given year, as calculated by a method and procedure approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. A "Regulatory Flood" is also known by the terms "Base Flood" and "100 year flood."

REGULATORY FLOOD PROFILE.

A longitudinal profile along the channel of a stream showing the maximum water surface elevations attained by the regulatory flood.

RIVER OR STREAM.

All open channels, whether natural, man-made, or modified by man, which carry or discharge water.

SPECIAL FLOOD HAZARD AREA (SFHA).

Those lands within the jurisdiction of the City of Fort Wayne that are subject to inundation by the regulatory flood. For the purposes of this subchapter, the SFHAs of the City of Fort Wayne are generally identified as such on the current Flood Insurance Rate Maps of Allen County, Indiana and Incorporated Areas prepared by the Federal Emergency Management Agency dated August 3, 2009, and any future revisions thereto. However, if a submitted topographic or topographic/utility survey indicates an area that by elevation would be subject to inundation by the regulatory flood which lies outside of the floodplain identified on the Flood Insurance Rate Map, the information on the survey shall govern and that area shall be considered a special flood hazard area and subject to the regulations of this subchapter.

START OF CONSTRUCTION.

The date a building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 60 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of pilings, the construction of columns, or any work beyond excavation or filling; or placement of a manufactured home on a foundation. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other actual parts of a building, whether or not the alteration affects the external dimensions of the building.

STRUCTURE.

Any building or other construction partially or completely enclosed by walls and a roof. For the purpose of this subchapter, the term also includes attached and detached decks, open porches, and gazebos 144 square feet or more in size; above-

ground gas or liquid storage tanks; a manufactured home; a prefabricated building; or a recreational vehicle to be installed on a site for more than 180 days. It does not include other construction that meets the definition of "structure" as set forth in the Definitions section of the Zoning Ordinance, but does not meet this definition or fall under the inclusions listed here.

SUBSTANTIAL DAMAGE.

Damage of any origin sustained by a structure, where the cost of restoring the structure to its pre-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT.

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not include:

(1) Improvements of structures to correct violations of state or local health, safety, or building code requirements, or

(2) Any alteration, reconstruction, addition to, or restoration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

(3) For the purposes of this subchapter, substantial improvement shall include any applicable addition or improvement made to a floodway fringe building or property since March 30, 1985.

VIOLATION.

The failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

WATERSHED.

An area which drains to a single point. In a natural basin, this is the area contributing flow to a given place or stream.

WATERSHED, IMMEDIATE.

A sub-drainage area within a larger area which accumulates the storm water runoff within that area. For the purposes of this subchapter, an "immediate watershed" shall be based on the current City Master Plan for Storm Drainage and other relevant information including but not limited to topographical maps.

ZONE A.

Shaded areas on the Flood Insurance Rate Map where no base flood elevation has been determined.

ZONE AE.

Shaded areas of the Flood Insurance Rate Map where base flood elevations have been determined.

ZONE AH.

Shaded areas on the Flood Insurance Rate Map depicting flood depths of one to three feet (usually areas of ponding) and where base flood elevations have been determined.

ZONE AO.

Shaded areas on the Flood Insurance Rate Map depicting flood depths of one to three feet (usually sheet flow on sloping terrain) where average depths have been determined.

ZONING DISTRICT.

Portions of the territory within the jurisdiction on the City of Fort Wayne Plan Commission shown on zoning maps for the City of Fort Wayne to which a uniform set of regulations apply. These regulations permit or prohibit certain land uses per district, while also prescribing certain yard, height, and other dimensional requirements.

§ 157.312 Nonconforming Situations

(A) Purpose

The purpose of this section is to set forth criteria, standards, and procedures for establishing, continuing, altering, amortizing, and discontinuing legal nonconforming uses, structures, and situations. This section is intended to provide for the continued use of legal nonconforming structures, uses and situations, along with reasonable maintenance and repairs, while also achieving the long term goals of either phasing out and discontinuing these uses over time or bringing nonconforming uses and structures into conformance with the standards, requirements, and purposes of this chapter where possible.

(B) Nonconforming Structures

(1) Continuation

(a) A nonconforming structure which legally existed as of January 1, 1974, or which subsequently becomes nonconforming as a result of an amendment to this chapter, shall be permitted to continue.

(b) A detached residential accessory structure which becomes a nonconforming structure due to the demolition or other removal of the primary residential

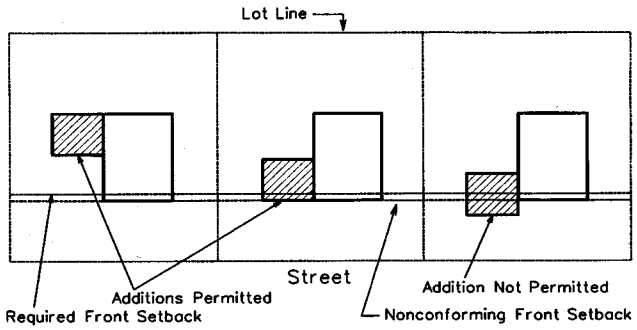
structure shall be permitted to continue. However, the failure to construct a new primary residential structure on the same lot, tract, or development parcel within twelve (12) months of the removal of the primary structure shall be construed as an intent to abandon the accessory structure. Enforcement proceedings as provided in this chapter may be initiated after the expiration of the twelve month period.

(2) Additions, Enlargement, or Moving

(a) A structure which does not conform to the height limitation of the zoning district in which it is located may be added to or enlarged, provided the addition or enlargement conforms to the height limitation.

(b) A nonconforming structure shall not be moved in whole or in part to another location on the same lot or onto another lot unless the entire structure is made to conform to all of the requirements of the district in which it is located.

(c) A primary residential structure which conforms to the permitted use requirements of this chapter but is nonconforming with regard to front or rear setback requirements may be added to or enlarged, provided that the nonconforming front or rear yard dimension is not decreased.



Permitted Additions to Nonconforming Primary Residential Structures

(d) A primary nonresidential structure not located in a CM5A, CM5B, or CM5C District which conforms to the permitted use requirements of this chapter but is nonconforming with regard to front or rear setback requirements may be added to or enlarged on a one time basis of up to 50% of the square footage of the existing structure, provided that the nonconforming front or rear yard dimension is not decreased.

(e) In the CM5A, CM5B, and CM5C Districts, primary structures may be added to or enlarged provided the addition does not violate any minimum front, side or rear yard setback requirement.

(f) A detached residential accessory structure which conforms to the permitted use requirements of this chapter but is nonconforming with regard to side or rear setback requirements may be rebuilt on the existing foundation, added to, or enlarged, provided that the existing nonconforming setback is not less than 1.5 feet and the structure is not located in a platted utility easement.

(3) Maintenance

A nonconforming structure which legally existed as of January 1, 1974, or which becomes nonconforming as a result of an amendment to this chapter, may be maintained and repaired, except as otherwise provided in this section.

(C) Nonconforming Uses

(1) Continuation

Except as otherwise provided in this chapter, a nonconforming use lawfully existing as of January 1, 1974, or which subsequently becomes nonconforming as a result of an amendment to this chapter, may be continued.

(2) Expansion

(a) A structure used for a nonconforming use shall not be added to or enlarged in any manner unless the structure, including the addition or enlargement, is brought into conformance with the permitted use and setback requirements of the district in which it is located with the following exceptions:

(i) A single family, two family, or attached single family residential structure, located in a zoning district which does not permit single family uses, may be added to or enlarged, provided the addition conforms to all applicable residential setback requirements.

(ii) Uses located in the CM5A, CM5B, and CM5C districts which have become legal nonconforming due to reclassification or amendment to this chapter may be added to or enlarged on the property shown on the Allen County Assessor's Office property record card for the property at the time of the rezoning or amendment which created the nonconforming situation or the development parcel where the building and improvements are located at the time of the rezoning or amendment which created the nonconforming situation, provided the addition conforms to all other applicable provisions of this chapter.

(b) Except for nonconforming uses in CM5A, CM5B, and CM5C districts, a nonconforming use of a portion of a structure shall not be expanded or extended into any other portion of the structure.

(c) Except in the CM5A, CM5B, and CM5C districts, a nonconforming use on a portion of a lot, tract or development parcel shall not be expanded or extended into any other portion of the lot, tract or development parcel. However, an agricultural operation which existed legally under the requirements of the Allen County Zoning Ordinance, and then was annexed into the City of Fort Wayne, shall be permitted on any part of the original lot, tract or development parcel, provided the intensity of the agricultural operation is not increased.

(D) Other Nonconforming Situations

(1) Fences

Fences which are legal-nonconforming with regard to location on the lot may be maintained and repaired as necessary. Such a fence may also be replaced, provided the, location and type of fence remains the same and the height is not increased. However, in the event of a fence containing barbed wire, razor wire or other harmful material, the replacement of that part of the fence shall only be permitted in accordance with the applicable current requirements of the zoning district where the fence is located. Any person proposing to replace such a nonconforming fence shall submit adequate documentation as part of the application for the Improvement Location Permit for the fence verifying the current location, height and fencing material to a Zoning Enforcement Officer. The replacement fence shall conform to all other applicable provisions of this chapter. This exclusion shall not apply to a proposal to replace any existing fence located within a required front yard.

(2) Manufactured Home Parks

Any legally existing manufactured home park where the lots do not meet the minimum lot sizes as set forth in §157.212, or where the units do not meet the minimum setback requirements as set forth in §157.212, may continue to be used provided the following requirements are met:

(a) The number of lots is not increased; and

(b) All other applicable state and local health, safety, building, and fire codes are met.

A Zoning Enforcement Officer may require the owner of such a park to submit adequate documentation verifying the status of the park, along with a survey or site plan showing the layout of the park, including lot locations and sizes.

(3) Parking Areas

(a) Parking areas which do not conform to the improvement and/or landscaping standards of §157.313(D) and §157.313(E), or the screening and buffering standards of §157.306, may continue to be used. Any proposed addition to or expansion of such a parking area shall be required to conform to the current applicable requirements of the parking requirements section including the improvement and landscaping standards and the screening and buffering standards. In the event that the proposed expansion constitutes an increase of over 50% of the area of the existing parking lot (excluding the area of driveways to and from the lot), then the entire parking area shall be brought into compliance with the applicable improvement, landscaping, and screening and buffering requirements. The resurfacing, restriping, or similar maintenance of existing parking area shall not be considered an addition or expansion.

(4) Reclassified Properties

The provisions of this subchapter shall also apply to structures and uses which become nonconforming due to any zoning reclassification, annexation or other inclusion pursuant to this chapter.

(5) Recorded Lots

Any lot established by legally recorded plat or deed as of March 1, 1955 which does not meet the minimum size requirements of this chapter may still be used for any use permitted in the zoning district in which the lot is located.

(6) Religious Facilities

Churches, synagogues, and other religious facilities and buildings used for religious assembly determined to be legal nonconforming with regard to required number of parking spaces may be added to or enlarged without meeting the current parking space requirement if there is no increase in the size of the sanctuary, multipurpose room, or other primary assembly area.

(7) Reversion of Use

A structure originally designed for single or two family use and converted to a higher intensity residential or non residential use may be reverted to a single family or two family use if acceptable evidence can be provided to the Planning staff which shows that the structure was originally built for or was historically used for single family or two family use. Evidence which could be determined to be acceptable includes but is not necessarily limited to the following:

(a) Original building designs or permits;
(b) Sanborn Fire Insurance Maps;
(c) City directories; and
(d) Tax or assessment records.

A Certificate of Compliance application is required for consideration of a structure reversion. Structures reverted under this section shall be considered to be a conforming use under the provisions of this chapter.

(8) Signs

Nonconforming signs shall be reviewed and determinations made based on the provisions of §157.316 (Signs).

(E) Amortization

(1) Discontinuation of Use

(a) Whenever a nonconforming use has been discontinued for a period of 12 months or more, the discontinuance shall be considered as an intent to abandon the use. Any future use of the property shall conform to the provisions of this chapter.

(b) In case of a detached residential accessory structure which becomes a nonconforming structure and use due to the demolition or other removal of the primary residential structure on the same lot, tract, or development parcel within twelve (12) months of the removal of the primary structure shall be construed as an intent to abandon the accessory structure and use. Enforcement proceedings as provided in this chapter may be initiated after the expiration of the twelve (12) month period.

(2) Rebuilding or Repair

A nonconforming structure damaged by fire or other cause to the extent that its reconstruction or restoration will cost more than the total assessed value of the structure, as stated on the property owners property record card located in the applicable Township Assessor's office, shall only be repaired or rebuilt in conformance with the provisions of this chapter.

(F) Documentation

An applicant or owner claiming the existence of a nonconforming structure or use shall bear the burden of supplying a Zoning Enforcement Officer with adequate documentation verifying that the structure is a legal nonconforming structure or use.

§ 157.313 Parking

(A) Purpose

The purpose of this subchapter is to establish standards for the provision of adequate off-street parking facilities, including standards for bicycle facilities and parking structures, for permitted residential, commercial, industrial and other nonresidential uses.

(B) General Standards

(1) Applicability

The minimum off-street parking requirements of this subsection shall apply to:

(a) Any new freestanding building or use except in the CM5A and CM5B Districts. If parking is provided for uses in the CM5A and CM5B districts, there shall be a maximum number of parking spaces allowed; parking maximums shall be one-half (1/2) of the number of spaces required for the use by the zoning ordinance in districts other than the CM5A and CM5B districts.

(b) An addition to an existing building where the addition increases the size of the existing building by over 25%, provided the addition does not displace required parking spaces, with the following exceptions:

(i) For elementary, middle, junior high, and senior high school uses, the standard shall apply only in cases where additional classrooms are being added;

(ii) For church uses, the standard shall apply only in cases where additional sanctuary space is being added; and

(iii) For additions located in the CM5A and CM5B districts.

(c) A new use of an existing building which requires a greater number of parking spaces than the previous use (based on the table in §157.313(C)), with the following exceptions:

(i) In the CM5A and CM5B Districts, the standards shall not apply to new uses of existing buildings (no additional off-street parking shall be required for the new uses); and

(ii) In the CM5C Districts, the standards shall apply only to the following uses or activities: a new bar/tavern; a dance or similar school; a restaurant; a night club or similar entertainment use; the addition of units to an existing residential structure; or the conversion of a residential structure to nonresidential use.

(2) Location of Spaces

All parking spaces required by this subchapter shall be provided on the same lot, tract or development parcel as the building, structure, or use for which the spaces are required, except in the case of off-site parking areas for church, synagogue, or other religious building use, or school uses, where the lot is either under the same ownership or operates under an executed agreement allowing for its use and is located within 500 feet of the primary use (as measured between closest property lines).

(3) Location Standards

Any paved area used for off-street public or employee parking, including driveways or driving lanes, except for driveways or driving lanes which provide direct access, shall meet the following standards:

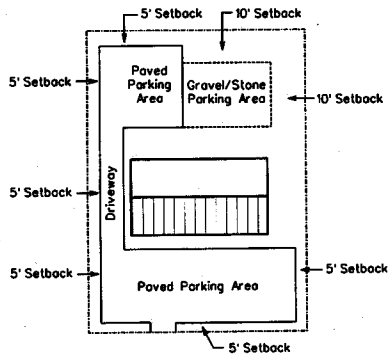
(a) Paved areas shall be located a minimum of five (5) feet from any property line.

(b) Gravel areas shall be located a minimum of ten (10) feet from any property line.

(c) In CM5A and CM5B districts, off-street parking shall not be located in front of or on the side of any new structure.

(d) In CM5C Districts, parking areas shall be located a minimum of 20 feet from any front property line; and new parking areas in these districts are intended to only be permitted where there is an adequate existing alley access, so that a new driveway onto the primary commercial street is not required.

(e) These location standards shall not apply to any single or two family residential driveway or parking area which does not meet the definition of "public parking area" as set forth in this chapter.



Parking Area Location Standards

(4) Compliance with the Americans with Disabilities Act

The design and construction of all new off-street parking areas shall comply with the applicable requirements of the Americans with Disabilities Act (ADA).

(5) Credits

To allow for flexibility concerning parking standards in the City's nonresidential zoning districts (CM1-4; CM5C; SC1-4; and IN1-3) in order to accomplish the Comprehensive Plan's objectives of urban revitalization, enhancing the pedestrian environment, and encouraging the use of transit, parking space credits shall be allowed for nonresidential uses in these districts as set forth below:

(a) On-street parking spaces directly in front of and to the side of the lot, tract, or development parcel where the proposed or existing use is located may be counted towards satisfying the minimum off-street parking requirements;

(b) One (1) required off-street parking space for each on-site bicycle rack (a rack must store a minimum of four (4) bicycles), up to 2% of the total parking requirement;

(c) If access to public transit is located within 400 feet of the lot, tract, or development parcel where the proposed or existing use is located, this may serve in lieu of one (1) required off-street parking space;

(d) If construction techniques such as pervious pavement, block and concrete modular pavers, and grid pavers are used for off-street parking surfaces, each space provided as a result may serve in lieu of two (2) required off-street parking spaces, up to a maximum of 10% of the number of required spaces;

(e) However, in the CM5B and CM5C Districts, where existing off-street parking exists, or additional spaces are required, the resulting off-street parking provided after the application of these credits shall not be less than two spaces (it is intended that a minimum of 2-4 off-street parking spaces be provided behind existing or proposed structures on the same lot, tract, or

development parcel in these districts where practical, primarily to accommodate employee parking).

(6) Maintenance

Off-street parking spaces and any required landscaping shall be provided and maintained by the property owner or other occupant of the property.

(7) Multiple Uses or Buildings

Where multiple uses exist in the same building or more than one building exists on the same lot, tract or development parcel, off-street parking requirements shall equal the sum of the requirements for the individual uses. Parking areas for multiple buildings may be provided collectively in one or more parking areas as long as the individual use requirements are met and the parking is provided on the same lot, tract or development parcel.

(8) Waivers

To allow for flexibility concerning parking standards in order to accomplish the Comprehensive Plan's objectives of allowing for mixed uses, encouraging new construction that is compatible with existing structures and development patterns, encouraging the provision of parking situations more suitable for higher density urban areas, and enhancing the pedestrian environment, the Zoning Administrator may grant waivers of required off-street parking spaces, as part of its review of a Site Plan Routing project or Improvement Location Permit application. To request a waiver, the applicant/owner shall submit a written request setting forth the reasons why a waiver should be granted. Upon receiving a request for a waiver of a required development plan, the Zoning Administrator shall review and either approve or deny the request. The Zoning Administrator shall notify the applicant in writing of the action and reasons for the approval or denial. In reviewing the request, the Zoning Administrator shall consider the following:

(a) The size of the property;

(b) The location of existing structures on the property;

(c) The existing zoning and development patterns in the vicinity of the site;

(d) The size, site layout, and potential impact of the request on surrounding land uses;

(e) The benefit of public notice and input on the request;

(f) The previous use of the property;

(g) The need for additional on-site parking, based on the intensity of the land use and the availability of parking in the immediate vicinity of the site; and

(h) Whether the provision of additional on-site parking would create a practical difficulty in the use of the property.

(C) Minimum Off-Street Parking Requirements

Where applicable and required, off-street parking spaces shall be provided as set forth in the following table. If a proposed nonresidential use is not specified herein, a Zoning Enforcement Officer shall determine the minimum off-street parking requirement based on similar uses and/or the general standards included here. For uses which require off-street stacking spaces, additional stacking space may be required for traffic safety purposes, as part of the approval of a development plan, site plan review, Improvement Location Permit, or parking lot permit.

OFF-STREET PARKING -- MINIMUM NUMBER OF REQUIRED SPACES		
Proposed Use	**Space(s) Required**	**Measurement type (Unless otherwise specified, square footages are based on gross floor area)**
Airport	1 1	Per 1000 sf of hanger space Per 300 sf of office, waiting, retail and/or restaurant areas
Appliance store	1	Per 500 sf
Assisted living facility	1	Every 3 units
Athletic field (outdoor)	20 1	Per field, or Per 4 seats, whichever is greater
Auditorium, or other place of assembly as the primary use	1 1	Per 3 seats if fixed seating is provided, or Per 3 persons at maximum occupancy of assembly area
Automatic teller machine (walk-up or drive-up)	2 3	Per walk-up machine, or Stacking spaces per drive-up machine
Automobile repair, detail, body shop, or similar use	1 2	Per 300 sf, and Stacking spaces for each service bay
Automobile maintenance (quick service)	1 2	Per 300 sf, and Stacking spaces per service bay
Automobile sales	1 1	Per 3000 sf of outdoor sales area, and Per 300 sf of indoor sales and office areas
Bank, credit union, or similar use	1 5	Per 400 sf, and Stacking spaces per drive-up window
Bar or tavern	1	Per 300 square feet
Barber/beauty shop	3	Each barber/styling chair
Batting cage	2	Per cage
Bed and Breakfast	2 1	As required for a single family dwelling unit, and Per additional guest room
Bingo hall or other gaming facility	1	Per 3 persons at maximum building occupancy
Botanical/Garden conservatory	1	Per 1000 sf
Bowling alley	4 1	Each bowling lane Per 400 sf of accessory bar/restaurant space
Business or trade school	1 1	Per 100 sf of classroom space, plus Per 400 sf of additional area
Cabaret, adult	1	Per 2 persons at maximum building occupancy
Campus housing, (off-site) including dormitories	1	Per 2 sleeping rooms
Car wash (full service)	6	Stacking spaces per washing lane

OFF-STREET PARKING -- MINIMUM NUMBER OF REQUIRED SPACES		
Proposed Use	**Space(s) Required**	**Measurement type (Unless otherwise specified, square footages are based on gross floor area)**
	1	Each employee
Car wash (self service)	3 1	Stacking spaces per washing stall Each stall
Carpet store	1	Per 800 sf
Child/adult care center	1 1	Each employee, and Per five children or adults at full capacity
Church, synagogue, and other religious buildings or facilities used for religious assembly	1 1	Per 3 seats if fixed seating is provided, or Per 3 persons at the maximum occupancy of the sanctuary, primary gathering space, or multiple purpose room, whichever is greater
College or University	1 1 1 1 1	Each student classroom, plus Per employee, plus Every 5 students (based on average enrollment), plus Per 3 sleeping rooms for dormitories, or Per 3 auditorium or stadium seats, which ever is greater
Commercial greenhouse	1 1 1	Per 400 sf of retail/office area Per company owned vehicle Per 3000 sf of outdoor sales area
Commercial, other	1	Per 400 sf
Country club	1	Per 3 persons at maximum occupancy of the primary structure. Golf courses to be calculated separately.
Dental office	6 1	Each dentist Each employee
Doctor office	6 1	Each practitioner Each employee
Dwelling units in CM5 B and C Districts	1	Per dwelling unit
Educational institution not otherwise listed	6	Per classroom
Fairground	1 1	Per 1000 sf of open land Per 3 persons at maximum building occupancy of assembly structures
Fraternity or sorority house	1	Per 2 sleeping rooms
Funeral home	1 1	Per 3 persons at the maximum occupancy of the parlor(s)r or primary assembly area(s) Per 400 square feet of office and administration areas
Furniture store	1	Per 800 sf

OFF-STREET PARKING -- MINIMUM NUMBER OF REQUIRED SPACES		
Proposed Use	**Space(s) Required**	**Measurement type (Unless otherwise specified, square footages are based on gross floor area)**
Gas station	1	Per 400 sf of sales/cashier area not including restaurant uses
Golf course	4 1	Each golf hole Every 2 employees
Golf driving range	1.5	Each golf tee
Group residential facility	1 1	Every 2 beds and Each employee
Health club facility	1	Per 400 sf
Home improvement center	1 1	Per 400 sf for structures up to and including 50,000 sf including permanent outdoor display areas Per 600 sf for structures over 50,000 sf including permanent outdoor display areas
Hospital, sanitarium or asylum	1	Per 600 sf
Hotel/Motel	1 1	Each guest room Per 300 square feet of any common areas, meeting space and/or restaurant facilities
Ice or roller skating rink	1	Per 300 sf
Industrial uses	1 1 1	Each employee during the largest shift or Per 800 sf, if number of employees cannot be determined, and Each company owned vehicle stored on site
Industrial multiple tenant/speculative tenant buildings	1	Per 800 sf
Laundromat	1	Every 2 washing machines
Library	1	Per 400 sf
Manufactured home park	2	Each manufactured home
Manufactured home Type I and Type II	2	Each dwelling unit
Medical/dental clinic	6 1	Each doctor and/or practitioner Each employee
Miniature golf course	1.5 1	Each hole Every 2 employees
Movie theater	1	Per 6 seats
Multiple family complexes (excluding dwelling units in CM5B and C districts)	1.5	Each dwelling unit
Multiple family dwellings (excluding dwelling units in CM5B and C districts)	1.5	Each dwelling unit

OFF-STREET PARKING -- MINIMUM NUMBER OF REQUIRED SPACES		
Proposed Use	**Space(s) Required**	**Measurement type (Unless otherwise specified, square footages are based on gross floor area)**
Museum	1	Per 800 sf
Nail Salon	3	Per nail station
Neighborhood facility	1	Per 400 sf
Nightclub	1	Per 300 square feet
Nonprofit private club (i.e. fraternal organization)	1	3 persons at maximum building occupancy
Nursing home	1	Per 3 beds
Office uses	1	Per 400 sf
Optician / Optometrist	6 1	Per doctor Per employee
Planetarium	1	Per 3 seats in primary assembly area
Preschool or nursery school	1 1	Each employee, and Per five children or adults at full capacity
Private recreation facility (indoor)	1	Per 400 sf
Reception / banquet hall	1	Per 3 persons at maximum building occupancy
Restaurant with a drive through facility	1 6	Per 150 sf of indoor dining area excluding outdoor dining areas Stacking spaces per drive through
Restaurant, with no drive through facility	1	Per 300 sf indoor dining area excluding outdoor dining areas
Retail facility, Single tenant (A stand-alone facility on its own development parcel; uses may include, a pharmacy, grocery store, department store, or a combination thereof. Home improvement centers shall be considered separately.)	1 1	Per 300 sf for structures up to and including 75,000 sf including permanent outdoor display or areas Per 400 sf for structures over 75,000 sf including permanent outdoor display areas
Retail facility, Multiple tenant (one multiple tenant building located on a development parcel or shopping center outlot; including restaurant uses)	1 1	Per 300 sf for structures up to and including 20,000 sf Per 400 sf for structures over 20,000 sf
Retail plant nursery	1 1 1	Per 400 sf of retail/office area Per company owned vehicle Per 3000 sf of outdoor sales area
Retail service, other	1	Per 400 sf
Retirement facility	1	Every 3 units
School, Elementary, Middle, and Junior High	3	Per classroom
School, High	6	Per classroom

OFF-STREET PARKING -- MINIMUM NUMBER OF REQUIRED SPACES		
Proposed Use	**Space(s) Required**	**Measurement type (Unless otherwise specified, square footages are based on gross floor area)**
Self-storage (mini warehouse)	1	Per 400 sf of office/reception area
Shopping center (including restaurant uses)	1	Per 400 sf Movie theaters, and any outlot development shall be calculated separately
Single/two family residential (excluding dwelling units in CM5B and C districts)	2	Each dwelling unit
Stadium or athletic field (indoor)	1	Per 4 persons at maximum capacity
Tanning salon	1 1	Per tanning bed Per 300 sf of reception area
Tennis Club	3	Per court
Veterinary clinic	6 1	Each veterinarian Each employee
Warehouse/distribution facilities	1	Per 2000 sf
Zoo	1	Per 2000 sf of gross land area

(D) Improvement Standards

(1) Establishment

The Board of Public Works shall establish minimum standards and specifications for paving, surfacing, and drainage of all land used for off-street parking and all driveways serving parking areas, whether required by this subchapter or otherwise provided.

(2) Curbing

All public parking areas shall have curbing or other acceptable elements around the perimeter of the parking area at a sufficient location to keep vehicles from overhanging or encroaching upon abutting properties, streets, alleys or sidewalks or landscape areas. Curbing shall also be used if necessary to facilitate drainage and to prevent the discharge of water onto adjacent properties.

(3) Lighting

Any light fixtures used to illuminate off-street parking areas or driveways shall be installed on the same lot, tract, or development parcel as the parking facilities. Parking area lighting shall be designed, installed and maintained so as to reflect the light away from any adjoining residential district. Lighting shall also be designed to avoid glare onto any public street right-of-way.

(4) Paving and Drainage

All land which is placed in use for off-street parking and all driveways serving parking, delivery, and loading areas, shall be paved with asphalt, concrete, or other approved all-weather hard surface, including construction techniques such as pervious pavement; block, concrete, and similar modular pavers, and grid pavers; and shall be drained with materials and in a manner which meets the current minimum standards and specifications for parking areas adopted by the Board of Public Works. However, in industrial zoning districts, parking areas which are provided in addition to the minimum number of spaces required as set forth in §157.313(C) shall not be required to be paved, but may have a gravel surface which meets the current minimum standards and specifications for parking areas adopted by the Board of Works. Also, single and two family residential uses which do not include public parking areas as defined in this chapter shall not be required to pave driveways and parking areas. However, the parking, storage, or display of motor vehicles on grass or other similar areas which do not have a paved or gravel surface shall not be permitted.

(E) Landscaping Standards

(1) Purpose

The purpose of this section is to establish standards for providing adequate landscaping in and adjacent to parking areas and driveways serving those parking areas, to carry out the following objectives:

(a) Provide screening and buffering between parking areas and adjacent uses, structures, and public alleys and roadways;

(b) Provide shading for paved parking areas;

(c) Provide adequate green space and planting areas in and adjacent to parking areas;

(d) Decrease storm water run-off and erosion;

(e) Aid in directing the circulation of vehicles and pedestrians;

(f) Identify entrances and exits;

(g) Conserve or enhance property values;

(h) Improve the relationship between the site design of the proposed development and public safety issues such as fire safety and crime prevention; and

(i) Improve the appearance of parking areas and the overall area.

(2) Landscape Plan

A landscape plan shall be submitted as necessary to show conformance with this section. The plan shall be prepared by an individual knowledgeable of plant

materials, landscape and site design, construction processes, and growing conditions in this region (USDA Zone 5).

(3) Screening and Buffering

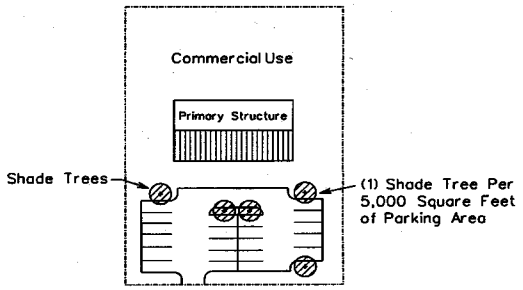
Screening and buffering of parking areas shall be provided to meet the requirements of §157.306.

(4) Planting Areas and Shade Trees

The following parking area landscape planting area and shade tree requirements shall be calculated based on the gross square footage of the parking areas (not including driveways to and from the overall parking area).

(a) All off-street public and employee parking areas shall require the provision and maintenance of deciduous shade trees of a variety hardy to this region, according to the requirements in the table below.

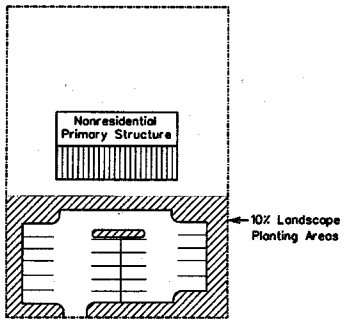
PARKING AREA SHADE TREE REQUIREMENTS	
Proposed Use	**Minimum Parking Area Shade Tree Requirement**
Multiple family or similar residential use	1 tree per 4,000 square feet of parking area
Commercial use	1 tree per 5,000 square feet of parking area
Industrial, institutional, or other nonresidential use	1 tree per 7,000 square feet of parking area



Commercial Parking Area Shade Tree Requirements

(b) Each tree-planting island shall contain at least 180 square feet of area per tree.

(c) Landscape planting areas which equal at least 10% of the parking area square footage shall be provided for all off-street parking areas.



Nonresidential Parking Area Landscape Planting Area Requirements

(d) The provision, installation, planting size, and maintenance of all shade trees and landscaping required under this division shall conform to the applicable City and Plan Commission policies, standards, specifications, and rules.

(e) In the CM5A and CM5B districts, new surface parking areas shall be screened from public streets by a continuous buffer that:

(i) Consists of living plant material alone or in combination with masonry walls or permitted fencing;

(ii) Contains one (1) deciduous shade tree per forty feet (40') of the perimeter (if shade trees already exist in the right-of-way adjacent to the parking area, such trees may be counted to satisfy this requirement).

(f) In the CM5A and CM5B districts, interior landscaping is required for new parking areas with more than twenty-five (25) spaces or exceeding eight thousand (8,000) square feet.

(5) Waiver of Landscaping Requirements

(a) The Plan Commission may waive or modify parking area landscaping requirements, including parking area setback standards, as part of the review and approval of a primary development plan, in accordance with §157.304(G). Setbacks for parking areas adjacent to front lot lines or residential zoning districts shall not be eligible for a waiver.

(b) The Planning staff may waive or modify the parking area landscaping requirements as part of the review and approval of a site plan routing submission, upon a written request by the applicant. Such a waiver or modification may be granted provided that the request is in substantial conformance with the following:

(i) The waiver or modification is in conformance with the purpose of this subchapter;

(ii) The staff determines that the applicant has submitted adequate documentation in support of the requested waiver or modification;

(iii) The staff determines the required parking area landscaping is not necessary or practical, based on the existing site or area conditions, characteristics, or size of the proposed parking area;

(iv) The requested waiver or modification will not create any potential storm water runoff or erosion problems;

(v) The requested waiver or modification will not be unduly detrimental to the use and value of the area adjacent to the property included in the request; and

(vi) The requested waiver or modification will not be unduly detrimental to the overall site design of the proposed development.

§ 157.314 Reserved

§ 157.315 Reserved

§ 157.316 Signs

(A) Purpose

The purpose of this chapter shall be to:

(1) Coordinate the type, placement, and physical dimensions of signs within the different zoning districts;

(2) Recognize the commercial communication requirements of all sectors of the business community;

(3) Encourage the innovative use of design;

(4) Promote both renovation and proper maintenance;

(5) Allow for special circumstances;

(6) Guarantee equal treatment under the law through accurate record keeping and consistent enforcement;

(7) Protect and promote property values of the community; and

(8) Improve the appearance and aesthetic quality of the community.

(B) Permitted Signage

(1) Residential Districts (AR, R1, R2, R3 and RP zoning districts)

One on-premise non-illuminated wall sign is permitted. Such sign shall not exceed one square foot in area, and may be used to identify block parents, the name(s) of the premises or occupants thereof, or to provide similar information. Additional signs as allowed herein shall also be permitted.

(2) Professional Office and Personal Services Districts (CM1 zoning districts)

(a) Free-standing Signs

One on-premises free-standing sign per entrance, identifying the name of the office park or activity conducted within the district shall be permitted. Such sign shall not exceed 32 square feet in area, shall have a maximum height of six feet, and shall be permitted with a five foot setback from the front lot line. Such sign shall not face any residential district 50 feet away.

(b) Directory Signs

If there is more than one building, a freestanding directory sign is permitted for each building. Such sign shall be located in the interior of the development with a maximum height of six feet and may not exceed 50 square feet in total area.

(c) Wall Signs

On-premises wall signs shall be permitted on each façade of a primary building; the total copy area of such signs shall not exceed 50 square feet per facade.

(d) Existing Signs

Any sign that was legally erected in this district prior to November 6, 1986 shall be deemed to have received Plan Commission approval as herein required and shall not be a nonconforming sign. Such sign may be converted without Plan Commission approval for new tenants, as long as the location and copy area remains the same or less than that of the existing sign.

(3) Commercial Districts

(a) CM2 Districts

(i) Free-standing Signs

[1] One on-premises free-standing sign per development parcel per street frontage is permitted.

[2] The free-standing sign shall not exceed 100 square feet in area and not exceed 35 feet in height.

[3] Such sign shall be located a minimum of five feet from any lot line.

[4] See §157.316(D)(6) for residential spacing requirements.

(ii) Marquee Signs

One on-premises marquee sign may be attached to the marquee but not extend into or over the public right-of-way, provided such signs do not exceed five feet in height and may extend as long as the marquee. Those signs projecting above or below the marquee shall be erected at a 90° angle to the building, and shall project no more than six feet with a minimum clearance of eight feet above the walk or grade below. The sign shall not project above the cornice or roof of the building.

(iii) Off-Premises Signs

Off-premises signs not exceeding 100 square feet in total area are permitted.

[1] Each off-premises sign may contain a maximum of two sign faces facing the same direction as long as the total sign area is not exceeded and the two faces are not separated by more than 12 inches distance.

[2] Such signs shall be no closer than 15 feet to the front lot line, and shall not exceed 35 feet in height.

[3] Such sign shall be spaced at least 300 lineal feet from any other off-premises sign.

[4] Such off-premises signs shall not be located within a 125 foot radius nor within 300 lineal feet from any city or county residential district or from any church, school, health care facility, historic district (or property eligible for historic designation). Such off-premises sign shall not be located closer than 150 lineal feet from any city or county office district.

[5] A double-faced off-premises sign or a V-type off-premises sign not exceeding an angle of 60° and not further than 12 inches at the closest point between the two faces shall be exempt from the spacing requirements between such two sign faces only.

(iv) Projecting Signs

[1] In lieu of the sign permitted in division (A)(2) above, one on-premises projecting sign is permitted. The projecting sign may project from a building a maximum of six feet and may project into a required front yard. Such sign shall have a minimum ground clearance of eight feet above the walk or grade below. The maximum area of such sign shall be 40 square feet.

[2] Where more than one business is located on the development parcel, the on-premises projection signs shall be combined, and resultant sign shall not exceed 75 square feet in total area.

(v) Wall Signs

On-premises wall sign(s) on building facades, attached to the face of the building, or mansard roof or substantially parallel thereto and not projecting beyond or above the roof or top of the cornice wall, are permitted. The copy area of such wall sign(s) per building facade shall not exceed 100 square feet.

(b) SC Districts

(i) Free-standing Signs

One on-premises free-standing sign identifying the entire commercial area and not exceeding the maximum square footage in area or height as provided in this section may be permitted on each public street abutting the perimeter of such district. If the frontage along a public street exceeds 800 feet, there may be two free-standing signs permitted but not located closer than 500 feet from any other free-standing sign. In addition, any single user commercial pad area within the district which has an area of one acre or more shall be permitted one on-premises free-standing sign, not exceeding 35 square feet in area and four feet in height. Conforming signs are permitted in the required front yard but not closer than five feet from the front property line. The maximum square footage and height for signs in each district shall be:

SC DISTRICT ON-PREMISE SIGN SQUARE FOOTAGE AND HEIGHT REQUIREMENTS	
SC1	Area: 200 square feet
	Height: 35 feet
SC2 and SC3	Area: 300 square feet
	Height: 40 feet
SC4	Area: 400 square feet
	Height: 50 feet

(ii) Marquee Signs

One on-premises marquee sign may be attached to the marquee but not extend into or over the public right-of-way, provided such signs do not exceed five feet in height and may extend as long as the marquee. Those signs projecting above or below the marquee shall be erected at a 90° angle to the building, and shall project no more than six feet with a

minimum clearance of eight feet above the walk or grade below. The sign shall not project above the cornice wall or roof of the building.

(iii) Off-Premises Signs Prohibited

In the SC zoning district, only on-premises signs are permitted.

(iv) Wall Signs

Except as provided herein, all signs shall be attached to a building and shall not project above the top of the building to which they are attached. Signs attached to a building shall be substantially parallel thereto and shall not project more than one foot from the face thereof. All signs must show only the name and use of the store or premises for which they are erected or the identification for the entire commercial area. The copy area of wall signs per store facade shall not exceed 25% coverage of the wall surface or the square footage of a free-standing sign in that district, whichever is less.

(v) Other Signs

Any proposed signs other than as permitted above shall be subject to Plan Commission review and approval as part of the development plan process. The sign regulations in divisions (B)(1), (2), and (3) above may be modified by the Plan Commission with the granting of Development Plan approval in conformance with all other requirements of the applicable Development Plan procedures.

(vi) Existing Signs

Any on-premises sign that was legally erected in this district prior to November 6, 1986 shall be deemed to have received Plan Commission approval as herein required and shall not be a nonconforming sign. The sign may be converted without Plan Commission approval for new tenants, as long as the location and copy area remains the same or less than that of the existing sign.

(c) CM5 Districts

(i) Wall Signs

On-premises wall signs shall be permitted on building facades attached to the face of the building, or mansard roof or substantially parallel thereto and not projecting above or beyond the roof or top of the cornice wall. Unless attached to a sloping wall or mansard or similar roof, such wall signs shall project not more than 12 inches from the facade of the building. The permitted copy area of all wall signs per building facade shall be as follows:

[1] In the CM5A and CM5B districts, if the sign(s) is/are located up to 50 feet height above the sidewalk, the total copy area shall not

exceed 50 square feet per tenant space; in addition, one of the following shall be permitted:

[a] If the sign(s) is/are located over 50 feet but less than 100 feet above the sidewalk, the total copy area shall not exceed 100 square feet; or

[b] If the sign(s) is/are located over 100 feet above the sidewalk, the total copy area shall not exceed 300 square feet.

[2] In the CM5C districts, if the sign is located up to 50 feet height above the sidewalk, it shall not exceed 50 square feet.

(ii) Blade Signs

In addition to the permitted wall signage, blade signs shall be permitted in the CM5A and CM5B districts. Blade signs shall only be permitted on the following streets: Clinton Street; Jefferson Boulevard; Lafayette Street; and Washington Boulevard; one (1) sign shall be permitted per street frontage. Blade signs shall:

[1] Extend no more than four feet (4') from the facade of the building, and no more than four feet (4') into a public right-of-way;

[2] Be no less than eighteen feet (18') above grade, at its lowest point;

[3] Not exceed eighty (80) square feet;

[4] Not project above the cornice or roof of the building.

(iii) Awning Signs

In addition to the permitted wall signage, awning signs shall be permitted in the CM5A and CM5B districts. The total sign area shall not exceed twenty-five percent (25%) of the area of the outer surface of the awning. Awning signs shall:

[1] Be affixed flat to, or painted upon the surface of the awning;

[2] Not extend vertically or horizontally beyond the limits of the awning; and

[3] Not be internally illuminated.

(iv) Canopy Signs

In addition to the permitted wall signage, canopy signs shall be permitted in the CM5A and CM5B districts. The total sign area shall

not exceed fifty percent (50%) of the area of the front and side faces of the canopy. Canopy signs shall:

[1] Be permitted to project above the canopy up to twelve inches (12"), provided that the sign does not project above the cornice or roof of the building; and

[2] Individual letters on a canopy sign shall be permitted to be internally illuminated.

(v) Marquee Signs

[1] In addition to the permitted wall signage, marquee signs shall be permitted in the CM5A and CM5B districts. Each face of a marquee shall be allowed to have a sign. Such signs shall be permitted to extend the entire length of the marquee, and shall be permitted to project up to six feet (6') above the roof of the marquee. The sign shall not project above the cornice or roof of the building.

[2] In the CM5C districts, one on-premises marquee sign may be attached to the marquee but not extend into or over the public right-of-way, provided such signs do not exceed five feet in height and may extend as long as the marquee. Those signs projecting above or below the marquee shall be erected at a 90° angle to the building, and shall project no more than six feet. The sign shall not project above the cornice wall or roof of the building.

(vi) Projecting Signs

In addition to the permitted wall signage, projecting signs shall be permitted in the CM5A and CM5B districts. A maximum of one sign per street frontage shall be permitted per business. Projecting signs shall:

[1] Extend no more than four feet (4') from the facade of the building;

[2] Be no less than eight feet (8') above grade, at its lowest point; and

[3] Not exceed twelve (12) square feet.

(vii) Window Signs

In addition to the permitted wall signage, window signs shall be permitted in the CM5A and CM5B districts. Window signs shall not exceed twenty-five percent (25%) of the window surface area.

(viii) Free-standing Signs

[1] In the CM5A and CM5B districts, one on-premises ground-mounted freestanding sign shall be permitted per development parcel per street frontage. Such signs may be internally or externally illuminated. Except for directional signs, no freestanding pole signs shall be permitted in the CM5A and CM5B districts. Ground-mounted signs shall:

[a] Not exceed eight feet (8') in height;

[b] Not exceed fifty (50) square feet in area; the area of the structural supports shall not be included in the calculation of sign area;

[c] Be located a minimum of five feet (5') from a property line;

[d] Be located out of the clear vision areas, and not block sight lines at entrances.

[2] In the CM5C districts, one on-premises free-standing sign per development parcel per street frontage is permitted. Such sign shall not exceed 100 square feet in area and shall have a maximum height of 35 feet, and shall be located a minimum of five feet from any lot line.

(ix) Changeable Copy Signs

Signs having electronically changing copy area shall not exceed the provisions of divisions (C)(1-10) above.

(x) Exceptions to General Provisions

Strings of light bulbs may be used and signs may blink or flash. Holiday lighting shall be exempt from the provisions of this section. Signs having electronically changing copy area shall not exceed the provisions of divisions (C)(1-10) above.

(xi) Off-Premises Signs Prohibited

In the CM5 zoning districts, only on-premises signs are permitted.

(xii) Residential Spacing

See §157.316(D)(6) for residential spacing requirements.

(d) CM3 and CM4 Districts

(i) Free-standing Signs

[1] One on-premises free-standing sign per development parcel per street frontage is permitted.

[a] The free-standing sign shall not exceed 250 square feet in area and a maximum height of 50 feet.

[b] The signs shall be no closer than five feet to any property line.

[c] See §157.316(D)(6) for residential spacing requirements.

(ii) Marquee Signs

One on-premises marquee sign may be attached to the marquee but not extend into or over the public right-of-way, provided such signs do not exceed five feet in height and may extend as long as the marquee. Those signs projecting above or below the marquee shall be erected at a 90° angle to the building, and shall project no more than six feet with a minimum clearance of eight feet above the walk or grade below. The sign shall not project above the cornice wall or roof of the building.

(iii) Off-Premises Signs

Off-premises signs are permitted as follows:

[1] Subject to §157.316(D)(6), off-premises signs not exceeding 100 square feet in area are permitted except in the Central Business District. Each off-premises sign may contain a maximum of two sign faces facing the same direction as long as the total sign area is not exceeded and the two faces are not separated by more than a 12 inch distance. Such sign shall be no closer than 15 feet to the front lot line and shall not exceed 35 feet in height. Such sign shall be spaced at least 300 lineal feet from any other off-premises sign in any direction along frontage on both sides of a street and cross streets. Such off-premises sign shall not be located within a 125 foot radius nor within 300 lineal feet from any city or county residential district or from any church, school, health care facility, historic district (or property eligible for historic designations). The off-premises sign shall not be located closer than 150 lineal feet from any city or county office district.

[2] In lieu of division (D)(5)(a) above, and subject to §157.316(D)(6), off-premises signs not exceeding 300 square feet in total area are permitted except in the Central Business District. Each off-premises sign may contain a maximum of two sign faces facing the same direction as long as the total area is not exceeded and the two faces are not separated by more than a 12 inch distance. Such sign shall be no closer than 20 feet to the front lot line, and shall not exceed 35 feet in height. The sign shall be spaced at least 500 lineal feet from any other off-premises sign in any direction along frontage on both sides of a

street and cross streets. The off-premises sign shall not be located within a 125 foot radius nor within 300 lineal feet from any city or county residential district or from any church, school, health care facility, historic district (or property eligible for historic designation). Such off-premises sign shall not be located closer than 150 lineal feet from any city or county office district.

[3] A double-faced off-premises sign or a V-type off-premises sign not exceeding an angle of 60° and no further than 12 inches at the closest point between the two faces, shall be exempt from the spacing requirements between the two sign faces only.

(iv) Projecting Signs

In lieu of the sign permitted in division (D)(2) above, one on-premises projecting sign for each business may project from the building a maximum of six feet and shall not project above the roof line or top of a cornice wall. The sign shall have a minimum clearance of eight feet above the walk or grade below, and a maximum area of 50 square feet. Where more than one business is located on the development parcel, the on-premises projecting signs shall be combined. The combined sign shall not exceed 100 square feet in total area.

(v) Wall Signs

On-premises wall signs on the building facades or mansard roof, substantially parallel thereto, and not projecting beyond the roof or top of the cornice wall, are permitted. The copy of such wall signs per building facade shall not exceed 30% coverage of the wall face, or 250 square feet whichever is less.

(4) Industrial Districts (IN1, IN2, and IN3 districts)

(a) Free-standing Signs

One on-premises free-standing sign on each street frontage per development parcel is permitted.

(i) The sign shall not exceed 300 square feet in area and 50 feet in height.

(ii) The sign shall be located no closer than five feet from the front lot line and five feet from the side lot line.

(iii) See §157.316(D)(6) for residential spacing requirements.

(b) Marquee Signs

One on-premises marquee sign may be attached to the marquee but not extend into or over the public right-of-way, provided such signs do not exceed five feet in height and may extend as long as the marquee. Those signs projecting above or below the marquee shall be erected at a 90° angle to

the building, and shall project no more than six feet with a minimum clearance of eight feet above the walk or grade below. The sign shall not project above the cornice wall or roof of the building.

(c) Off-Premises Signs

Off-premises signs are permitted as follows:

(i) Subject to §157.316(D)(6) off-premises signs not exceeding 100 square feet in total area are permitted except in the Central Business District. The sign shall be no closer than 15 feet to the front lot line and shall not exceed 35 feet in height. The sign shall be spaced at least 300 lineal feet from any other off-premises sign in any direction along frontage on both sides of a street and cross streets. The sign shall not be located within a 125 foot radius nor within 300 lineal feet from any city or county residential district or from any church, school, health care facility, historic district (or property eligible for historic designation). The off-premises sign shall not be located closer than 150 lineal feet from any city or county office district.

(ii) In lieu of division (C)(1) above, and subject to §157.316(D)(6), off-premises signs not exceeding 300 square feet in total area are permitted except in the Central Business District. The sign shall be no closer than 20 feet to the front lot line and shall not exceed 35 feet in height. Such sign shall be spaced at least 500 lineal feet from any other off-premises sign in any direction along frontage on both sides of a street and cross streets. The off-premises sign shall not be located within a 125 foot radius nor within 300 lineal feet from any city or county residential district or from any church, school, health care facility, historic district (or property eligible for historic designation). The off-premises sign shall not be located closer than 150 lineal feet from any city or county office district.

(iii) In lieu of divisions (C)(1) and (2) above, and subject to §157.316(D)(6), off-premises signs not exceeding 675 square feet in area are permitted except in the Central Business District. The signs shall be no closer than 30 feet to the front lot line, shall not exceed a height of 35 feet and shall be spaced at least 1,000 lineal feet from any other off-premises sign in any direction along frontage on both sides of a street and cross streets. Such off-premises signs shall not be located within a 250 foot radius nor within 500 lineal feet from any city or county residential district or from any church, school, health care facility, historic district (or property eligible for historic designation). The off-premises sign shall not be located closer than 150 lineal feet from any city or county office district.

(iv) A double-faced off-premises sign or a V-type off-premises sign not exceeding an angle of 60° and no further apart than 12 inches at the closest point between the two faces shall be exempt from the spacing requirements between such two sign faces only.

(d) Projecting Signs

In lieu of the sign permitted in divisions (A)(2) and (3) above, one on-premises projecting sign for each business may be substituted. The projecting sign may project from the building a maximum of eight feet and shall not project above the roofline or top of a cornice wall. The sign shall have a minimum clearance of eight feet above the walk or grade below and a maximum area of 40 square feet.

(5) Board of Zoning Appeals Uses

Sign regulations for uses permitted by the Board of Zoning Appeals, and/or nonconforming uses shall be as follows:

(a) Pursuant to the restrictions and regulations for the signs in the district in which located; or

(b) A wall and/or free standing sign of up to 32 square feet in area. A free standing sign shall neither exceed six feet in height nor have a front and side yard setback of less than five feet.

(c) This division shall not have precedent over any direct stipulations imposed by the Board of Zoning Appeals.

(6) Development Plan Signage

(a) Applicability

These provisions shall apply to signage proposed for a project which requires the approval of a development plan, as set forth in §157.304(B) and §157.304(C); or as further set forth in (b) below.

(b) Master Sign Plan

The Plan Commission may approve signs not otherwise allowed under this chapter as part of a Master Sign plan. It is intended that this provision apply to requests for an overall sign program of a consistent architectural design for either a larger scale development (such as a large retail or shopping center, industrial park, medical campus, etc.) on a lot, development parcel, or combination of lots/development parcels; for multiple signs as part of an individual development project; or for a request for a waiver on a site where the Plan Commission has previously approved a development plan. Requests for single signs not otherwise permitted should be submitted to the Board of Zoning Appeals for review and consideration.

Master Sign plans shall be submitted and reviewed according to the same process as a primary development plan as set forth in this chapter. Unless waived by the Commission's staff as having no bearing on the decision to approve or disapprove the Master Sign plan, the plan shall include a site plan that shows the location of each sign, scalable renderings of each sign or type of sign that indicate the area and height of each sign, and information on the

proposed lighting for each sign. Master Sign plans shall be reviewed in accordance with the standards set forth in 157.304(D)(5)(b); if the plan requests a waiver or modification of the signage standards, or requests approval of a non-permitted sign, the Master Sign plan shall also viewed in accordance with the standards set forth in 157.304(G).

(c) Waiver of Sign Standards

The Plan Commission may waive or modify certain sign design standards as part of its approval of a primary development plan as provided in 157.304(G). It is intended that this provision apply to signage waivers or modifications requested in conjunction with a pending development plan request.

(7) Changeable Copy Signs

(a) Changeable copy signs may not be operated in such a manner as to allow an image or component to change, rotate, move, flash, or blink at a rate exceeding once per 6 seconds. Changeable copy signs that scroll or travel may not be in motion longer than 10 seconds with a minimum of 3 seconds delay until transition to another message.

(b) Changeable copy signs shall be permitted with the same square feet, height and other parameters in each separate zoning district as set forth in this chapter.

(c) The lamp wattage and luminance level in nits (candelas per square meter) shall be provided at the time of permit application. Electronic message sign permit applications must also include a certification from the owner or operator of the sign stating the sign shall at all times be operated in accordance with City codes and that the owner or operator shall provide proof of such conformance upon request of the City's Department of Community Development and its enforcement designees.

(C) Additional Permitted Signage

The following signs shall be permitted as specified if they comply with all the requirements of this chapter.

(1) Church and School Signs

In any zoning district, the following signs shall be permitted for churches and schools.

(a) One on-premises free-standing sign per street frontage, the area of the sign not to exceed 50 square feet including the sign structure, and a height not to exceed seven feet. Signs shall not be located closer than five feet to the front lot line and five feet from the side lot line.

(b) Additionally, one on-premises wall sign is permitted with the area of the sign not exceeding 32 square feet.

(c) One temporary sign not exceeding 32 square feet in area and five feet in height is permitted for a maximum of seven days for an event. The sign shall not be located closer than five feet to the front lot line and five feet from the side lot line.

(2) Menu Board Signs

(a) In any commercial district, two on-premises free-standing signs each not to exceed 20 square feet in area or one on-premises free standing sign not to exceed 32 square feet in area functioning as menu boards are permitted in conjunction with an eating establishment utilizing ordering from vehicle; provided, any sign shall not exceed six feet in height, and shall not be permitted in the required front or side yard of the district in which it is located.

(3) Miscellaneous Signs

In any zoning district, the following on-premises signs shall be permitted; these signs shall not require a permit unless otherwise indicated:

(a) Flags or banners of any government or subdivision thereof, or of any educational, charitable, religious, political, civic or service organization;

(b) Historical or commemorative plaques or tablets;

(c) Historically significant signs may be exempted from the provisions of this chapter after being reviewed and approved by the Historic Preservation Review Board and in conformance with any historic preservation ordinance adopted by the city;

(d) Information and/or direction signs are not to exceed six square feet in area and three feet in height which direct traffic within a premises or which identify the location of rest rooms, telephone, freight entrances and the like are permitted, except that such signs shall not exceed 2 square feet in area and 2 ½ feet in height, and shall be limited to one sign per entry in the CM5A and CM5B districts. The sign may include the name of the business or its logo.

(e) Temporary institutional signs, not to exceed 32 square feet in area announcing a campaign drive or other events of a civic, philanthropic, education or religious organization are permitted. These signs shall be permitted not more than 30 days prior to the event and shall be removed within seven days after the event.

(f) Memorial plaques, tablets, or building cornerstones, when cut or carved into a masonry surface, or when made of incombustible material and made an integral part of the building or structure it identifies;

(g) Murals, exclusive of any sign copy area, painted on the wall of a building, fence, or similar structure shall be permitted;

(h) Noncommercial opinion signs shall be permitted in any zoning district. The signs shall conform to the following standards and limitations:

(i) In a residential zoning district, such signs shall not exceed 12 square feet in area and four feet in height. Two wall or freestanding signs shall be permitted per lot or development parcel. The sign(s) may be located in a required yard.

(ii) In any other zoning district, such signs shall not exceed 32 square feet in area and six feet in height. One wall or freestanding sign shall be permitted per lot or development parcel. This sign shall be permitted in addition to other permitted signage. The sign may be located in a required yard.

(iii) No such sign shall be located within the "corner visibility sight areas" as defined in §99.002.

(i) Official signs authorized by a government or subdivision thereof, including traffic, directional, and warning signs, public notices, and proclamations erected or displayed in discharge of any government function, or where required by law, ordinance or regulation;

(j) Reflectors and other safety signs or devices used to mark driveways, towers, airport approaches, and other potentially dangerous structures or situations; as well as warning signs for underground public utilities are permitted;

(k) Street names and numbers;

(l) Vehicle signs, painted, printed or mounted on vehicles which are incidentally displayed on any vehicle in connection with the use of such vehicle for transportation purposes, are permitted, provided such vehicles are licensed and operable.

(m) Warning signs, warning the public against hunting, fishing, trespassing, dangerous animals, swimming and the like are permitted, provided the area of such signs not exceed four square feet and height not exceeding three feet.

(4) Mobile Signs

One mobile sign per development parcel may be located in CM2, CM3, CM4, IN1, IN2 and IN3 districts. Such sign shall be permitted up to two times a calendar year not to exceed 30 days per permit. Such sign shall be located a minimum of five feet from any lot line and shall not exceed 32 square feet in area.

(5) Nonresidential Subdivision Identification Signs

In any nonresidential zoning district, a subdivision identification sign at each entrance, shall be permitted under the following conditions:

(a) One sign per main entrance is permitted. The area of the sign, including support structure, shall not exceed 75 square feet.

(b) It shall not be located closer than five feet to any lot line.

(c) The height of such signs shall not exceed five feet, with the height to be determined by a measurement from the ground level at the lowest grade level within two feet of either side of the sign.

(d) Such sign shall only be for the identification of the subdivision.

(6) Residential Identification Signs

In all residential zoning districts on-premises free-standing signs not exceeding 20 square feet in area nor five feet in height, and no closer than 10 feet to any lot line identifying multiple family housing complexes, neighborhood associations and subdivision areas at each entrance, shall be permitted; provided, that if the sign is a part of an approved landscape screen, then the copy area shall not exceed 32 square feet, nor six feet in height. Signs within a required front yard may be located only at the entrance from a major street to the multiple housing complex or subdivision area. No more than two signs may be located at any entrance.

(7) Roof Signs

In all nonresidential zoning districts, a roof sign may be permitted as an alternative to a permitted free-standing sign under the following conditions:

(a) The business for which the roof sign is sought offers no feasible opportunity for placement of a free-standing sign as otherwise authorized within the zoning district;

(b) The roof signs shall not be higher than the district height limitation for buildings;

(c) All such roof signs shall be finished in such a manner that the visual appearance from all sides is that they are a part of the building itself;

(d) A sign on a sloping roof must be a minimum of one foot below the top roof line;

(e) The permitted roof sign shall be no larger in area than the free standing sign permitted in the zoning district in which said sign is to be located;

(f) Such sign shall not be located closer than 60 feet to a residential district.

(8) Service/Gas Station Signs

The following signs are permitted on the premises used as service stations in addition to those sign otherwise permitted in the zoning district in which such service stations are located:

(a) Signs are permitted on either face of the gas pump not to exceed a total copy area of four square feet each side per motor fuel dispenser;

(b) One additional on-premises wall sign per street frontage not exceeding six square feet of area each is permitted;

(c) One additional on-premises canopy sign per canopy face, except if it faces an abutting city or county residential or office district, not to exceed 50 square feet per face;

(d) One two faced sign per street frontage, identifying self service, full service and gas prices, each face not to exceed 50 square feet in area.

(9) Temporary Signs

The following temporary signs shall be permitted with specific regulations as set out below and shall not require a permit:

(a) Auction Signs

In any zoning district, an auction sign is permitted. The area of the sign shall not exceed 32 square feet and a height of six feet. The sign is permitted for 21 days prior to the event and must be removed within five days after the event.

(b) Banners

Banners, pennants and flags shall be permitted for nonprofit civic activities only.

(c) Business Moving Signs

In all nonresidential districts, a sign announcing moving of a business to a new location is permitted for a period of 60 days. The sign shall not exceed 32 square feet in area and eight feet in height.

(d) Business Openings and Special Sales Signs

In all business and industrial zoning districts, temporary wall signs not to exceed 32 square feet in area identifying special sales and openings, shall be permitted on the premises of commercial establishments for no more than 60 days in any calendar year.

(e) Construction Signs

One temporary construction sign per street frontage shall be permitted at a construction site to identify the nature of the construction and those persons or firms associated within, including contractors, architects, finance companies and owners. The signs shall not exceed 16 square feet of area and six feet in height when located in residential districts. In any other zoning districts, if such sign is located within 100 feet of any residential district along side and front lot line it shall not exceed 64 square feet of area and 12 feet in height. If such sign is located more than 100 feet from any residential

district along side and front lot line, it shall not exceed 128 square feet in area and 20 feet in height. Such signs may be located five feet or more from the front lot line. If such sign is located in a residential district under development that consists of five acres or more, then the sign shall not exceed 128 square feet in area and 20 feet in height.

(f) Holiday Decorations

Holiday decorations for religious or national holidays are permitted. Such decorations may blink, flash or move and may be located in a required yard, provided, however, that no such holiday decoration shall interfere with traffic or present any other hazard to the safety or welfare of the public.

(g) Political Campaign Signs

In any zoning district, political campaign signs on behalf of candidates for public office or measures on election ballots shall be permitted. The signs shall conform to the following standards and limitations:

(i) In a residential zoning district, such signs shall not exceed 12 square feet in area and four feet in height. The signs may be located in a required yard.

(ii) In any other zoning district, such signs shall not exceed 32 square feet in area and 6 feet in height. Such signs shall be permitted in addition to other permitted signage. The signs may be located in a required yard.

(iii) No such sign shall be located within the "corner visibility sight areas" as defined in §99.002.

(iv) Political campaign signs shall only be permitted during the same year of any primary, general, special, or other election. All such signs shall be removed promptly after the conclusion of any general or special election.

(h) Real Estate Signs

In any zoning district, at such time that the property is placed on the market, one on-premises real estate sign may be erected on each street frontage of a premises, identifying an offer for the sale, rent or lease of all or part of the premises on which it is located. Such sign shall be removed within seven days after closing the sale, renting or leasing of the property, and under the following conditions:

(i) In any residential district, such real estate sign shall not exceed six square feet of area. It may be located in a required yard. Its height is not to exceed four feet.

(ii) In any other zoning district, such real estate sign shall not exceed 32 square feet in area. It may be located in a required yard. Its height is not to exceed eight feet.

(D) General Provisions and Standards

(1) Basis of Measurement

(a) Unless the term "lineal" as defined and used in this chapter is specifically stated in any particular division, the means of measurement shall be determined on a radial basis.

(b) Radial measurements as used in this chapter shall start from the center of the sign base at grade, and extend outward in a circular manner for the distance specified.

(c) Lineal measurements as used in this chapter shall start from the center of the sign base at grade as projected at a right angle to the nearest right-of-way line, and then extend as specified. Where the center of the sign base is equidistance from two or more right-of-way lines, the more restrictive limitation shall be applied.

(2) Illumination

(a) Sign illumination shall not create glare.

(b) External light sources shall be concealed from view at ground level at and beyond property lines. External light sources on signs larger that 100 square feet shall be mounted above the sign so as to shine downward.

(c) Maximum brightness is measured in candelas per square meter, also known as "nits". The higher the number of nits, the brighter the display. For outdoor use, the need is for at least 2,000 nits for most situations (traffic lights are 2,000 nits), whereas higher brightness types of up to 5,000 nits cope even better with direct sunlight on the screen. For comparison, an overcast day's sky can have 300 or less candelas per square meter. Brightness of a video display or electronic graphic display sign shall not exceed illumination of 5,000 nits (candelas per square meter) during daylight hours, nor of 540 nits between dusk and dawn, as measured from the sign's face at maximum brightness. The sign must have an automatic dimmer switch control to produce a distinct illumination change from a higher illumination level to a lower illumination level for the period of time between one half hour before sunset and one half hour after sunrise. For those electronic sign equipped with automatic dimmer features to adjust brightness levels for ambient light, it shall be required that the sign software be set to "automatic" in order to comply with levels of brightness as set forth in this section.

(d) No sign shall blink or flash, nor be illuminated by any device so as to appear to blink or flash, except as otherwise expressly provided in this chapter.

(3) Maintenance and Removal

(a) No sign or part thereof shall be erected or maintained except in conformance with the provisions of this chapter.

(b) All signs, including, but not limited to, those signs for which permits are required, shall be maintained in a good state of repair, including replacement of defective parts, painting, cleaning and other acts required for the maintenance of said sign.

(c) The Division of Community and Economic Development shall have the right of entry in order to inspect all signs for compliance with the provisions of this ordinance.

(d) When any sign is not maintained within the provisions of this chapter or determined otherwise unsafe, the Division of Community and Economic Development, or their authorized representative, shall send written notice to the owner of the property on which the sign is located to remove, repair or alter the sign. If said sign is not removed, repaired, or altered within 90 calendar days, the Division of Community and Economic Development, or their authorized representative, can cause the sign to be removed, repaired, or altered at the expense of the owner of the property in accordance with the provisions of this chapter.

(4) Off-Premise Sign Special Use

Off-premises signs located within a 350 foot radius from any city or county residential district, church, school, health care facility, or from any historic district (or property eligible for historic designation) shall require Board of Zoning Appeals approval prior to the issuance of an Improvement Location Permit. Applicants should refer to §157.217(C)(6) for specific details and procedure.

(5) Prohibited Signs

(a) Light Bulb Strings

Except in the CM5 districts, strings of light bulbs are prohibited, unless as decorations associated with a recognized legal holiday or city festival, in no case to be permitted beyond a 45 day period, and consistent with all other regulations in this chapter.

(b) Natural Objects

No sign shall be painted on or attached to rocks, trees, or any other natural object, except monument signs.

(c) Public Right of Way

No sign shall be erected upon, maintained in, encroach upon or overhang any public right-of-way without the approval of the Board of Public Works, except as expressly provided in this chapter and state and federal law as amended. However, all other applicable standards of this chapter shall apply.

(6) Residential District Setbacks

On-premises free-standing signs shall be located a minimum of 100 feet from all residentially zoned districts, except that a free-standing sign may be installed less than 100 feet from a residentially-zoned district provided the sign height and square footage is reduced in direct proportion to the distance the sign is located from a residential district. In no event shall a sign be permitted closer than 25 feet to a residentially-zoned district.

(7) V-Shaped Sign Area Calculation

The area of a V-type sign not exceeding an angle of 60° is calculated on one face of the sign only.

(E) Nonconforming Signs

Reasonable repairs, alterations and conversions may be made to nonconforming signs as long as location, height and area is the same or less than as that of a nonconforming sign or meets the requirements of this chapter. However, in the event that any such sign is hereafter damaged by any means whatsoever, including an act of God, and the damage exceeds 50% of the replacement value according to certified documentation such sign may be restored, reconstructed, altered or repaired only in conformance with the provisions of this chapter.

(F) Permit

An improvement location permit shall be required before the erection, construction, placing or locating of all signs regulated by this chapter, except as otherwise exempted in this chapter.

(G) Enforcement

(1) It shall be the duty of the Division of Community and Economic Development to enforce the provisions of this chapter in the manner and form with the powers provided by this chapter and any and all other provisions of this code, and as provided in the laws of the state.

(2) All departments, officials and employees of the city who are vested with the city or have authority to issue permits or licenses shall not issue any permit or license for any sign which would conflict with the provisions of this chapter.

(H) Definitions

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

AREA OF SIGN

The area in square feet of the smallest, simplest, single geometric figure which encloses the area which forms the outside shape of the sign face.

AUCTION SIGN

A temporary sign which announces the date, time and other information relative to an auction on a property.

AWNING

A cover that projects from a wall of a building over a window or entrance to provide weather protection and architectural spatial definition. The top surface of an awning is typically sloped. An awning may be fixed in place or retractable. An awning is completely supported by the building.

AWNING SIGN

A sign affixed flat to or painted upon the surface of an awning.

BLADE SIGN

A sign affixed to a building wall which projects from the building face, generally at right angles to the building. Blade signs are: primarily oriented toward vehicular traffic; typically taller than they are wide; and located in higher traffic volume areas. Blade signs shall only be permitted on buildings which are over 60 feet in height.

BRIGHTNESS/DIMMER

Maximum brightness of a video display or electronic graphic display sign shall not exceed illumination of 5,000 nits (candelas per square meter) during daylight hours, nor of 540 nits between dusk and dawn, as measured from the sign's face at maximum brightness. The sign must have an automatic dimmer switch control to produce a distinct illumination change from a higher illumination level to a lower illumination level of the period of time between one half hour before sunset and one half hour after sunrise.

CANDELAS

A unit of luminous intensity, which can be defined as the amount of luminous flux (total luminous power emitted from a source and expressed as lumens) per unit solid angle in a given direction.

CANOPY

A fixed cover that projects from a wall of a building over a window or entrance to provide weather protection and architectural spatial definition. A canopy typically projects at a 90-degree (perpendicular) or similar angle. A canopy may be completely supported by the building, or completely or partially supported by columns, poles, posts, or similar supports.

CANOPY SIGN

A sign affixed to a canopy.

CHANGEABLE COPY SIGN

A sign or portion of a sign that allows for frequent changes in sign messages by manual, electronic, or mechanical means.

CHARACTER

A combination of both the visual (physical design/materials/location) and functional (accessibility/level of activity) qualities of a structure or an area that set it apart from its surroundings and contribute to its individuality.

COMPATIBILITY

The characteristics or features of different buildings or site development which allow them to be located adjacent to or near each other in harmonious and congruent relationships. Compatible does not mean "the same as." Rather, for the purposes of this Manual, compatibility refers to the ability of development proposals to recognize and adapt to the character or context of existing development by successfully coordinating with the characteristics of adjacent buildings or nearby development. Elements that may affect a determination of compatibility include: building height, scale, and mass; building materials; façade design, including building divisions, façade rhythms, and window size and arrangement; access and parking locations; landscaping; and building/site lighting. The size, scale, location, and/or use of a proposed development may also affect determinations of compatibility. It may be appropriate for larger buildings or development proposals, or for certain uses, to establish a unique character for a given area.

CONSTRUCTION SIGN

Any sign announcing the names of architects, engineers, contractors or other individuals or firms involved with the construction, alteration, or repair of a building project or announcing the character of the building enterprise or the purpose for which the project is intended.

DEVELOPMENT PARCEL

A parcel, tract, or area of land. It may be a single parcel separately described in a deed or plat which is recorded in the office of the County Recorder; it may be a part of a single parcel described in a deed or plat which is recorded in the office of the County Recorder, provided the part to be used is adequate in size to meet all yard requirements of this chapter; or it may include parts of a combination of such parcels when adjacent to one another and used as one. Other arrangements of property may also be determined by the Plan Commission or Zoning Administrator to be development parcels/lots for the purposes of these regulations.

DIRECTION SIGN

A small auxiliary sign typically used to provide information such as: directions on or to a property, parking locations and limitations, traffic information, address identification, and other similar information. Direction signs may include logos or other proprietary symbols.

DIRECTORY SIGN

A sign which provides a listing of uses or tenants within a particular building or complex of buildings.

FACADE

Any face of a building which faces a street, private roadway, parking lot, or pedestrian walkway.

FLASHING SIGN

Any sign which flashes or appears to flash by a powered light source at intervals of less than 6 seconds.

FREE-STANDING SIGN

A sign that is erected on a frame, mast or pole which is not attached to a building.

GLARE

A situation created when illumination sources shine with visibly harsh, uncomfortably bright light which: causes discomfort; distracts attention; or leads to reduction or loss of visibility or visual performances (up to and including situations of blinding glare, as defined in the Illuminating Engineering Society of North America's current Lighting Handbook). These situations are typically caused by insufficiently shielded light sources, or high luminance (luminance that is sufficiently greater than the luminance to which the eyes are adapted).

GROUND-MOUNTED SIGN

A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles with no clearance between the bottom of the sign and the ground below, and designed to include a continuous or nearly continuous central base.

HEIGHT OF A SIGN

The distance between the lowest grade level within two feet of either side of a sign, and the highest part of the sign or its supporting structure.

LINEAL

A distance in any direction along frontage on both sides of a street and cross streets. This term does not apply to signs located on parallel streets.

LUMENS

The luminous flux emitted per unit solid angle from a uniform point source whose luminous intensity is 1 candela.

MARQUEE

A fixed cover that projects from a wall of a building over an entrance to provide weather protection, architectural spatial definition, and lighting. A marquee is completely supported by the building and is typically used in association with a theater or similar use. A marquee is typically deeper than a canopy.

MARQUEE SIGN

A sign affixed to a marquee. In the CM5C districts, marquee signs shall also include canopy and awning signs.

MASTER SIGN PLAN

A plan submitted to the Plan Commission as part of a request for an overall sign program of a consistent architectural design for either a larger scale development (such as a large retail or shopping center, industrial park, medical campus, etc.) on a lot, development parcel, or combination of lots/development parcels; for multiple signs as part of an individual development project; or for a request for a waiver on a site where the Plan Commission has previously approved a development plan.

MOBILE SIGN

A sign which is designed to be moved from one location to another, and is not permanently affixed to the ground or to a structure that is permanently affixed to the ground.

NITS

A nit is a photometric unit defined as cd/m2 (candelas per square meter).

NONCOMMERCIAL OPINION SIGN

A sign which expresses an opinion or other point of view, and does not contain information or advertising for any business, product, good, service, entertainment, or other commodity. A sign which meets the definition of "sign", including an on-premise sign or and off-premise sign, shall not be considered a noncommercial opinion sign.

OFF-PREMISE SIGN

Any sign which identifies or directs attention to a product, service, or activity or business not conducted on the premises on which the sign is located.

ON-PREMISE SIGN

Any sign which identifies or directs attention to a product, service, activity or business conducted on the premises on which the sign is located.

POLITICAL CAMPAIGN SIGN

A temporary sign on behalf of candidates for public office or measures on election ballots.

PROJECTING SIGN

A sign, other than a wall sign, which is affixed to a building wall and projects from the building face generally at a right angle to the building, such that the sign is designed to be viewed from a position generally perpendicular to the building. Projecting signs shall not project above the wall of a building, including cornice walls.

SIGN

Any identification, description, symbol, illustration or device which is in view of the general public and which identifies or directs attention to a person, place, product, service, activity, institution or business.

TEMPORARY SIGN

A sign not intended or designed for permanent display. Easily removed signs attached to windows shall be considered temporary signs.

TOP ROOF LINE

The principle top edge of the roof of a building.

TRANSITION

A visual effect used on a changeable copy sign to change from one message to another.

TRAVEL

A mode of message transition on a changeable copy sign where the message appears to move horizontally across the display surface.

WALL SIGN

A sign attached to the face of a building, or attached to a mansard or similar style of roof, such that the sign is designed to be viewed from a position generally parallel to the building. Signs parallel to and attached to sloping walls or mansard or similar style roofs to allow the sign display surface to remain perpendicular to the ground shall also be considered wall signs. Wall signs shall not project above the wall, cornice line, or top roof line of a building.

WINDOW SIGN

Any sign painted or otherwise permanently affixed onto a glass area or installed behind a window for viewing from outside the building, excluding temporary signs.

§ 157.317 River Greenway Overlay

(A) Establishment

The River Greenway Overlay District, which shall also be referred to as the RGO, is hereby created as an overlay district to be applied to lands abutting the Maumee, St. Joseph, and St. Marys Rivers and to Spy Run Creek, and other creeks and tributaries as may, from time to time, be designated by the Plan Commission. The RGO District boundaries shall be shown on the zoning map as an overlay, so that the underlying zoning district will remain legible.

(B) Purpose

(1) The River Greenway Overlay District is of special and substantial public interest because it is a visual and environmental resource affecting substantial portions of the city, including many residential neighborhoods, businesses and industrial areas and parks. It is the general purpose and intent of this subchapter to provide for maximum public benefit from any future development of these areas through a sharing of river orientation, with emphasis on the opportunity for enjoyment of river vistas, continuity of river greenway paths, and access to the rivers and banks to the maximum number of citizens. It is further the purpose of this subchapter to eliminate or minimize adverse environmental impacts and to improve scenic and aesthetic controls.

(2) The River Greenway is the focus for community improvements, from flood control to park and recreation areas, including revitalization and economic development areas that are complementary to the River Greenway Plan.

(C) Boundaries

The boundaries of this overlay district shall be 100 feet from the riverbank. "Riverbank" shall be defined as the landward edge of the floodway area as determined by Indiana Department of Natural Resources and/or Federal Emergency Management Agency, on both sides of the river or creek. If any portion of a lot or parcel is within that defined boundary, the entire lot or parcel shall therefore be included as if it were entirely contained within that boundary.

(D) Site Review and Approval

(1) No person or entity shall make a change as defined herein, before such change has received written approval and permits have been issued, except for emergency work as defined herein.

(2) Prior to instituting any change in the RGO District, a person or entity shall submit a request for approval of that change to the Plan Commission. No permit for construction, change or alteration shall be issued by the Division of Community Development and Planning until written approvals are received. Change shall include, but not be limited to, the following:

(a) New construction;
(b) Enlargement of or additions to existing structures;

(c) Signs, including new signage;
(d) New parking areas or enlargements of existing areas;
(e) Grading of land, including removal of live trees or other vegetation.

(3) Emergency work is defined as work undertaken because of imminent danger of personal injury and/or substantial property damage. Work, which is emergency work may be commenced without appropriate approvals and permits, only provided that applications for such approval and/or permits must be filed within three working days after the commencement of such work.

(E) River Greenway Committee

(1) The Plan Commission shall establish a River Greenway Committee, which shall include three members of the Plan Commission to be appointed by the Commission, two members of the Board of Park Commissioners to be appointed by the Board of Park Commissioners, one citizen representative with an interest in the River Greenway Consortium, Inc., to be appointed by the Mayor, one citizen representative who is a member of the Maumee River Basin Commission, to be appointed by the Maumee River Basin Commission. Staff liaison from both the Parks and Recreation Department and the Division of Community Development and Planning shall be available to the Committee. The Committee shall choose its own Chair and shall adopt such rules as it requires for its own governance.

(2) The duties and powers of the River Greenway Committee shall be those described in succeeding sections of this subchapter.

(F) Determination of Significant Impact

(1) Applications required by §157.317(G) shall be made to the Plan Commission on prescribed forms, accompanied by applicable fees (if any), and such site plans as may be required.

(2) The application shall be forwarded to the River Greenway Committee, which shall review and recommend either:

(a) That the proposed change is not of a scope and/or scale that would cause an impact on the RGO, in which case the provisions of this subchapter do not apply; or

(b) That the proposed change would be of a scope and/or scale to have an impact on the RGO, in which case the River Greenway Committee shall: review, evaluate and make recommendations regarding the development plan with respect to its compatibility with the River Greenway Master Plan of the Parks Department (hereinafter referred to as the Plan), and any other plan duly established that has bearing on the River Greenway District. This evaluation shall consider all active and passive uses mentioned in the Plan, as well as any flood control measures, bank conservation treatments and water quality controls or improvements which might be needed to support the Plan. The evaluation shall take into account any significant differences in the five corridor areas described in the Plan and shall appropriately respond to the general concept of the city Plan which holds that as the rivers approach the

center of the city, activities provided for are likely to be more intense or more highly developed and more "built" projects are likely to occur.

(3) Following initial evaluation of the application by the River Greenway Committee, the application shall be forwarded to the Commission for decision on whether development plan review is required.

(G) Development Plan Review

(1) Primary Development Plan

(a) If an application is determined to be of a scope or scale to impact the RGO, the applicant shall file a development plan application with the Plan Commission on prescribed forms. The application shall be accompanied by the applicable review fee, if any, a survey performed by a licensed surveyor, and 20 copies of the proposed site plan, which shall include the following:

(i) Date, scale and north point;

(ii) Name and address of the engineer or architect;

(iii) Name and address of the developer;

(iv) Location, size and use of all structures existing or proposed;

(v) Proposed ingress/egress points and parking areas;

(vi) Pedestrian circulation details;

(vii) Proposed site screening and landscaping;

(viii) Lot lines and dimensions;

(ix) References to abutting land uses or parcels.

(b) Applications shall be submitted in compliance with established filing deadlines, and shall not be accepted unless complete.

(c) Review of the submittal shall be conducted following the general procedures established for primary development plans. Reviewing departments shall verify the Plan's compliance with established city standards and practices.

(d) The Commission shall conduct a public hearing on the proposed primary development plan. Notice of such hearing shall be the same notice as is required under the Planning Act of the state.

(e) Following the hearing, the Commission shall forward the primary development plan to the River Greenway Committee for evaluation and recommendation. Such evaluation shall be according to §157.317(F)(2), above.

(f) After receiving the River Greenway Committee evaluation and recommendation, the Commission shall render a decision on the primary development plan and notify the applicant in writing of the same.

(g) If the Commission approves the primary development plan or approves the Plan contingent upon certain modifications, the secondary development plan may be submitted according to the established filing deadlines.

(2) Secondary Development Plan

At the applicant's discretion, the requirements for secondary approval may be incorporated along with the primary development plan, into one submittal and the application form so marked. Secondary approval does not require a public hearing, but otherwise will follow the same review procedures and criteria as a primary development plan.

(a) Secondary development plans shall, in addition to the requirements of the primary, include the following:

(i) Name of development;

(ii) Certification by land surveyor, engineer or architect, registered by the state;

(iii) Existing contours, at two-foot intervals, with spot elevations of finished grade, and stormwater runoff details.

(b) Review of the submittal shall be conducted following established procedures for a secondary development plan. Reviewing departments shall verify the plans compliance with established city standards and practices.

(c) The River Greenway Committee shall also review the submittal to determine its compliance with its established criteria.

(d) The Commission shall render a decision on the merits of the application and shall advise the applicant of its decision in writing within 30 days of that decision. Such decision shall be considered final and not subject to amendment.

(H) Approval

(1) Applicants must have written RGO approval prior to issuance of an improvement location permit or certificate of occupancy. Likewise, no petition for rezoning or submittal of a separate development plan will be accepted until and unless written RGO approvals are included with such application or petition.

(2) After such written approvals are received, review shall proceed as with any other petition or application.

(I) Authority to Proceed

(1) Final authority to proceed with any change in the RGO District shall be deemed effective at such time as written approval is received from the Plan Commission, if applicable, and an improvement location permit or certificate of occupancy is issued by the Division of Community Development and Planning.

(J) Amendments to Previously Approved Plan

All requests for amendment to a previously approved plan must follow these established procedures.

(K) Appeals from Plan Commission Decision

The decision of the Plan Commission is subject to review by certiorari. Aggrieved parties must file such petition to the court within 30 days after the date of a final decision of the Commission.

§157.105 HOME OCCUPATIONS.

(A) Home Occupation Standards

In order to qualify as a home occupation, a proposed use must comply with all of the following:

(1) The home occupation shall be operated only by residents of the dwelling; no outside employees shall be permitted;

(2) The home occupation must be incidental and secondary to the principal use of the dwelling as a residence, and shall not change the residential character of the structure or immediate area;

(3) The home occupation shall be conducted entirely within the dwelling unit. No home occupation shall be operated from an attached or detached accessory structure or garage;

(4) Only normal office equipment, including but not limited to a typewriter, computer, calculator, fax machine, or copier may be used in connection with the home occupation. Equipment noise shall not be permitted to impact adjacent properties or units;

(5) The home occupation shall not occupy more than 20% of the gross floor area of a dwelling unit, including any space used for storage for the home occupation. All storage related to the home occupation use shall be contained within the dwelling unit;

(6) The home occupation shall not display or create any external evidence of the operation of the occupation except that a single vehicle, used in conjunction with the occupation, may be parked outside and may display advertising or a logo. The vehicle shall comply with the restrictions in §72.23 of the City Code;

(7) Any structural alterations shall be made to the dwelling to accommodate the home occupation. No separate entrances or building additions shall be added for the use of the home occupation;

(8) A home occupation shall be permitted in a single family, two family, or multiple family dwelling unit;

(9) To avoid negative impacts on the character of the surrounding neighborhood, clients or customers are not permitted to come to the home and the address of the

home may not be used in any advertising, except for advertising such as printed literature or business cards; and

(10) No retail sales shall be permitted on the property.

(B) Permitted Home Occupations

Permitted home occupations shall include but not be limited to:

(1) Art studios;

(2) Business or office bookkeeping and/or accounting;

(3) Home offices; and

(4) Typing and other office services.

(C) Prohibited Home Occupations

Prohibited home occupations shall include but not be limited to:

(1) Amusement enterprises of any public nature;

(2) Barber shops, beauty salons, nail salons, tanning parlors, or similar uses;

(3) Care and/or breeding of animals, including animal grooming;

(4) Catering, or food preparation of any kind;

(5) Equipment repair and/or service;

(6) Massage therapy;

(7) Mechanical or body repair of automotive vehicles, other than routine maintenance and minor repair of personal motor vehicles titled to the occupants of the property;

(8) Production, manufacturing, repair, or assembly of products or components of products; and

(9) Psychic reading business.

ADMINISTRATION

§ 157.401 Purpose

The purpose of this section is to:

(C) Provide for the administration and enforcement of the provisions of this chapter;

(D) Set forth general standards, procedures, and requirements for the review, consideration, and issuance of Improvement Location Permits and Certificates of Compliance; and

(E) Establish standards, procedures, and requirements for violations and penalties.

§ 157.402 Zoning Enforcement Officer

(A) Authorization

The Common Council has authorized the creation of a Zoning Enforcement Officer for the administration and enforcement of this ordinance.

(B) Powers and Duties

A Zoning Enforcement Officer shall be responsible for:

(1) Making all determinations, interpretations, and decisions necessary to carry out the provisions and requirements of this chapter;

(2) Determining if a violation of this chapter exists, and how the provisions and requirements of this chapter shall be applied and enforced (in conjunction with the Department of Neighborhood Code Enforcement); and

(3) Issuing, or causing to be issued, all Improvement Location Permits and Certificates of Compliance required under this chapter.

§ 157.403 Reserved

§ 157.404 Board of Zoning Appeals

(A) Authorization

The Board of Zoning Appeals, as presently constituted, is hereby continued as an advisory Board of Zoning Appeals, subject to and in accordance with the provisions of IC 36-7-4-900 Series, et. al. (as may be amended). Any appeal filed under this section shall also be subject to all applicable procedures and limitations the Board may establish by rule.

(B) Reserved

(C) Powers and Duties

The Board shall approve, with or without conditions, or deny all of the following uses and/or requests:

(1) Contingent uses (§157.404(G)), if the Board determines that:

(a) The public convenience and welfare will be substantially served;

(b) The nature, location, size and site layout of the use will be compatible with the immediate area;

(c) Vehicular traffic to and from the proposed use will not create undue hazards to normal traffic in the vicinity of the request; and

(d) The proposed use does not conflict with the Comprehensive Plan or any other plan duly adopted by the Fort Wayne Common Council or the Plan Commission.

(2) Special uses (§157.404(F)), if the Board determines that:

(a) The public convenience and welfare will be substantially served;

(b) The proposed use will not be unduly detrimental to the surrounding area;

(c) The nature, location, size and site layout of the use will be compatible with the immediate area;

(d) Vehicular traffic to and from the proposed use will not create undue hazards to normal traffic in the vicinity of the request; and

(e) The proposed use does not conflict with the Comprehensive Plan or any other plan duly adopted by the Fort Wayne Common Council or the Plan Commission.

(3) Variances of the permitted use provisions of this chapter, pursuant to IC 36-7-4-918.4 (as may be amended), if the Board determines that:

(a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

(b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;

(c) The need for the variance arises from some condition peculiar to the property involved;

(d) The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and

(e) The approval does not interfere substantially with the Comprehensive Plan or any other plan duly adopted by the Fort Wayne Common Council or the Plan Commission.

(4) Variances from the development standards of this chapter, pursuant to IC 36-7-4-918.5 (as may be amended), if the Board determines that:

(a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

(b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

(c) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

(5) Appeals of:

(a) Any order, requirement, decision, interpretation, or determination made by a Hearing Officer, Zoning Enforcement Officer, or City staff member under this chapter; and

(b) Any order, requirement, decision, interpretation, or determination made by an administrative board or other body, except the Plan Commission, in relation to the enforcement of this chapter; and

(c) Any order, requirement, decision, interpretation, or determination made by an administrative board or other body, except the Plan Commission, relative to the enforcement of Improvement Location Permits or Certificates of Compliance.

(6) Other requests as provided for in the Boards rules.

(D) Procedures

(1) General Provisions

The procedure of the Board of Zoning Appeals shall be governed by the provisions of IC 36-7-4-900 Series, et. al. (as may be amended). The Board shall adopt rules and procedures concerning the filing of appeals, the giving of notice, and the conduct of its hearings and operations as necessary to carry out its duties. It shall keep minutes and records of its meetings and official actions, prepare written findings of fact, and record the vote of all actions taken. All minutes and records of the Board shall be public records. Any petition or appeal filed under this section shall be subject to all applicable procedures and limitations the Board may establish by rule.

(2) Pre-Application Discussion

Prior to the submission of an appeal or petition to the Board of Zoning Appeals for a special use, contingent use, use variance, or variance of development standards, a

pre-application discussion between the Planning staff and the applicant is recommended. The purpose of the pre-application discussion is as follows:

(a) To acquaint the applicant with the standards, procedures, and requirements of this chapter, the comprehensive plan, and any other applicable plans, ordinances, or laws;

(b) To review the Board's procedures and application requirements; and

(c) To make the applicant familiar with potential issues or concerns regarding the proposed petition.

(3) Submission Requirements

To submit a petition or appeal to the Board of Zoning Appeals, the applicant must submit an application form with the appropriate filing fee along with a survey of the property or other site plan showing the proposal if applicable. The application shall be signed by the owner(s) of record of the real estate included in the petition. Submissions determined to be complete by Planning staff, shall be placed on the Board of Zoning Appeals or Hearing Officer agenda for the next available public hearing. The Planning staff shall provide notice in accordance with the Board's rules and IC 5-3-1 (as may be amended). The Plan Commission shall adopt filing fees for Board petitions and appeals. The Board of Zoning Appeals shall establish a calendar for filing deadlines and Board/Hearing Officer meeting dates. The Board shall also establish a hearing procedure for this process by rule.

(4) Public Hearing

The Board of Zoning Appeals shall hold a public hearing on any appeal or petition, in accordance with the Board's established public hearing calendar and rules. Any petition or appeal filed under this section shall be subject to all applicable procedures and limitations the Board may establish by rule.

(a) Appeals

The Board may reverse or affirm, or may modify the appealed order, requirement, decision, interpretation, or determination. For this purpose the Board has all powers of the official, officer, board or body from which the appeal is taken. The Board may also defer action on the appeal if it needs more information or time to make a decision.

(b) Petitions

Following the public hearing on a petition, the Board shall approve, with or without conditions, or deny the requested petition. The Board may also defer action on the petition if it needs more information or time to make a decision.

(5) Decision

The following standards and requirements shall also apply to the Board's decision on an appeal or petition.

(a) Conditions

The Board may impose reasonable conditions as a part of its action on a petition or appeal. The Board may also permit or require a written commitment as set forth in section (6) below.

(b) Findings

The Board shall enter written findings, setting forth the reasons for its action on a petition or appeal. The findings shall be signed by the Board's secretary.

(c) Notice

Notice of the Board's decision on an appeal or petition shall be provided by furnishing a copy of its decision and findings to the applicant and any interested party as established by rule.

(d) Appeal

A decision of the Board may be reviewed by certiorari procedure, as provided in IC 36-7-4-1003 (as may be amended).

(e) Reconsideration

In the event the Board denies a requested petition or appeal, the Board shall not re-hear and reconsider a substantially similar proposal for a period of one (1) year following the date of the previous denial. Any person submitting an application requesting such a reconsideration within the one year period shall also submit documentation indicating how the proposal is substantially different from the previous application. The resubmitted application shall be reviewed by a Zoning Enforcement Officer, who shall determine whether the request will be placed on the Board's agenda for review prior to the expiration of the one year period.

(6) Written Commitments

(a) Authorization

As part of its review of a petition for a special use, contingent use, use variance or variance of development standards, the Board of Zoning Appeals may permit or require the property owner(s) to make written commitments concerning the use or development of that property, in accordance with IC 36-7-4-921 (as may be amended) and the Board's rules.

(b) General Provisions

(i) By permitting or considering a written commitment, the Board of Zoning Appeals does not become obligated to approve a petition.

(ii) This section does not affect the validity of any covenant, easement, equitable servitude, or other land use restriction created in accordance with the law.

(c) Procedure

The Board may permit or require written commitments in conjunction with its review of a petition for a special use, contingent use, use variance or variance of development standards. Written commitments may address or include the following issues:

(i) Limiting the uses which would be permitted on the property;

(ii) Placing restrictions on the size, location, height, appearance, or similar aspects of a proposed structure or structures in a proposed development or future development proposal;

(iii) Establishing standards or requirements relative to screening, buffering, landscaping, parking, or other similar site design aspects of a proposed development or future development proposal;

(iv) Limiting off-site impacts of a proposed structure or development or future development proposal, relative to noise, site lighting, signage, or similar issues; and

(v) Similar use, building layout, or site design issues.

(d) Form

Written commitments shall be prepared and submitted by the owner or applicant and shall be in a form acceptable to the Board's legal staff.

(e) Recordation

Written commitments made under this section shall be executed by the owner or applicant, approved by the Board of Zoning Appeals, and recorded in the Allen County Recorder's office, in accordance with the Board's rules. Unless modified or terminated by the Board of Zoning Appeals, a recorded commitment made under this section is binding on:

(i) The owner of the parcel;

(ii) Any subsequent owner of the parcel; and

(iii) Any person who acquires an interest in the parcel.

(f) Enforcement

Written commitments made under this section shall include provisions for the enforcement of the commitment. The commitment shall designate the Board of Zoning Appeals as a party entitled to enforce the commitment. Other appropriate parties, including but not limited to incorporated neighborhood associations, may also be designated as a party entitled to enforce the commitment. A violation of a written commitment shall be considered a violation of this chapter.

(g) Modification and Termination

Written commitments made under this section shall only be modified or terminated by the Board of Zoning Appeals. Prior to the Board considering a request to modify or terminate a commitment previously approved under this section, the Board shall hold a public hearing on the request. The procedure for the public hearing, including required notice, shall be as set forth in the Board's rules.

(E) Reserved

(F) Permitted Special Uses

The following special uses may be permitted by the Board of Zoning Appeals, in the zoning districts specified herein and shown in the table below, if the Board determines that the request meets the requirements of §157.404(C)(2) and any requirements stated for the specific use in this chapter. As part of its approval, the Board may impose reasonable conditions regarding the location, site design, and other features of the proposed building, structure, use, or site development as are reasonably related to the purposes of this chapter. In reviewing a petition for any special use, the Board shall also consider the location and size of the use; the nature and intensity of the operations involved in or conducted in connection with it; and its site layout, including access provisions and parking requirements.

TABLE OF SPECIAL USES	
Special Use	**District(s)/Uses**
Adoption agency	R3 and RP
Accessory dwelling unit	CM5B
Advertising office	R3 and RP
Animal raising or breeding (non-food production)	CM2 and CM3
Architect office	R3 and RP
Artist studio or school	R3 and RP
Automobile sales and services	CM2 and CM5B
Bank, credit union, or savings and loan association	R3 and RP
Barber shop	R3 and RP
Batting cage	CM2 and CM3
Beauty salon	R3 and RP
Bed and breakfast establishment	R3 and RP

TABLE OF SPECIAL USES	
Special Use	**District(s)/Uses**
Business storage facility	CM3 and CM4
Child and/or adult care center	R3 and RP
Class II child care home	AR, R1, R2, R3, RP, and CM5
Counseling service	R3 and RP
Commercial communication tower	R3, RP, CM1-4, CM5A, CM5B, SC1-4, and IN1-3
Commercial greenhouse or retail plant nursery	CM2
Community facility	AR, R1, R2, R3, and RP
Consulting service	R3 and RP
Correctional services facility	CM5A and CM5B
Country club	AR, R1, R2, R3, and RP
Dance studio or school	R3 and RP
Dentist office	R3 and RP
Doctors office	R3 and RP
Engineer office	R3 and RP
Fairground	CM2, CM3, and CM5
Finance office	R3 and RP
Flea market (indoor sales)	CM5B
Funeral home	AR, R1, R2, and RP
Gas station/convenience store	CM5B
Golf driving range, miniature golf course	CM2 and CM3
Group residential facility	AR, R1, R2, R3, RP, CM5A and CM5B
Hazardous waste treatment, storage and/or disposal facility	IN2 and IN3
Health care facility	AR, R1, R2, R3, and RP
Home-based business	AR, R1, R2, R3, RP, CM5A, CM5B, and CM5C
Homeless shelter	CM5A and CM5B
Home workshop	AR, R1, R2, R3, RP, CM5A, CM5B, and CM5C
Horticultural/specialty crop production	AR
Household pet breeding (major) operations	AR, R1, R2, R3, and RP
Insurance office	R3 and RP
Interior designer office	R3 and RP
Junk and salvage yard	IN3
Land surveyor office	R3 and RP
Law office	R3 and RP
Loan office	R3 and RP
Manufactured home Type II	AR, R1, R2, R3, and RP

TABLE OF SPECIAL USES	
Special Use	**District(s)/Uses**
Massage therapy	R3 and RP
Medical center or clinic	R3 and RP
Medical related services	R3 and RP
Motor vehicle storage yard	IN2 and IN3
Municipal solid waste landfill facility	IN2 and IN3
Nail salon	R3 and RP
Neighborhood facility	AR, R1, R2, R3, and RP
Nonprofit private club	R3 and RP
Nursing home	CM5A
Off-site campus housing	CM1-5, and IN1
Off-premise signs between a 125 foot radius and a 350 foot radius from any city or county residential district, church, school, health care facility, or from any historic district or historic structure	CM2, CM3, CM4, IN1, IN2 and IN3 districts, except for properties within the defined Central Business District
Optician or optometrist office	R3 and RP
Outdoor recreation uses (ball diamonds and soccer fields)	R3, RP, CM1, and CM2
Parking areas (public or employee)	AR, R1, R2, R3, and RP
Parking area fencing	Any permitted or Board approved parking area
Parking structures	CM5A and CM5B
Pawnshop	CM5A and CM5B
Private recreation facility	AR, R1, R2, R3, RP, and CM1
Professional or commercial office	R3 and RP
Railroad switching yard for truck trailers	IN1, IN2 and IN3
Real estate, broker, or appraiser office	R3 and RP
Rescue/revival mission	CM5A and CM5B
Residential fencing	AR, R1, R2, R3, and RP
Residential uses and primary residential structures	CM1, CM2, CM3, CM4, and IN1
Self-service storage (mini warehouse) facility	CM3
Shooting range (indoor)	CM2
Single family residential structure including a Type I or Type II manufactured home	CM5B
Solid waste transfer facility	IN2 and IN3
Specialty animal operation	AR
Stockbroker office	R3 and RP
Tanning salon	R3 and RP
Telephone switching building	AR, R1, R2, R3, RP, and CM1
Temporary structures and uses time extension	All districts
Waste management and remediation facility	IN2 and IN3

(G) Permitted Contingent Uses

The following contingent uses may be permitted by the Board of Zoning Appeals in any zoning district if the Board determines that the request meets the requirements of §157.404(C)(1). As part of its approval, the Board may impose reasonable conditions regarding the location, site design, and other features of the proposed building, structure, use, or site development as are reasonably related to the purposes of this chapter.

(1) Airports (public and private), including accessory structures and uses.

(2) Cemeteries (public and private), including accessory uses such as crematories, mausoleums, and/or mortuaries.

(3) Correctional Institutions.

(4) Educational institutions not otherwise permitted.

(5) Educational institution recreational facilities as the primary use of a property such as athletic fields, baseball/softball diamonds, practice facilities, stadiums, swimming pools, tennis courts, track and field facilities, or similar primary or accessory structures and/or uses.

(6) Golf courses, including accessory uses such as driving ranges and/or maintenance and clubhouse facilities.

(7) Government facility not otherwise permitted.

(8) Heliports (public and private), as a primary or accessory use.

(9) Hospital (public & private), including accessory structures and uses.

(10) Utility facilities not otherwise permitted, such as:

(a) Electrical receiving and transforming station, telephone switching station or similar use;

(b) Other similar uses of a public utility or public service nature, including structures and accessory uses as needed, excluding exempt public utility uses regulated by the Indiana Utility Regulatory Commission as defined in IC 8-1-2-1 (as may be amended).

§ 157.405 Hearing Officer

(A) Authorization

The Plan Commission has authorized the creation of a Hearing Officer for the type of cases and in accordance with the procedures outlined in IC 36-7-4-923 and IC 36-7-4-924 (as may be amended) and the Plan Commission rules.

(B) Reserved

(C) Reserved

(D) Reserved

(E) Reserved

§ 157.406 Reserved

§ 157.407 Permits

(A) Improvement Location Permit

(1) General Provisions

(a) An improvement location permit shall be required for the construction, reconstruction, enlargement, or relocation of any building or structure, unless specifically excluded by this chapter. No building or structure shall be erected, constructed, reconstructed, enlarged, or moved prior to the issuance of an Improvement Location Permit. Projects meeting the definition of major façade renovation shall also be required to obtain an Improvement Location permit; such projects shall also be required to be reviewed through the design review process as set forth herein and in the Plan Commission's rules, prior to the submission of the Improvement Location Permit application.

(b) No Improvement Location Permit shall be issued for a proposal, unless the proposal conforms with the provisions and requirements of this chapter.

(c) If a development proposal or permit request requires the approval of a development plan or a site plan routing review, that approval shall have been granted, and all conditions of approval satisfied prior to the approval and issuance of any improvement location permit(s).

(2) Application and Filing Fee

(a) All applications for Improvement Location Permits shall be submitted on forms provided by The Planning staff, and accompanied by the required filing fee as established by the Plan Commission. The applicant shall also submit site plans and any additional information necessary to allow a Zoning Enforcement Officer to determine whether the proposed construction will comply with the provisions of this chapter.

(b) For major façade renovation projects, the applicant shall also submit:

(i) Building elevations showing sizes and locations of awnings, balconies, canopies, entrances, lighting, signage and windows, and detailed descriptions of proposed building façade materials;

(ii) A site plan showing proposed site lighting; freestanding sign locations, types, and sizes; fence locations, heights, and materials;

(iii) Detailed descriptions of proposed façade renovations (if applicable); and

(iv) Any other information necessary to show compliance with the applicable provisions of §157.309 (Design and Additional Standards).

(c) As part of the application, a Zoning Enforcement Officer may also require the submission of a plot plan or certified land survey. A Zoning Enforcement Officer may defer action on the review and approval of any incomplete application.

(3) Exclusion

An improvement location permit shall not be required for the following uses. However development standards as required by this chapter shall still apply.

(a) Public and private site lighting facilities, poles, and supports;

(b) Retaining walls not associated with truck dock construction;

(c) Signs which do not require a permit as listed in §157.316 (Signs).

(d) Slab on grade patios, sidewalks, and similar construction, provided no foundations are proposed;

(e) Television aerials;

(f) Temporary construction trailers placed in conjunction with a permitted construction project;

(g) Temporary construction fencing placed around the perimeter of a construction site; and

(h) Utility lines, poles, and supports.

(4) Issuance of Permit

(a) Complete permit applications shall be promptly reviewed by a Zoning Enforcement Officer. If the proposed construction is in compliance with the provisions of this chapter, the permit shall be issued.

(i) If the proposed construction requires a permit from the Allen County Building Department then the Improvement Location Permit shall be sent by the Planning staff to the Building Department.

(ii) If the proposed construction does not require a permit from the Allen County Building Department, then the Improvement Location Permit shall be sent directly to the applicant.

(iii) A copy of the Improvement Location Permit shall be kept on the project site during the construction process.

(b) If the proposed construction is not in compliance with the provisions of this chapter, a Zoning Enforcement Officer shall not approve the application, and shall notify the applicant in writing of the reason(s) why the permit cannot be approved.

(i) If the applicant amends the application to bring it into full compliance with the provisions of this chapter, then a Zoning Enforcement Officer shall approve and issue the permit.

(ii) If the application cannot be amended to bring it into full compliance, a Zoning Enforcement Officer shall defer action on the request pending a final decision by the applicant. If a variance is not obtained, or a requested variance is denied by the Board of Zoning Appeals or Hearing Officer, then the permit application shall be denied. The applicant may also withdraw the permit application.

(c) As part of the review and approval of any Improvement Location Permit, a Zoning Enforcement may place conditions on the permit. If conditions are placed on a permit, those conditions must be satisfied or adequately addressed prior to the issuance of a Certificate of Compliance for the project or use.

(5) Commencement and continuation of work

Work shall begin on any construction project for which an Improvement Location Permit has been issued shall begin within 90 days of the date of the issuance of the permit. Work shall continue with due diligence until the project is completed.

(6) Compliance with approved plans

All work shall proceed in accordance with the plan(s), specifications, and other information approved as part of the permit application.

(7) Amendment and modifications

(a) After the Improvement Location Permit has been issued, minor amendments involving the location, design, or layout of a proposed building or structure may be approved by a Zoning Enforcement Officer. Such an amendment, if approved, shall not require another Improvement Location Permit application.

(b) After the Improvement Location Permit has been issued the approved plan(s) shall not be amended to include new items such as accessory structures,

decks, further additions, or other similar changes. Such an amendment shall require another Improvement Location Permit application.

(c) An approved Improvement Location Permit may not be applied or transferred to another construction project or site.

(d) An approved Improvement Location Permit may not be applied or transferred to a different applicant.

(8) Validity of Permit

(a) Any approved Improvement Location Permit may be revoked and declared invalid by a Zoning Enforcement Officer in the following situations:

(i) If work on the construction project is not commenced and continued in accordance with the provisions of this subchapter; or

(ii) If work on the construction project is not proceeding in conformance with the approved plan(s), specifications, and other information approved as part of the permit application; or

(iii) If work on the construction project is not in compliance with the provisions of this chapter.

(9) Notice of non-compliance

If a Zoning Enforcement Officer determines that any of the situations listed in division (1) above exists, the Zoning Enforcement Officer shall notify the applicant, specify the areas of non-compliance, and establish a time frame for the work to be brought into full compliance. A Zoning Enforcement Officer may also issue a stop work order (in conjunction with the Department of Neighborhood Code Enforcement) to ensure that no additional work will be done on the project.

(10) Revocation of permit

If the work on the project is not brought into full compliance within the time frame specified by a Zoning Enforcement Officer, a stop work order shall be issued (if one has not been previously issued), and the previously issued Improvement Location Permit shall be revoked. In a case where work on the project has not begun within the required 90 days, a stop work order shall not be required, but the permit may still be revoked. A new application, filing fee, review, and approval shall be required to continue the project.

(B) Certificates of Compliance

(1) Request

No occupancy or use of a building, structure, or site shall take place prior to the issuance of a Certificate of Compliance for the building, structure, or use. The Planning staff shall review all requests for Certificates of Compliance. Upon the completion of any structure erection, construction, reconstruction, enlargement,

addition, or other construction project, the applicant shall contact the Planning staff and request the issuance of the Certificate of Compliance. In the case of nonresidential interior renovation projects, nonresidential change of use, or the co-location of commercial communication antennae on existing structures, the applicant shall apply for a Certificate of Compliance on forms provided by the Planning staff, and pay the applicable filing fee.

(2) Action on Request

(a) If the building, structure, construction project, or use is in full compliance with the requirements of this chapter, the requested Certificate of Compliance shall be issued to the Allen County Building Department.

(b) If the Certificate of Compliance cannot be issued, the Planning staff shall advise the applicant of the reason(s) the compliance cannot be issued. It shall be the applicant's or the designated project representative's responsibility to resolve all outstanding issues, provide any requested information, or schedule any required inspections. The requested Certificate of Compliance shall not be issued until all outstanding issues are adequately addressed.

(3) Revocation

(a) Any approved Certificate of Compliance may be revoked and declared invalid by a Zoning Enforcement Officer in the following situations:

(i) If a Certificate of Compliance was issued based on the acceptance of a letter of commitment for compliance on a future date which was not fulfilled as specified; or

(ii) If a Certificate of Compliance approving a certain use was issued and the use is no longer in compliance with the provisions of this chapter.

(b) Notice of noncompliance.

If a Zoning Enforcement Officer determines that any of the situations listed in division (1) above exists, the Zoning Enforcement Officer shall notify the applicant, specify the areas of noncompliance and establish a timeframe for the use to be brought into full compliance. If the use is not brought into compliance within the timeframe specified the Certificate of Compliance shall be revoked. A new application, filing fee, review and approval shall be required to obtain another Certificate of Compliance.

§ 157.408 Fees

In accordance with IC 36-7-4-411, the Plan Commission shall establish a schedule of fees to defray the administrative costs connected with:

(A) Processing and hearing administrative appeals and petitions for rezoning, special exceptions, special uses, contingent uses and variances;

(B) Issuing permits; and

(C) Other actions or activities taken in accordance with the provisions of IC Title 36.

§ 157.409 Reserved

§ 157.410 Definitions

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

ACCESSORY DWELLING UNIT (ADU)

An additional dwelling unit with separate cooking, sleeping, and sanitation (bathroom) facilities. An accessory dwelling unit (ADU) is intended to be subordinate to a primary single family residential structure.

ACCESSORY STRUCTURE, NONRESIDENTIAL

A structure or combination of structures that:

(1) Are located on the same lot, tract, or development parcel as the primary nonresidential building or use;

(2) Are clearly incidental to and customarily found in connection with a primary building or use; and

(3) Are subordinate to and serving a primary building or use.

ACCESSORY STRUCTURE, RESIDENTIAL

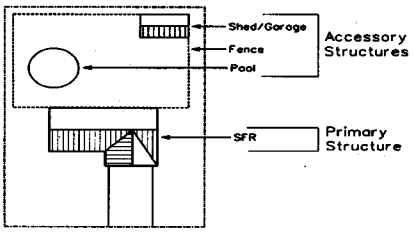
A structure or combination of structures that:

(1) Are located on the same lot, tract, or development parcel as the primary residential building;

(2) Are clearly incidental to and customarily found in connection with a primary building or use;

(3) Are subordinate to and serving a primary building or use; and

(4) Contribute to the comfort, convenience or necessity of the occupants in the primary building or use.



Accessory and Primary Structures

ACCESSORY USE

A use that:

(1) Is located on the same lot, tract, or development parcel as the primary building or use;

(2) Is clearly incidental to and customarily found in connection with a primary building or use;

(3) Is subordinate to and serves a primary building or use; and

(4) Contributes to the convenience or necessity of the occupants of the primary building or use.

ADDITION

Any construction which involves an extension or increase in the square footage, size, or height of an existing building or structure.

ADULT BOOKSTORE, ADULT NOVELTY STORE, ADULT VIDEO STORE

A commercial establishment which has 35% or more items of its stock-in-trade, including inventory and/or displayed items, of any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas;

(2) Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use.

ADULT CABARET

A nightclub, bar, restaurant, theater or other establishment, whether or not alcoholic beverages are served, which displays:

(1) Persons who appear nude or semi-nude,

(2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities, or

(3) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.

ADULT CARE CENTER

A building, other than the operator's primary place of residence, where adults receive day care from a provider:

(1) While unattended by a relative, legal guardian, or custodian;

(2) For regular compensation; and

(3) For more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays and holidays.

It is intended that adult care centers be classified as commercial uses, and be located in commercial zoning districts.

ADULT CARE HOME

A residential structure, which is the primary residence of the adult care provider, in which more than six (6) but less than twelve (12) adults not related to the provider receive day care for regular compensation.

AGRICULTURAL LIVESTOCK OPERATION

An agricultural operation where domestic farm animals are kept for use as part of a farm or raised for sale.

AGRICULTURAL USE

The primary of accessory use of a tract of land for normal agricultural activities, including farming and dairy farming, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry.

AGRONOMIC CROP PRODUCTION

The use of a tract of land of at least 10 acres in size for field crop production, excluding horticultural/specialty crops as defined herein.

AIRPORT, (PUBLIC and PRIVATE)

Any area of land used for the landing and take-off of aircraft, including all accessory structures and uses.

ALLEY

A right-of-way other than a street, road, crosswalk or easement, designed for the special accommodation of the property it reaches.

ANIMAL KENNEL/CATTERY

Any person, group of persons, partnership, or corporation engaged in keeping more than one unaltered dog, one unaltered cat, more than five dogs, more than seven cats, or the business of boarding, training for a fee, or grooming.

ASSISTED LIVING FACILITY

A residential establishment or institution other than a hospital or nursing home which provides living accommodations and medical services primarily to individuals 55 years of age or over and to individuals who, due to illness or disability, require care similar to that provided to persons who are 55 years or over. Services like transportation, housekeeping, dietary supervision, and recreational activities may also be offered.

AUTOMOBILE

A self propelled, free moving vehicle with wheels, usually used to transport not more than 10 passengers and licensed by the appropriate state agency as a passenger vehicle (i.e. cars, pickup trucks, and motorcycles).

AUTOMOBILE BODY SHOP

A facility which provides collision repair services, including body frame straightening or alignment, disassembly or replacement of damaged body parts, complete body painting services, welding services, complete wreck rebuilding, and frame repair services.

AUTOMOBILE DETAILING

A facility which provides automotive-related services such as applying paint protectors, exterior cleaning and polishing as well as installation of after market accessories such as tinting, auto alarms, spoilers, sunroofs, headlight covers, and similar items. However, engine degreasing or similar automobile cleaning services shall not be included under this definition.

AUTOMOBILE MAINTENANCE FACILITY (QUICK SERVICE)

A facility which provides engine tune-ups and servicing of brakes, air conditioning, exhaust systems, oil change or lubrication; wheel alignment or balancing; or similar servicing, rebuilding or repairs that normally do not require significant disassembly of automobiles, or overnight storage of automobiles.

AUTOMOBILE REPAIR

A facility which provides general automobile repair, rebuilding or reconstruction of engines, steam cleaning, or minor painting or detailing services for automobiles or trailers. An automobile repair facility may also provide accessory services in the form of minor body or fender straightening services as long as no disassembly or replacement of damaged major body

parts is required. This definition shall not include any services provided under the definition of "automobile body shop".

AUTOMOBILE SALES FACILITY

A lot, tract, or development parcel where the primary use is the sale of two or more new or used automobiles. All automobiles offered for sale shall be mechanically operable and shall not be wrecked or similarly damaged. The business shall be operated out of a primary structure.

AWNING

A cover that projects from a wall of a building over a window or entrance to provide weather protection and architectural spatial definition. The top surface of an awning is typically sloped. An awning may be fixed in place or retractable. An awning is completely supported by the building.

BED AND BREAKFAST ESTABLISHMENT

A house, or portion thereof, where short-term (up to 10 days) lodging rooms with or without meals are provided for compensation. The operator(s) shall live on the premises.

BOARD

The Board of Zoning Appeals of the City of Fort Wayne.

BUILDING

A structure having a roof supported by columns or walls designed, built or used for the enclosure, shelter or protection of persons, animals, or property.

BUILDING BAY

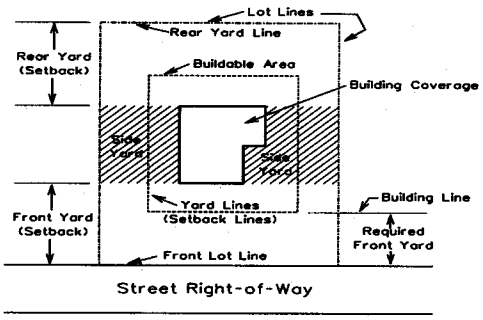
A division within a building façade, created by vertical elements such as columns, pilasters, or other architectural elements/changes in planes.

BUILDING, DETACHED

A building having no structural connection with another building.

BUILDING LINE

The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of a building or structure and the street right-of-way line.

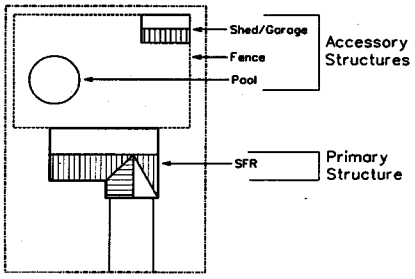


BUILDING, NONCONFORMING

A legally existing building which fails to comply with the regulations set forth in this chapter applicable to the district in which such building is located.

BUILDING, PRIMARY

A building constituting the primary use of a lot.



Accessory and Primary Structures

BUSINESS OR TRADE SCHOOL

A secondary school which offers instruction in business, trade, or similar skills.

CAMP GROUND

Any area or tract of land used or rented for occupancy by campers using tents and/or recreational vehicles for periods not to exceed two weeks.

CANOPY

A fixed cover that projects from a wall of a building over a window or entrance to provide weather protection and architectural spatial definition. A canopy typically projects at a 90-degree (perpendicular) or similar angle. Freestanding canopies may also be permitted. A canopy may be completely supported by the building, or completely or partially supported by columns, poles, posts, or similar supports.

CEMETERY

Land used for burial of the dead and dedicated for related purposes, including crematories, offices and maintenance facilities, mausoleums and mortuaries when operated in conjunction with and within the boundaries of a cemetery.

CERTIFICATE OF COMPLIANCE

A certificate issued by a Zoning Enforcement Officer stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this chapter.

CERTIFICATE OF OCCUPANCY

A document issued by the Allen County Building Department or successor agency, allowing the occupancy or use of a building and certifying that the structure or use has been constructed and will be used in compliance with the applicable codes and ordinances.

CHANGE OF USE

Any use that substantially differs from the previous use of a building or land.

CHARACTER

A combination of both the visual (physical design/materials/location) and functional (accessibility/level of activity) qualities of a structure or an area that set it apart from its surroundings and contribute to its individuality.

CHECK CASHING BUSINESS

Any business which cashes checks, drafts, money orders, travelers checks, or similar instruments, for a fee. This definition does not include: a bank, trust company, savings and loan association, credit union, or similar use; or a business which provides these services as an accessory use to a permitted primary use.

CHILD CARE

A service that provides for the care, health, safety, supervision and/or guidance of a child's social, emotional, and educational growth, on a regular basis, in a place other than the child's own home.

The following uses shall not be considered as child care under the terms of this chapter:

(1) A program for children operated by the department of education or a public or private school;

(2) A nonresidential program that provides child care for less than four (4) hours a day;

(3) A recreational program for children that operates for not more than ninety (90) days in a calendar year;

(4) A program whose primary purpose is to provide social, recreational, or religious activity for school age children such as scouting, boys club, girls club, sports or the arts; and

(5) Child care where the provider cares for fewer than six (6) children, not including children for whom the provider is a parent, stepparent, guardian, custodian, or other relative.

CHILD CARE CENTER

A building, other than the operator's primary place of residence, where children receive child care from a provider:

(1) While unattended by a parent, legal guardian, or custodian;

(2) For regular compensation; and

(3) For more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays and holidays.

The child care provider must hold a valid license from the State of Indiana. It is intended that child care centers be classified as commercial uses, and be located in commercial zoning districts.

CHILD CARE HOME

A residential structure, which is the primary residence of the child care provider, in which at least six (6) children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative) at any time receive child care from a provider:

(1) While unattended by a parent, legal guardian, or custodian;

(2) For compensation; and

(3) For more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays and holidays.

The child care provider must hold a valid license from the State of Indiana. This term includes a Class I Child Care Home and a Class II Child Care Home which are defined as follows:

(1) **Class I Child Care Home.** A child care home that serves up to twelve (12) children at any time. The children may be at the home on either a part –time or a full-time basis. The provider may employ an assistant as required by State law.

(2) **Class II Child Care Home.** A child care home that serves more than twelve (12) but not more than sixteen (16) children at any time. The children may be at the home on either a part-time or full-time basis. The provider may employ an assistant as required by State law.

COMMERCIAL COMMUNICATIONS TOWER

A structure on which one or more antenna will be located that is intended for transmitting and/or receiving radio, television, telephone, wireless or microwave communications for an FCC licensed carrier, excluding those used exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar private/residential communications.

COMMISSION

The Plan Commission of the City of Fort Wayne.

COMPATIBILITY

The characteristics or features of different buildings or site development which allow them to be located adjacent to or near each other in harmonious and congruent relationships. Compatible does not mean "the same as." For the purposes of these regulations, compatibility refers to the ability of development proposals to recognize and adapt to the character or context of existing development by successfully coordinating with the characteristics of adjacent buildings or nearby development. Elements that may affect a determination of compatibility include: building height, scale, and mass; building materials; façade design, including building divisions, façade rhythms, and window size and arrangement; access and parking locations; landscaping; and building/site lighting. The size, scale, location, and/or use of a proposed development may also affect determinations of compatibility. It may be appropriate for larger buildings or development proposals, or for certain uses, to establish a unique character for a given area.

COMPREHENSIVE PLAN

The complete plan, or any parts of the master plan for the planning jurisdiction of the City of Fort Wayne, as prepared and adopted in accordance with the 500 series of IC 36-7-4 (as may be amended).

CONDOMINIUM DEVELOPMENT

A project developed subject to and in accordance with the horizontal property law as set forth in IC 32-25 (as may be amended). This requires that undivided interests in the common areas and facilities be vested in the condominium unit owners.

CONDOMINIMUM UNIT

An enclosed space occupying all or part of a floor or floors in a structure, together with the undivided interest in the common elements appertaining to that unit.

CONFINED LIVESTOCK FEEDING OPERATION

The feeding of livestock, poultry, and/or small animals for commercial purposes usually in lots, pens, ponds, sheds or buildings where food is supplied primarily by means other than grazing, foraging, or other natural means.

CONVALESCENT HOME (See "Nursing Home").

CORRECTIONAL INSTITUTION

A place of confinement for persons who have broken the law, are awaiting trial, and/or have been convicted of criminal offenses.

CORRECTIONAL SERVICES FACILITY

A facility providing services other than confinement for persons who have broken the law, are awaiting trial, and/or have been convicted of criminal offenses.

COUNTRY CLUB

An establishment typically associated with a golf course which is intended as a place of social and recreational gatherings for members of a private club.

DAIRY FARMING OPERATION

An agricultural operation on a tract of land at least 20 acres in size, which produces milk and milk products.

DANCE HALL

An enclosed structure used for dancing or similar social gatherings. Any use which falls under the definition of "adult cabaret" shall not be included under this definition.

DAY CARE (ADULT or CHILD)

A service that provides for the care, health, safety, and supervision of an individual, not related to the provider, on a regular basis, in a residential structure other than the individual's own home. The provision of day care shall be a permitted use in all residential zoning districts if the following conditions are met:

(1) The home must be the primary residence of the day care provider; and

(2) Services shall be provided for fewer than six (6) adults or children not related to the provider; and

(3) Care is provided for less than 24 hours per day.

DESIGN REVIEW COMMITTEE

A committee of the Plan Commission, established to review and make recommendations on development plans, or take action on certain other development proposals, in the CM5A and CM5B zoning districts, as further set forth in the Commission's rules.

DESIGN STANDARDS

A set of standards which are parameters for site and/or building design and development, adopted by the Plan Commission in accordance with a development strategy or plan adopted by Common Council. Design standards may include requirements and recommendations; required

design standards shall also be adopted by Common Council as an amendment to the Zoning Ordinance.

DEVELOPMENT PARCEL

A parcel, tract or area of land. It may be a single parcel separately described in a deed or plat which is recorded in the office of the County Recorder; it may be a part of a single parcel described in a deed or plat which is recorded in the office of the County Recorder, provided the part to be used is adequate in size to meet all yard requirements of this chapter; or it may include parts of a combination of such parcels when adjacent to one another and used as one. Other arrangements of property may also be determined by the Plan Commission or Zoning Administrator to be development parcels/lots for the purposes of these regulations.

DEVELOPMENT PLAN COMMITTEE

A technical review committee composed of various City and County departments and other agencies responsible for the review of proposed development plans within the City's planning jurisdiction for compliance with applicable ordinance requirements, and all other requirements, standards, and specifications of the City under each department's jurisdiction.

DEVELOPMENTAL DISABILITY

A severe, chronic disability of an individual that:

(1) Is attributable to a mental or physical impairment, or a combination of mental and physical impairment (other than a sole diagnosis of mental illness);

(2) Is manifested before the individual is 22 years of age;

(3) Is likely to continue indefinitely;

(4) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; and

(5) Results in substantial limitation in at least three of the following:

(a) self care;
(b) receptive and expressive language;
(c) learning;
(d) mobility;
(e) self-direction;
(f) capacity for independent living; and
(g) economic self sufficiency.

DEVELOPMENTALLY DISABLED INDIVIDUAL

An individual who has a developmental disability.

DISTRICT

A part, zone, or geographic area within the planning jurisdiction of the City of Fort Wayne within which certain zoning and/or development regulations apply.

DOCTOR/DENTIST OFFICE

The private offices of not more than two (2) physicians, dentists, or similar professionals, where persons are examined or treated on an outpatient basis only. Laboratory tests shall be permitted as an accessory use.

DOMESTIC FARM ANIMALS

Cattle, calves, horses, mules, swine, sheep, goats, poultry or other similar birds and animals.

DORMITORY

A building used as group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, convent, monastery or other similar institutional use.

DOWNTOWN DESIGN MANUAL

A document (the Fort Wayne Downtown Design Manual), adopted by the Plan Commission, to be used in the review of development plans and other development proposals in the CM5A and CM5B zoning districts. If there is a conflict between the language in the Design Manual and the language in the Zoning ordinance, the ordinance language shall prevail.

DRIVE-THROUGH FACILITY

Building or structure used to provide or dispense products or services, through an attendant, a window or an automated machine, to persons remaining in vehicles in a designated stacking aisle. A drive-through facility may be in combination with other uses, such as banks, credit unions, loan associations, automated teller machines (ATM's), dry cleaners, drug stores, pharmacies, restaurants or similar uses. A drive-through facility does not include a car wash, automobile maintenance facility (quick service), or gas/service station.

DWELLING, ATTACHED SINGLE FAMILY

A single residential building consisting of two single family dwellings on two individual lots, attached on a common lot line, intended for occupancy by one household per unit.

DWELLING, MULTIPLE FAMILY

A structure or portion of a structure used for occupancy by three (3) or more households living independently. This definition shall include an attached single family structure which contains three (3) or more units.

DWELLING, SINGLE FAMILY

A residential structure used for occupancy by one household.

DWELLING, TWO FAMILY

A detached residential structure, under single ownership, used for occupancy by two (2) households living independently.

DWELLING UNIT

One or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

DWELLING UNIT, EFFICIENCY

A dwelling unit consisting of not more than one habitable room together with a kitchen or kitchenette and sanitary facilities.

EDUCATIONAL INSTITUTION

A public, parochial, private, or nonprofit pre-school, primary or secondary school, junior college, college or university other than a trade or business school. Such institutions may include living quarters, dining halls, restaurants, recreational amenities, heating plants, and other accessory facilities for students, teachers and employees.

FACADE

A particular face of a building. Building facades are generally oriented to face public streets or public areas. A rectangular building will have four facades.

FACADE, PRIMARY

Any face of a building that has frontage on a public street. Buildings on corner lots will have two or more primary facades according to the number of public streets fronted.

FAÇADE, SECONDARY

The side and rear facades of a structure. Secondary facades will have no frontage on public streets, but may have frontage on public alleys.

FAMILY

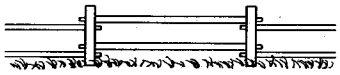
One or more persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, nursing home, fraternity or sorority house, dormitory, off-site campus housing, or similar living situation.

FENCE or WALL

A free-standing, vertical barrier, constructed of any material other than vegetation, resting on or partially buried in the ground and rising above ground level, which supports no load other than its own weight, and is used for confinement, enclosure, partition, privacy, protection, or screening. The posts, concrete for the posts and attachment of the fence to the posts shall be contained within the lot where the fence is located.

FENCE, OPEN

A fence which is less than 50% opaque when viewed perpendicularly to its vertical surface.



Open Fence

FENCE, ORNAMENTAL

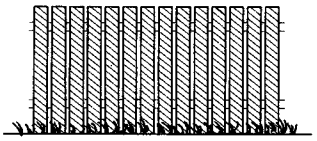
An open fence intended to partition or enclose a property or a portion of a property. Ornamental fences shall include, but not be limited to split rail, picket, wrought iron, and similar open fences. Chain link fencing is not an appropriate ornamental fencing material.

FENCE, PRIVACY

A solid fence erected or constructed to prevent views across the fence line.

FENCE, SOLID

A fence that is at least 85% opaque when viewed perpendicularly to its vertical surface.



Solid Fence

FILL

Any material such as earth, clay, sand, concrete, rubble, wood chips, bark, or waste of any kind that is placed, stored, or dumped upon the surface of the ground resulting in an increase in the natural surface elevation.

FRATERNITY OR SORORITY HOUSE

A building, rented, occupied or owned by a national or local chapter of an organized college fraternity or sorority which is officially recognized by a college, university, or other educational institution.

FRATERNAL ORGANIZATION

A group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings and formal written membership requirements.

FULL-CUTOFF

A light fixture which prevents distribution of light above a horizontal lane through the lowest point of the bulb or lens, diffuser, reflective passing enclosure, or other parts intended to distribute light.

FUNERAL HOME (MORTUARY)

A building used for the preparation of the deceased for burial, the display of the deceased and rituals connected therewith before burial or cremation. This building may contain space and facilities for:

(1) Embalming, cremation and the performance of other services used in preparation of the dead for burial;

(2) The performance of autopsies and other similar surgical procedures;

(3) The storage of caskets, funeral urns, and other related funeral supplies;

(4) The storage of funeral vehicles; and

(5) A funeral chapel.

GARAGE, RESIDENTIAL

A detached accessory structure or portion of a primary building used for personal storage, the storage of motor vehicles and other similar accessory residential uses.

GARAGE SALE (see "Yard Sale").

GAS/SERVICE STATION

A facility primarily used for the sale of motor vehicle fuels and limited automotive accessories. Minor automotive maintenance and repair activities may be provided if incidental to the

primary use. Convenience stores and car wash facilities may also be provided if permitted as a primary use in the zoning classification.

GAS STATION/CONVENIENCE STORE

A facility primarily used for the sale of motor vehicle fuels along with a retail facility devoted to the sale of groceries, prepared food, household items and automotive accessories. Minor automotive maintenance and repair activities and car wash facilities may also be provided if permitted as a primary use in the zoning classification.

GATEWAY

A point along a roadway at which a motorist or pedestrian gains a sense of having entered the city or a particular part of the city. This impression can be imparted through such things as signs, monuments, landscaping, a change in development character, or a natural feature.

GROSS FLOOR AREA.

The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage, not including any uncovered or unenclosed porches, patios, or decks.

GROUND FLOOR AREA

The gross floor area of a building exclusive of basements and floors above the ground floor.

GROUP RESIDENTIAL FACILITY

A residential facility for a group of individuals (who are not mentally ill or developmentally disabled) having full or part-time supervisory staff providing care, education, social or counseling services, and participation in community activities, living in a district authorizing residential uses. This definition shall include emergency/homeless shelters and group homes. A retirement facility shall not be included under this definition.

HANDICAPPED RAMP

A ramp or similar structure which provides wheelchair or similar access to a building.

HAZARDOUS WASTE

Solid waste or a combination of solid wastes that, because of quantity, concentration, or physical, chemical, or infectious characteristics, may:

(1) Cause or significantly contribute to an increase in mortality or increase in serious irreversible or incapacitating reversible illness; or

(2) Pose a substantial present or potential hazard when improperly treated, stored, transported, disposed of, or otherwise managed.

HAZARDOUS WASTE DISPOSAL AREA

The outermost perimeter of the area within a hazardous waste disposal facility that is permitted to receive hazardous waste for disposal.

HAZARDOUS WASTE TREATMENT, STORAGE AND/OR DISPOSAL FACILITY

A solid waste land disposal facility designed to treat, store and/or dispose of hazardous waste regulated by 329 IAC 3.1 or any subsequent applicable revisions. The facility shall be constructed and operated in accordance with a permit issued by the appropriate government agency authorized by or under the Resource Conservation and Recovery Act (40 CFR 260 - 40 CFR 270, 42 U.S.C. 6901, et seq., and IC 13-7-8.5, as may be amended).

HEALTH CARE FACILITY

A facility or institution, whether public or private, principally engaged in providing services for health maintenance and the treatment of mental or physical conditions.

HEDGE

A linear arrangement of plants grown closely together to create the effect of a solid, continuous wall which divides one space from another.

HEIGHT, BUILDING

The vertical distance as measured from the established grade to the highest point of the roof or structure. Structures featuring partially exposed lower level areas such as residential walk out or daylight basements shall be measured from the established grade at the main floor.

HELIPAD/HELISTOP

An area either at ground level or elevated on a structure, licensed by the federal government or appropriate state agency and approved for the loading, landing, and takeoff of helicopters but does not include any accessory facilities such as public parking areas, waiting rooms, fueling, and maintenance equipment or facilities.

HELIPORT

An area either at ground level or elevated on a structure, licensed by the federal government or appropriate state agency and approved for the loading, landing, and takeoff of helicopters. This shall include accessory facilities and uses such as public parking areas, waiting rooms, fueling, and maintenance equipment or facilities.

HISTORIC DISTRICT (or property eligible for historic designation)

Those properties that have been designated or listed in the Cultural Resources Survey as maintained by the Historic Preservation Review Board, and on file in the offices of Community and Economic Development.

HOME BASED BUSINESS

An accessory use of a single family or two family residential structure which does not meet the definition of a home occupation, but complies with the requirements herein. A home-based business would consist of service oriented uses and typically be more intense than a home occupation, due to factors such as intensity of use or clients coming to the residence.

HOME IMPROVEMENT CENTER

A retail facility engaged in the retail sale of various basic hardware lines, such as tools, builders hardware, lumber, paint and glass; house wares; household appliances; lawn supplies; garden supplies; and landscape materials. A home improvement center may also include separate enclosed areas devoted to the rental of light equipment used in conjunction with home improvement projects.

HOME OCCUPATION

An accessory use of a single family, two family or multiple family dwelling unit which complies with the requirements herein.

HOME OFFICE

An accessory use of a residential dwelling unit, where business and/or office activities are conducted. Typically, the office would be an ancillary use for a primary business or office use located elsewhere.

HOME WORKSHOP

A use conducted for the generation of revenue entirely within a dwelling, or in an accessory structure located on the same lot or tract as a dwelling, which complies with the requirements herein. The use must: be clearly incidental and secondary to the use of the property for residential purposes; not change the character of the structure or area; or have any exterior evidence of the workshop. Home workshops are intended to be limited to low intensity uses that produce or repair a product, but can be operated in such a way that they do not adversely affect adjacent properties.

HORTICULTURAL/ SPECIALTY CROP PRODUCTION

An agricultural operation which may include, but not be limited to, the production of the following: fruit and/or nut trees, grapes, strawberries, blueberries, blackberries, and similar horticultural crops as well as herbal, spice, and medicinal plant production.

HOSPITAL

An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices, and staff residences.

HOUSEHOLD PET BREEDING (MAJOR) OPERATION

An accessory use to a permitted single family residential use, in accordance with the applicable provisions of chapter 91 of City Code. A pet breeding operation operated under this definition shall be limited to no more than 2 litters per household in any 12 month period.

HOTEL

A building providing, for compensation, sleeping accommodations and customary lodging services where guests enter through a main lobby of the building to get to each rental unit. Related ancillary uses may include but shall not be limited to conference and meeting rooms, restaurants, bars, and recreational facilities.

IMPROVEMENT LOCATION PERMIT

A permit issued by a Zoning Enforcement Officer stating that the proposed erection, construction, enlargement or moving of the building or structure referred to therein complies with the provisions of this chapter.

INTEGRAL CHASSIS

A frame or structure utilizing metal I-beams, necessary for the transportation of a Type II or III manufactured dwelling unit as defined here, and for the support of the dwelling unit once it is placed on a foundation or other means of support.

JUNK and **SALVAGE**

Scrap materials, including but not limited to the following:

(1) automobile or machinery equipment or parts, including used automobile tires;

(2) cloth and clothing;

(3) manufactured clay and porcelain products;

(4) manufactured plastic products;

(5) manufactured rubber products;

(6) paper and paper products;

(7) recyclable products of all kinds;

(8) scrap metal;

(9) wood and wood products; and

(10) wrecked and/or dismantled automobiles and machinery.

JUNK and SALVAGE YARD

A lot, tract, development parcel, structure, or business operation which is primarily used for storing, processing, selling, or dismantling junk and salvage. This shall include but not be limited to scrap metal processing yards and business operations where the primary use is the storage of wrecked, junked, dismantled, or inoperable vehicles. A business operation conducted and contained entirely within an enclosed building shall not be considered a junk and salvage yard. However, the storage of used tires in an enclosed building shall be considered a junk and salvage yard.

LANDSCAPE BUFFER

A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

LANDSCAPE PLANTING AREA

An area designed for landscape plantings, which meets all applicable width and/or square footage requirements as set forth in this chapter.

LANDSCAPE SCREEN

The method by which a view onto one site from another site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, mounding, or other features.

LIGHT EQUIPMENT RENTAL

The temporary leasing of tools, materials, and/or construction equipment, excluding equipment used for excavation, grading, or similar tasks or processes.

LIVESTOCK OPERATION, HIGH INTENSITY

An agricultural operation of at least five (5) acres in size where domestic animals are kept for use as part of an agricultural use or raised for sale, where the number of animals exceed the maximum permitted as part of a "low intensity livestock operation".

LIVESTOCK OPERATION, LOW INTENSITY

An agricultural operation of at least five (5) acres in size where domestic farm animals, excluding swine, are kept for use as part of an agricultural use or raised for sale. The maximum numbers of animals which shall be permitted per acre of pasture as part of such an operation shall be as follows:

NUMBER AND TYPE OF LIVESTOCK PERMITTED PER ACRE	
Type of livestock	**Number permitted (per acre)**
Beef or dairy cow	2
Veal calf	6
Sheep	10
Horse	2

Turkeys, ducks, geese, and or laying hens	100
Limits for livestock not specifically noted shall be determined by a Zoning Enforcement Officer	

LOT

A parcel, tract or area of land. It may be a single parcel separately described in a deed or plat which is recorded in the office of the County Recorder; it may be a part of a single parcel described in a deed or plat which is recorded in the office of the County Recorder, provided the part to be used is adequate in size to meet all yard requirements of this chapter; or it may include parts of a combination of such parcels when adjacent to one another and used as one. In determining lot area and boundary lines, no part thereof within the limits of the street or any private access serving more than one main building shall be included.

LOT, CORNER

A lot at the junction of and abutting two or more intersecting streets.

LOT COVERAGE

That portion of a lot that is covered by buildings.

LOT DEPTH

The mean (average) horizontal distance between the front and rear lot lines.

LOT, FLAG

A lot which does not meet the minimum frontage requirements and where access to the public road is by a narrow, private right of way or driveway.

LOT, FRONT (NONRESIDENTIAL)

That part of an interior or through lot which abuts a street. On a corner lot, a Zoning Enforcement officer shall determine the front of the lot, based on the following:

(1) The location, setbacks, and orientation of existing structure(s);

(2) The size and functional usage of the existing front, side, and rear yards; and

(3) Previously approved site and/or development plans, and

(4) Conforming building setbacks.

LOT, FRONT (RESIDENTIAL)

That part of an interior or through lot which abuts a street. On a corner lot, the front shall be that part of the lot having the least amount of footage abutting the street, with the exception that if the lot is laid out so that the longer dimension is less than 1.6 times the narrower dimension, then a Zoning Enforcement Officer shall determine the front of the lot, based on the following:

(1) The location and orientation of existing structure(s);

(2) The size and functional usage of the existing front, side, and rear yards; and

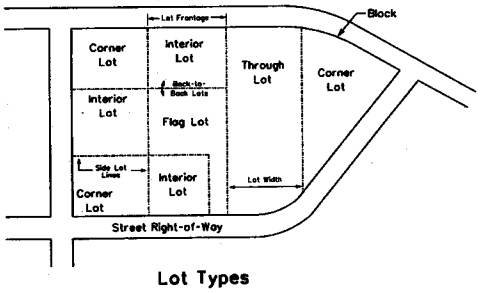
(3) Platted building lines and restrictive covenants.

LOT, INTERIOR

A lot other than a corner or through lot.

LOT, THROUGH

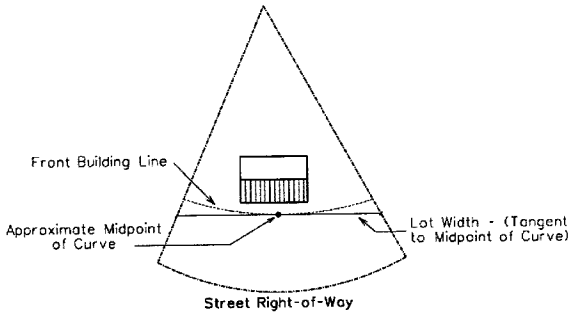
A lot having frontage on two parallel or approximately parallel streets.



Lot Types

LOT WIDTH

The dimension of a lot, measured between side lot lines on the building line. For lots with curved front building lines, the lot width shall be the dimension of the lot as measured along a straight line which is tangent to the midpoint or approximate midpoint of the curve of the building line. The lot width for other lots with irregularly shaped front building lines shall be as determined by the Zoning Enforcement Officer.



Lot Width - Curved Front Building Line

MAJOR FAÇADE RENOVATION

Replacement of existing features with new features that are different in terms of material, type, size, or color, excluding painting of typically painted or previously painted materials or surfaces, including substantive exterior alterations which result in a change in design, materials, or general appearance. This definition shall not include interior alterations or routine maintenance that does not affect exterior appearance.

MANUFACTURED HOME

A structure, fabricated in an off-site manufacturing facility, which is transportable in one or more sections and is designed for use as a dwelling with or without a permanent foundation when connected to the required utilities. Such a structure may or may not be built on an integral chassis. The term "manufactured home" shall not include a "recreational vehicle".

MANUFACTURED HOME PARK

A parcel of land designed for use by one or more Type II or Type III manufactured homes which provides the infrastructure and utilities necessary for single family occupancy of those homes.

MANUFACTURED HOME, TYPE I

A structure, fabricated in an off-site manufacturing facility for installation or assembly at a building site, which is designed for use as a dwelling, either by itself or in conjunction with other similar units. Typically, a modular home would fall under this definition. To be considered a Type I manufactured home, the structure must:

(1) Be constructed in conformance with the Indiana One and Two Family Dwelling Code;

(2) Consist of two or more sections;

(3) Be placed on a continuous, permanent under floor foundation which is not pierced, except for required ventilation and access;

(4) Have siding and roofing material of a type customarily used on dwellings constructed on-site;

(5) Not be constructed with an integral chassis or permanent hitch; or wheels, axles, or other device allowing transportation; and

(6) Be designed to be transported by a trailer or other similar carrier which is not designed to be permanently attached to the dwelling or remain with it after the structure is placed on its foundation.

MANUFACTURED HOME, TYPE II

A structure, fabricated in an off-site manufacturing facility for installation or assembly at a building site, bearing a seal certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards Act (42 USC Section 5401, et. Seq.) or IC 22-15-4-1, as may be amended, (as opposed to a Type I manufactured home which is built in conformance with the Indiana One and Two Family Dwelling Code). To be considered a Type II manufactured home, the structure must:

(1) Contain at least nine hundred fifty (950) square feet of occupied space per dwelling unit;

(2) Be a double or multiple section unit;

(3) Be placed on a permanent under-floor foundation installed in conformance with the Indiana One and Two Family Dwelling Code and according to the manufacturer's installation specifications;

(4) Be placed onto a permanent perimeter enclosure in conformance with the Indiana One and Two Family Dwelling Code;

(5) Have the wheels, axles, and hitch mechanisms removed;

(6) Have siding and roofing material of a type customarily used on dwellings constructed on-site;

(7) Be connected to all the utilities necessary for the occupancy of the unit, in conformance with the Indiana One and Two Family Dwelling Code; and

(8) Have been constructed after January 1, 1981.

MANUFACTURED HOME, TYPE III

A structure, fabricated in an off-site manufacturing facility, which is transportable in one or more sections and is designed for use as a single family dwelling. A mobile home would meet this definition. To be considered a Type III manufactured home, the structure must:

(1) Be properly connected to all utilities necessary for the occupancy of the unit; and

(2) Be set on piers and properly skirted, with wheels and axles removed, in a manufactured home park.

MARQUEE

A fixed cover that projects from a wall of a building over an entrance to provide weather protection, architectural spatial definition, and lighting. A marquee typically projects at a 90-degree (perpendicular) or similar angle, and is typically deeper than a canopy. A marquee is completely supported by the building and is typically used in association with a theater or similar use.

MASSAGE THERAPY ESTABLISHMENT

Any establishment having a source of income or compensation derived from the practice of massage, which complies with and is licensed under the provisions of chapter 114 of the City Code.

MAXIMUM BUILDING OCCUPANCY

The maximum designed occupant load of a building as determined in accordance with Sections 1003.2.2.1 through 10032.2.3 of the 2000 International Building Code or its amended/successor code.

MEDICAL CENTER (see "Medical/Dental Clinic")

MEDICAL/DENTAL CLINIC

A facility organized and operated for the primary purpose of providing health services for outpatient treatment and care, staffed by three or more licensed physicians and/or professionals, and their associates. This use includes laboratories, pharmacies, and other related service facilities operated in conjunction with the clinic.

MENTAL ILLNESS

A psychiatric disorder that:

(1) Substantially disturbs an individual's thinking, feeling, or behavior; and

(2) Impairs the individual's ability to function.

The term includes alcoholism, and addiction to narcotics or dangerous drugs.

MENTALLY ILL INDIVIDUAL

An individual who:

(1) Has a psychiatric disorder that substantially impairs the individual's mental health; and

(2) Requires care, treatment, training or detention:

(a) Because of the psychiatric disorder; or

(b) For the welfare of the community in which the individual resides.

MICRO/MINI BREWERY

An establishment where beer, ale, etc. are brewed, typically in conjunction with a bar, tavern or restaurant use. The maximum brewing capacity shall not exceed 20,000 gallons per year.

MINOR FAÇADE RENOVATION

Replacement of existing features in kind or routine maintenance of features including painting of typically painted or previously painted materials or surfaces.

MIRRORED GLASS

Glass with a high exterior light reflectance level (typically over 50%).

MIXED-USE BUILDING

A building containing more than one type of use, such as governmental, institutional, office, personal service, retail, and residential; including a mix of residential and non-residential uses.

MIXED-USE DEVELOPMENT

The practice of allowing more than one type of use in a building or set of buildings.

MOBILE FOOD SERVICE UNIT

A vehicle, typically a van, truck, towed trailer, or pushcart, from which food and beverages are sold.

MOBILE HOME (see "Manufactured Home, Type III")

MOBILE HOME PARK (see "Manufactured Home Park")

MODULAR HOME (see "Manufactured Home, Type I")

MORTUARY (see "Funeral Home").

MOTEL

A building or series of buildings, typically one or two stories, in which sleeping accommodations are offered for compensation, and which is distinguished from a hotel primarily by providing independent exterior access to, and adjoining parking for, each rental unit.

MOTOR VEHICLE

An automobile, bus, recreational vehicle, truck, semi trailer, motorized vehicles stored or transported on a trailer or similar vehicles propelled or drawn by mechanical power

MOTOR VEHICLE STORAGE YARD

A lot, tract, or development parcel used for the temporary, short term (up to 90 days) storage of motor vehicles either as a primary use or accessory use. Junk and salvage yards shall not be included under this definition.

MOUNTING HEIGHT

The mounting height of a light fixture shall be defined as the vertical distance between the adjacent grade and the top of the lighting fixture (luminaire).

MULTIPLE FAMILY COMPLEX

A grouping of two or more multiple family structures.

MULTIPLE FAMILY COMPLEX, HIGH RISE

A grouping of 2 or more multiple family structures of 5 or more stories.

MUNICIPAL SOLID WASTE LANDFILL FACILITY

A publicly or privately owned land disposal facility designed to accommodate and dispose of certain types of solid waste as defined and described in 329 IAC 10-2, excluding hazardous

waste regulated by 329 IAC 3.1 or any subsequent applicable revisions. The facility shall be operated by spreading the waste in layers, compacting to the smallest practical volume, and covering with material applied at the end of each operating day. The facility shall be operated under permits issued by the appropriate government agencies.

NEIGHBORHOOD FACILITY

A facility intended to serve or accommodate the needs of a specific segment of a community or area. Neighborhood facilities shall include, but not be limited to, a branch YMCA or YWCA; a Boys and Girls Club; or a Boy Scout or Girl Scout facility.

NIGHT CLUB

An establishment dispensing liquor and meals in which music, dancing, or entertainment is provided. Any establishment which would fall under the definition of "adult cabaret" shall not be included under this definition.

NONPROFIT PRIVATE CLUB

An establishment primarily for the use of the members of a nonprofit corporation or association. The operation of the club may include the serving of food and alcoholic beverages, subject to all other applicable regulations.

NUDE OR STATE OF NUDITY

The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft with less than a fully opaque clothing covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

NUDE OR SEMI-NUDE MODEL STUDIO

Any place where a person who regularly appears in a state of nudity or semi-nudity is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition shall not include a person appearing in a state of nudity or semi-nudity doing so in a modeling class operated:

(1) By a college, junior college, or university supported entirely or partly by taxation;

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(3) In a structure:

(a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

(b) Where, in order to participate in a class a student must enroll at least three days in advance of the class.

NURSERY SCHOOL (See "Preschool")

NURSING HOME

A facility licensed by the State Board of Health which provides nursing services on an continuing basis; admits the majority of the occupants upon the advice of physicians as ill or infirm persons requiring nursing services; provides for licensed physicians services or supervision; and maintains medical records. A convalescent home, health and rehabilitation center, and rest home, if meeting the above criteria, shall also be included under this definition.

OFF-SITE CAMPUS HOUSING

A building rented or leased as group living quarters for students affiliated with a particular college, university, or other educational institution which is not located on the campus of a college or university.

OUTDOOR DISPLAY

The placement of goods, equipment or materials for sale, rental or lease in a location not enclosed by a structure consisting of walls and a roof. "Outdoor display" shall not mean yard sales as defined in this chapter.

OUTDOOR RECREATION FACILITY

Private recreation facilities which do not include athletic or recreational fields as a primary component of the use. Structures are typically required by or are part of the primary use of the facility. This use shall not include public parks, public recreation areas or recreation uses which are accessory uses to existing permitted primary uses.

OUTDOOR RECREATION USE

Private athletic or recreational fields or similar uses. Structures may be required by the uses; however, they would typically only be provided as accessory uses to the primary recreation use. This use shall not include public parks, public recreation areas or recreation uses which are accessory uses to existing permitted primary uses.

OUTDOOR RETAIL SALES

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

OUTDOOR STORAGE

The keeping of goods, materials or equipment in a location not enclosed by walls and a roof.

PARK (PUBLIC)

A lot, tract, or development parcel designated and used by the public for active and/or passive recreation.

PARKING AREA (PRIVATE)

A portion of a lot, tract, or development parcel used for parking, for the exclusive use of employees or residents with or without payment of a fee.

PARKING AREA (PUBLIC)

A parking area available to the public, with or without the payment of a fee, used for parking of more than four (4) motor vehicles.

PARKING LOT (See "Parking Area (Public)")

PARKING SPACE (OFF-STREET, ONE)

A space other than on a street or alley designed for use or used for the temporary parking of a motor vehicle.

PEDESTRIAN FRIENDLY

Areas that accommodate pedestrians in a manner that is safe, functional, and aesthetically pleasing. Pedestrian friendly areas generally separate pedestrian and auto traffic, as well as offer designs that are human scaled.

PEDESTRIAN ORIENTED

Areas that cater specifically to pedestrians, as opposed to motorized modes of traffic. The terms "Pedestrian Oriented" and "Pedestrian Friendly" are often used interchangeably.

PERMANENT FOUNDATION

A structural system for transferring loads from a structure to the earth, which meets the applicable specifications and requirements of the Indiana One and Two Family Dwelling Code.

PERSON

A corporation, firm, partnership, association, organization or any other group acting as a unit, as well as a natural person.

PERSONAL SERVICES

Uses primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.

PLANNING JURISDICTION

All areas in Allen County, Indiana, which lie with in the corporate limits of the City of Fort Wayne or otherwise fall under the planning and zoning jurisdiction of the City of Fort Wayne.

PLANNING STAFF

The personnel of the Land Use Division of the Department of Planning Services.

PLANT NURSERY

Any land used to raise or temporarily store trees, shrubs, flowers, and other plants for sale or for transplanting.

POOL, SWIMMING

Any constructed or portable structure designed or constructed to be filled with water and intended to be used for swimming or similar purposes, which is both over 24 inches in depth and over 250 square feet in size. This definition shall include said structures, whether containing water or empty.

PORCH, OPEN

A roofed structure attached to a building and open on two or more sides. A screened in porch shall not be considered open.

PORTABLE STORAGE CONTAINER

A semi trailer, truck box or other similar container which is placed on a property for use as accessory storage. Dumpsters or roll-off containers used for the temporary storage of solid waste shall not be included under this definition.

PRESCHOOL

A school for children primarily between the ages of three and five, providing preparation for elementary school.

PRIVATE SCHOOL

Private pre-school, elementary, junior high, senior high, or other preparation school or academy.

PUBLIC PARK. (See "Park (Public)")

PUBLIC PARKING STRUCTURE

A building or structure consisting of one or more levels, used to store motor vehicles, available to the public with or without the payment of a fee.

RECREATIONAL VEHICLE

A vehicle built on a single chassis, containing 400 square feet or less when measured at the largest horizontal projections, and designed to be self propelled or towed by another vehicle. A recreational vehicle is not designed or intended for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use. This definition includes vehicles such as travel trailers, motor homes, boats, house boats, and campers.

RECYCLING COLLECTION POINT

An accessory use, structure, or enclosed area that serves as a neighborhood drop-off point for temporary storage of recyclable materials. A recycling collection point may also include a facility for the temporary collection of used clothing and household goods.

RECYCLING PROCESSING FACILITY

A recycling facility that receives distinct and recognizable solid waste items such as newspapers, magazines, books, and other paper products, glass, metal cans, and other similar products are recycled, reprocessed, and treated in order to return such products to a condition where they may be again be used in new products. Based on a calendar quarter, a recycling processing facility must have not more than ten percent (10%) by volume of the solid waste that passes through the facility ultimately taken for final disposal.

REFLECTANCE

The ratio of the total amount of radiation, as of light, reflected by a surface to the total amount of radiation incident on the surface.

REHABILITATION/RENOVATION

The act or process of improving a structure's condition through repair and alterations while respecting those features significant to its architectural, historic or cultural value.

RESIDENTIAL CONDOMINUMUM DEVELOPMENT

A residential development created as a horizontal property regime (pursuant to IC 32-6-1-1 et. seq., as may be amended) where each dwelling unit is owned or financed by the occupant or occupant's lessor, but in which the common areas, facilities, and underlying land is owned jointly by all the owners on a proportional, undivided basis.

RESIDENTIAL FACILITY FOR THE DEVELOPMENTALLY DISABLED.

(1) For not more than eight developmentally disabled individuals, exclusive of supervisory staff, councilors or resident managers; and

(2) Established under a program authorized as a Community Residential Program for Developmentally Disabled Individuals and licensed by the state as set forth IC 12-11-1 (as may be amended).

RESIDENTIAL FACILITY FOR THE MENTALLY ILL.

A residential facility for the care, treatment, training or detention of mentally ill individuals.

REST HOME (See "Nursing Home").

RESTORATION

The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

RETAIL FACILITY, MULTIPLE TENANT

A single multiple tenant retail building located on a development parcel or shopping center outlot.

RETAIL FACILITY, SINGLE TENANT

A stand-alone, single tenant retail facility on its own development parcel; uses may include a pharmacy, grocery store, department store, or a combination thereof. Accessory space may be rented or leased within the building provided a separate outdoor entrance is not provided. This definition shall not include home improvement centers.

RETAIL PLANT NURSERY

A commercial use devoted to the sale of trees, shrubs, flowers, or similar plants and related goods, items, and supplies.

RETAINING WALL

Any fence or wall built or designed to retain or restrain lateral forces of soil or other materials, said materials being similar in height to the height of the wall.

RETIREMENT FACILITY

A independent living facility designed to meet the needs of persons 55 years of age or over. Typically the facility consists of independent living apartments along with common areas for meals, social gatherings, and recreation. Services such as transportation, housekeeping, dietary supervision, recreational activities, and coordination for home health care may also be offered. However, the primary purpose of the facility is not to provide medical services for its residents.

RHYTHM

The repeated use of a design element, shapes, or forms, such that the repeating item can be visually recognized.

SANITARY LANDFILL (See "Municipal Solid Waste Landfill Facility")

SATELLITE DISH

A parabolic (dish shaped) antennae or similar apparatus or device designed for the purpose of receiving radio, television or similar communications.

SCALE

The relationship between two objects or conditions, in terms of physical size.

SEASONAL OUTDOOR RETAIL SALES

Any business or use (primary or accessory), that is conducted primarily out of doors, which may include but not be limited to: retail sales of garden supplies and equipment; roadside stands for the sale of fruits and vegetables, plants, flowers, Christmas trees, fireworks; and other similar businesses or uses.

SECURITY FENCE

A fence erected as a barrier to persons, animals, or vehicles entering or leaving the enclosed area.

SELF-SERVICE STORAGE (MINI-WAREHOUSE) FACILITY

A building or group of buildings consisting of individual, self-contained units that are leased to individuals, organizations, or businesses for self-service storage of personal property.

SEMI-NUDE OR STATE OF SEMI-NUDITY.

A state of dress in which opaque clothing covers no more than the genitals, pubic region, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

SETBACK

The distance on a lot measured from the edge of a right-of-way that must remain open, unoccupied and unobstructed by structures, except as otherwise provided or permitted in the Zoning Ordinance.

SEXUAL ENCOUNTER ESTABLISHMENT

An establishment that as one of its primary purposes offers for any form of consideration a place where two or more persons may congregate, associate, or consort for the purpose of engaging in specified sexual activities or where one or more of the person is nude or semi-nude. This definition shall not include a licensed health care facility, or establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

SEXUALLY ORIENTED BUSINESS

An adult bookstore, adult novelty store, adult video store, adult cabaret, nude or semi-nude model studio, or sexual encounter establishment.

SHOOTING RANGE

An area or facility to be used for firearm target practice, competitions, or similar uses. This shall include "paintball" uses or facilities, and shall include indoor facilities or outdoor uses.

SHOPPING CENTER

A development which includes more than one multiple tenant or single tenant retail facility, or other retail use located on a development parcel or combination of development parcels.

SIGN (See §157.316 for sign definitions)

SIGN FABRICATING SHOP

An establishment where the primary use is the fabrication of freestanding, wall, identification, or other signage for off-site installation.

SIGN SALES STORE

An establishment where the primary use is the retail sale of signs, banners, or similar items. Limited on-site fabrication or creation of signage may be permitted.

SITE PLAN ROUTING REVIEW COMMITTEE

A technical review committee composed of certain City and County departments as well as other designated agencies responsible for the review of proposed commercial, industrial and certain other development proposals within the City's planning jurisdiction for compliance with applicable ordinance requirements, and all other requirements, standards, and specifications of the City under each department's jurisdiction.

SOLID WASTE

Any garbage, refuse, sludge from a wastewater treatment plant, sludge from a water supply treatment plant, sludge from an air pollution control facility, or other discarded material as described in 329 IAC 10-2-174(A)(6). However, the term "solid waste" does not include the following:

(1) Solid or dissolved material in domestic sewage, solid or dissolved materials in irrigation return flows, or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act Amendments (33 U.S.C. 1342 as may be amended) and under chapter 51 of the City Code;

(2) Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2014 et seq.);

(3) Manures or crop residues returned to the soil at the point of generation as fertilizers or soil conditioners as part of a total farm operation; or

(4) Vegetative matter at composting facilities registered under IC 13-7-35 (as may be amended).

SOLID WASTE TRANSFER STATION

A facility at which solid waste, as defined in 329 IAC 10-2, is transferred from a vehicle or container to another vehicle or container for transportation from one mode of transportation to another including the transfer of a trailer, container or waste from rail to road transportation. The following may also be located at a transfer station as accessory uses: solid waste baler, solid waste shredder, composting facility or garbage grinding facility. The storage or transfer of hazardous waste as regulated under 329 IAC 3.1(as may be amended) shall not be permitted as such a facility. This term does not include the following:

(1) Collection containers for solid waste;

(2) The transfer of solid waste at the point of generation;

(3) A recycling processing facility that receives distinct and recognizable solid waste items which fall under the definition of "recycling processing facility";

(4) Curbside satellite collection vehicles used for collecting residential waste, which are small motorized vehicles, or the equivalent, with bins or containers that once full are deposited into larger solid waste collection vehicles or containers; or

(5) A facility that generates solid waste.

SPECIALTY ANIMAL OPERATION

An agricultural operation where the following animals are kept for use as part of a farm or raised for sale: llamas, ostriches, emus, and similar livestock and/or birds.

SPECIFIED ANATOMICAL AREAS

Any of the following:

(1) Human genitals in a state of sexual arousal,

(2) The appearance of the cleft of the buttocks, anus, male or female genitals, or nipple of the female breast; or

(3) A state of dress which fails to cover opaquely the cleft of the buttocks, anus, male or female genitals, or nipple of the female breast.

SPECIFIED SEXUAL ACTIVITY

Any of the following:

(1) The intentional fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) Sex acts, actual or simulated, including intercourse, oral copulation, masturbation, sodomy, sadomasochism, or bestiality; or

(3) Excretory functions as a part of or in connection with any of the activities described in (a) and (b) above.

STORAGE

The keeping of goods, materials, equipment or vehicles on a property.

STORY

That portion of a building included between the surface of any floor and the surface of the floor next above, or if there is no floor above it, then the space between any floor and the ceiling next above it; also any portion of a building used for human occupancy between the topmost floor and the roof. A basement shall not be counted as a story unless the height of the surface of the first floor above the average elevation of the finished lot grade at the front of the building exceeds four feet.

STORY, HALF

A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

STREET, ARTERIAL

A street system typically designed to carry high volumes of traffic. The following classifications shall also be included under this definition:

(1) **Principal Arterial.** A public street that provides high volume travel between major points or serves the major centers of activity. A principal arterial carries most of the trips entering and leaving the urban area as well as most through movements and intra-area travel. The street serves primarily through traffic and provides access to abutting properties as a secondary function.

(2) **Minor Arterial.** A street system that interconnects with and supports the principal arterial system. The system carries trips to geographic areas smaller than that identified with higher classifications. Those arterials not classified as principal arterials shall be classified as minor arterials.

STREET, COLLECTOR

A public street that provides moderate volume traffic circulation and property access. The street may penetrate residential, commercial, and industrial areas distributing trips from arterials through the area to local streets or final destinations. The system also links neighborhoods or areas of homogeneous land use with arterials.

STREET, CUL-DE-SAC

A local street open at one end only and having an appropriate turning area at the closed end.

STREET, LOCAL

A public street which provides for low volume traffic circulation and direct access to abutting properties (residential, commercial, and industrial). Through-traffic movement is usually deliberately discouraged.

STREET, PRIVATE

An improved area other than a driveway, which is located on private property, used primarily for purposes of vehicular travel, and has not been dedicated or otherwise accepted as a public right of way by an appropriate governmental entity.

STREET, PUBLIC

A dedicated public right of way used primarily for purposes of vehicular travel, including the pavement, median, curb and/or shoulder, which has been dedicated to or otherwise accepted by the appropriate governmental entity.

STRUCTURE

Any building or other construction partially or completely enclosed by walls and a roof. For the purposes of this chapter the term shall also include construction such as signs, fences, wood decks and decks constructed of similar materials, porches, carports, gazebos, arbors, trellises, storage tanks, swimming pools, satellite dishes, communication towers, and other similar structures or construction. The term does not include construction or features such as on-grade patios, sidewalks, driveways or parking areas; earth berms or mounds; sanitary or hazardous waste landfill disposal areas; sand, gravel, stone, or other similar natural material extraction overburden mounds; vegetation; or similar natural features and/or man-made construction.

STRUCTURE, PRIMARY (See building, primary)

TEMPORARY SPECIAL EVENT

A short-term seasonal event intended to occupy a lot, tract, or development parcel for up to (7) days per event.

TEMPORARY STRUCTURE

A trailer, mobile unit, or other structure intended to be placed on a lot, tract, or development parcel for a limited period of time.

TEMPORARY USE

A temporary or seasonal use intended to occupy a lot, tract, or development parcel for up to (7) days per event.

TOWNHOUSE COMPLEX

A grouping of at least two (2) freestanding townhouse structures.

TOWNHOUSE DWELLING

A single family dwelling unit with 2 or more floors located on a separate lot or development parcel, with a private entrance and direct ground level access to the outdoors and a totally exposed front and rear wall to be used for access, light, and ventilation, and attached to one or more similar units. Townhouse dwellings are typically part of a structure whose dwelling units are attached in a linear arrangement with no other dwelling or use, or portion of another dwelling or use directly above or below the unit, and separated from adjoining unit(s) by a continuous wall.

TOWNHOUSE STRUCTURE

A structure containing three (3) or more townhouse dwelling units.

TRACT

An area, parcel, site, piece of land, or property.

USE

The purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

USE, NONCONFORMING

An existing use of land or a building which fails to comply with the requirements set forth in this chapter applicable to the district in which such use is located.

USE, PRIMARY

The predominant use of any lot, tract, development parcel, building, or structure permitted as a matter of right under the applicable zoning district, or by the approval of a special use, conditional use, or by use variance. Unless otherwise prohibited by this chapter more than one primary use may exist on or within building(s) or structure(s) or on a lot, tract, or development parcel provided there is compliance with all other applicable ordinance provisions.

WAREHOUSE AND/OR DISTRIBUTION FACILITY

A use, other than a self-service storage (mini-warehouse) facility, engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

WASTE DISPOSAL AREA

The outermost perimeter of the area within a municipal solid waste disposal facility that is permitted to receive solid waste for disposal.

WASTE MANAGEMENT AND REMEDIATION FACILITY

A facility used for the temporary storage (not to exceed 10 days) and/or treatment of certain hazardous and non-hazardous waste.

WETLANDS

Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. "Wetlands" generally include swamps, marshes, bogs and similar areas and may be determined from the following sources: National Wetlands Inventory maps published by the U.S. Department of the Interior, Fish and Wildlife Service; areas designated as "marsh" in the Hydrologic Investigations Atlas published by the U.S. Department of the Interior, Geologic Survey; as "poorly drained" and "very poorly drained" and verified by the Soil Conservation Service.

WINDOW

An opening constructed in a building wall that functions to admit light or air, typically framed and spanned in glass.

YARD

A space on the same lot with a main building open, unoccupied and unobstructed by structures, except as otherwise provided or permitted in this chapter.

YARD, FRONT

A yard extending across the full width of the lot, the depth of which is the least distance between the street right-of-way line and the building line.

YARD, INTERNAL SIDE

On a corner lot, the side yard which does not abut a street right-of-way.

YARD, REAR

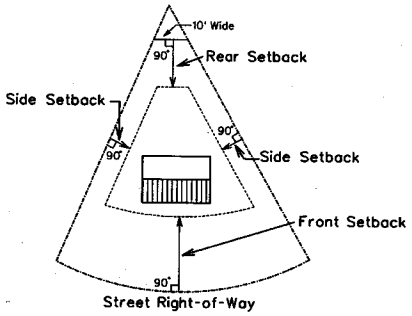
A yard extending across the full width of the lot between the rear of the primary building or structure and the rear lot line, the depth of which is the least distance between the rear lot line and the rear of the primary building or structure. If the rear lot line is less than ten (10) feet long, or the lot comes to a point at the rear, the required rear yard shall be measured from a line where the rear of the lot is ten (10) feet wide and parallel or tangent to the front street line.

YARD SALE

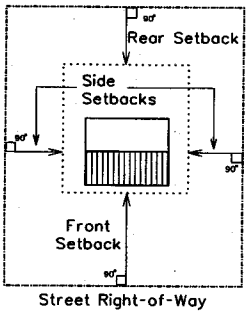
A sale of personal property to the general public on any portion of a residential property, including properties in nonresidential zoning districts which are used for residential purposes. This definition shall also include all sales entitled garage, patio, carport, basement, porch, driveway, rummage and the like.

YARD, SIDE

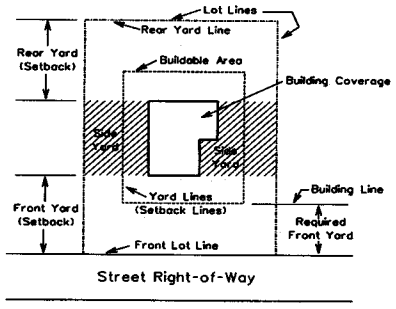
A yard between the primary building or structure and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally, at $90^{\forall}$ with the side lot line, from the nearest point of the side lot line to the nearest part of the primary building or structure.



Examples of Setbacks



Examples of Setbacks



ZONING DISTRICTS

Delineated areas within the planning jurisdiction of the City, as shown on the zoning maps for the City, to which the regulations of the City Zoning, Sign, and Subdivision Control Ordinances apply.

ZONING ENFORCEMENT OFFICER

A member or members of the Planning staff who issues any and all required permits and enforces the provisions of this chapter and chapter 155 of City Code within the planning jurisdiction of the City.

ENFORCEMENT

§ 157.501 Purpose

The purpose of this section is to:

(A) Provide for the enforcement of the provisions of this chapter; and

(B) Establish standards, procedures, and requirements for violations and penalties.

§ 157.502 Enforcement Officials

The Plan Commission, Board of Zoning Appeals, Zoning Enforcement Officer, Planning staff, and Department of Neighborhood Code Enforcement are designated and empowered to enforce the provisions and requirements of this chapter and chapter 155 of City Code. The enforcement shall be carried out as set forth in this chapter, City Code, and by rule in accordance with the provisions and powers of this chapter and IC 36-7-4. A Zoning Enforcement Officer shall be responsible for:

(A) Making all determinations, interpretations, and decisions necessary to carry out the provisions and requirements of this chapter;

(B) Determining if a violation of this chapter exists, and how the provisions and requirements of this chapter shall be applied and enforced (in conjunction with the Department of Neighborhood Code Enforcement); and

(C) Issuing, or causing to be issued, all Improvement Location Permits and Certificates of Compliance required under this chapter.

§ 157.503 Conformance by Other Departments, Offices, and Agencies

All departments, officials, and employees with the authority to issue licenses or permits within the Planning jurisdiction of the City shall do so only in conformance with the applicable provisions of this chapter and Chapter 155 of City Code. Any permit or license issued by another department within the Planning jurisdiction which is in conflict with the provisions of this chapter, or chapter 155 of City Code, shall be invalid and shall be considered void.

§ 157.504 Violations

(A) Misdemeanor Violations

Any person whether as principal, agent, owner, lessee, tenant, contractor, architect, engineer or other entity who commits a violation of this chapter, or the City Sign or Subdivision Control Ordinance, may be prosecuted as set forth in this chapter in Superior Court of Allen County, Indiana Misdemeanor and Traffic Division, for such a violation.

Any such violation shall be subject to a fine of up to $2,500.00 for each offense. Each calendar day of the existence of a violation may be considered as a separate offense.

(B) Stop Work Order

(1) The Plan Commission, Board of Zoning Appeals, Zoning Enforcement Officer, or Department of Neighborhood Code Enforcement shall have the authority to issue an order for work on any building, structure, lot, or development parcel to be stopped, if the work is in violation of this chapter, or chapter 155 of City Code.

(2) Such a decision to issue a stop work order may be appealed to the Board of Zoning Appeals, in accordance with the provisions of this chapter and the Board's rules.

(3) The stop work order shall remain in effect until it is removed, rescinded, or revoked by the Board.

(4) A violation of a stop work order shall be considered a violation of this chapter.

(C) Injunctive Relief – Abatement

The individual(s) or entities designated in this chapter may bring action for an injunction in the Circuit or Superior Court of Allen County, Indiana to enjoin any person whether as principal, agent, owner, lessee, tenant, contractor, architect, engineer or other entity from violating, or continuing to violate any provision of this chapter, or the City Sign or Subdivision Control Ordinance, and/or cause the violation to be resolved, removed, or abated. Such an action may also be initiated by any property owner aggrieved by the violation.

(D) Injunctive Relief – Removal of Structure

The individual(s) or entities designated in this chapter may bring action in the Circuit or Superior Court of Allen County, Indiana for a mandatory injunction requiring the removal of a building, structure, sign, fence, and/or addition/enlargement to an existing structure erected or constructed in violation of this chapter.

(E) Payment of Costs

Any person whether as principal, agent, owner, lessee, tenant, contractor, architect, engineer or other entity found to be in violation of this chapter, or the City Sign or Subdivision Control Ordinance, as a result of any enforcement action shall be responsible to pay all applicable attorney fees, court costs, and other costs and expenses incurred in connection with the prosecution of the enforcement action.

SECTION 2. That this Ordinance, after its passage and approval by the Mayor, shall be in full force and effect starting on March 5, 2012.

Council Member

APPROVED AS TO FORM AND LEGALITY:

Carol T. Helton, City Attorney

Carol T. Helton, City Attorney
by OLES

Any such violation shall be subject to a fine of up to $2,500.00 for each offense. Each calendar day of the existence of a violation may be considered as a separate offense.

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Council Member

APPROVED AS TO FORM AND LEGALITY:

Carol T. Helton, City Attorney

BILL NO. G-11-06-17

REPORT OF THE COMMITTEE
REGULATIONS

THOMAS F. DIDIER-CHAIR
JOHN SHOAFF-CO-CHAIR
ALL COUNCIL MEMBERS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS REFERRED AN ORDINANCE AMENDING CHAPTER 157 OF THE CITY OF FORT WAYNE MUNICIPAL CODE HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE

DO PASS	DO NOT PASS	ABSTAIN	NO REC

SANDRA E. KENNEDY
CITY CLERK

Read the first time in full and on motion by Steve B, and duly adopted, read the second time by title and referred to the Committee on ~~Regulations~~ and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on ~~1~~, the ~~1~~, day of ~~1~~, 2011, at ~~1~~, o'clock ~~1~~ M., E.S.T.

DATED: 6-28-11

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Didier, and duly adopted, placed on its passage. ~~PASSED~~ LOST by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	8			1
BENDER	✓			
BROWN	✓			
DIDIER	✓			
GOLDNER	✓			
HARPER	✓			
HINES				✓
PAPE	✓			
SHOAFF	✓			
SMITH	✓			

DATED: 7-12-11

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ANNEXATION~~) (~~APPROPRIATION~~) (GENERAL) (~~SPECIAL~~) (~~ZONING~~) ORDINANCE (~~RESOLUTION~~) NO. D-27-11 on the 12th day of July, 2011

ATTEST:
Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

SEAL
Thomas C. Henry
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 13th day of July, 2011, at the hour of 11:30 o'clock A.M.,E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 14th day of July 2011, at the hour of 11:00 o'clock A M.,E.S.T.

Thomas C. Henry
THOMAS C. HENRY, MAYOR

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

(I) Establish maximum building and/or structure heights and maximum residential lot coverage standards;

(J) Establish standards for accessory construction such as garages, sheds, fences, and similar structures and uses; and

(K) Define terms used in this chapter.

§ 157.105 JURISDICTION.

This chapter along with the Subdivision Control Ordinance (chapter 155 of City Code), shall apply throughout the planning jurisdiction of the City of Fort Wayne. A map showing the boundaries of the City's planning jurisdiction shall be available for public inspection in the office of the Planning staff.

§ 157.106 RESERVED.

§ 157.107 RESERVED.

§ 157.108 COMPLIANCE.

No structure or land shall be used, and no structure shall be altered, converted, enlarged, erected, reconstructed, or reused except in conformance with the regulations, requirements, standards, provisions, and procedures in this chapter.

§ 157.109 DESIGN STANDARDS.

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

§ 157.110 RESERVED.

§ 157.111 RESERVED.

§ 157.112 RESERVED.

§ 157.113 RESERVED.

§ 157.114 RESERVED.

§ 157.115 RESERVED.

§ 157.116 RESERVED.

§ 157.117 RESERVED.

§ 157.118 SEVERABILITY.

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

§ 157.119 SIMILAR USES PERMITTED.

The uses specified herein shall be permitted in the specified zoning districts. Permitted uses shall include but not be limited to the uses specified herein. If a proposed use is not listed, a Zoning Enforcement Officer shall determine which zoning district(s) the use would be permitted in.

§ 157.120 RESERVED.

§ 157.121 RESERVED.

§ 157.122 RESERVED.

ZONING DISTRICTS

§ 157.201 General Zoning District Provisions

(A) Purpose

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

(1) Zoning maps;

(2) Zoning district designations;

(3) Zoning district boundaries;

(4) Zoning district conversions; and

(5) Zoning map determinations and interpretations.

(B) Zoning Maps

The zoning districts designated below, and the boundaries of the respective zoning districts, shall be as shown on the City zoning maps on file in the office of the Planning staff. The City zoning maps are hereby incorporated as part of this chapter, and chapter 155 of the City Code.

(C) Zoning Districts

For the purposes of this chapter, and chapter 155 of the City Code, all of the area under the planning jurisdiction of the Fort Wayne City Plan Commission is hereby divided and classified into the zoning districts designated in the following table.

DISTRICT DESIGNATIONS	
AR	Low Intensity Residential
R1	Single Family Residential
R2	Attached Single Family and Two Family Residential
R3	Multiple Family Residential
RP	Planned Residential
MR1	Manufactured Residential Subdivision
MR2	Manufactured Home Park
CM1	Professional Offices and Personal Services
CM2	Limited Retail and Commercial
CM3	General Commercial
CM4	Intensive Commercial
CM5A	Central Downtown District
CM5B	Downtown Edge District
CM5C	Neighborhood Commercial Corridor
SC1	Neighborhood Shopping Center
SC2	Community Shopping Center
SC3	Metropolitan Shopping Center
SC4	Regional Shopping Center
IN1	Limited Industrial
IN2	General Industrial
IN3	Heavy Industrial

(D) District Boundaries

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

(E) District Conversions

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

COUNTY DISTRICT DESIGNATION		CITY DISTRICT DESIGNATION
AE	Exclusive Agricultural	AR
A1	Agricultural	AR
A2	Floodplain	Adjacent zoning district
A3	Estates	AR
RS1	Suburban Residential	R1
RS2	Two Family Residential	R2
RS3	Multiple-Family	R3
MH	Manufactured Housing	MR2
RSP1	Planned Single Family	R1
RSP2	Planned Two Family	R2
RSP3	Planned Multiple Family	RP
RSPMH	Planned Manufactured Housing	MR1
C1A	Professional and Personal Services	CM1
C1A(P)	Planned Professional and Personal Services	CM1
C1B	Business and Technology	CM1
C1B(P)	Planned Business and Technology	CM1
C1	Limited Commercial	CM2
C1(P)	Planned Limited Commercial	CM2
C2A	Neighborhood Shopping Center	SC1
C2B	Community Shopping Center	SC2
C2C	Metropolitan Shopping Center	SC3
C2D	Regional Shopping Center	SC4
C3	General Commercial	CM3
C3(P)	Planned General Commercial	CM3
C4	Roadside Commercial	CM4
C4(P)	Planned Roadside Commercial	CM4
C5	Commercial Interchange	CM2
C6	Drive-In Facility	CM3
I1	Light Industrial	IN1
I1(P)	Planned Light Industrial	IN1
I2	General Industrial	IN2
I2(P)	Planned General Industrial	IN2
I3	Heavy Industrial	IN3
I3(P)	Planned Heavy Industrial	IN3
I4	Industrial Park	IN2

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

(F) Interpretation of Zoning Maps

If there is uncertainty or conflict with regard to the location of a zoning district boundary, a Zoning Enforcement Officer shall determine the correct boundary location. The determination shall be made in accordance with the following standards and guidelines.

(1) Zoning district boundary lines are to follow the survey lines or the legal description submitted as a part of an approved zoning map amendment with the following exceptions:

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

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

(2) A Zoning Enforcement Officer may also consider existing or previous land use(s) on a property in making such a determination.

(G) Reserved

(H) Amendments to Zoning Maps

(1) Purpose

In order to carry out the purpose and intent of the City Comprehensive Plan and this chapter, comply with the requirements of the applicable sections of the 600 Series-Zoning Ordinance section of the Indiana Code, and allow for proper Plan Commission review and consideration of proposals for zoning map amendments, the following procedures, requirements, and standards are hereby established.

(2) Procedure

(a) Pre-application Discussion

Prior to the submission of a request to change a zoning district classification (amend the zoning map), the applicant or property owner is encouraged to meet with the Planning staff to discuss the proposal. The purpose of this discussion is to:

(i) Acquaint the applicant with the requirements and procedures of the rezoning process; and

(ii) Advise the applicant of potential issues relative to the request, and how to proceed with the request.

(b) Submission Requirements

(i) All applications for zoning map amendments shall be submitted on forms provided by the Planning staff and accompanied by the required filing fee as established by the Plan Commission. In the case of a property owner initiated proposal, the application must be signed by the current owners of at least 50% of the land included in the request. The applicant shall also submit a boundary survey and legal description (or other acceptable site plan) with the request. All applications shall be accepted and processed in accordance with the Plan Commission's established calendar, procedures, and rules.

(ii) The Plan Commission may also initiate a rezoning proposal, in accordance with IC 36-7-4-602(c), and the Commission's rules.

(iii) The Common Council of the City of Fort Wayne may also initiate a rezoning proposal, in accordance with IC 36-7-4-602(c), and direct the Plan Commission and Planning staff to prepare it.

(c) Plan Commission Review and Recommendation

(i) Public Hearing

All proposed zoning map amendment requests shall be reviewed by the Plan Commission at a scheduled public hearing. The Commission shall establish hearing procedures by rule.

(ii) Recommendation of Plan Commission

After a public hearing on the request has been held, the Plan Commission may make a recommendation on the proposed zoning map amendment at its next scheduled business meeting. The Commission may make a favorable recommendation, an unfavorable recommendation, or no recommendation on the request. The Commission shall enter written findings setting forth the reasons for its action. The Commission may defer action on a proposed zoning map amendment, if it needs additional information or additional time for consideration of the request. If the Plan Commission permits or requires a written commitment in conjunction with its review of a proposed zoning map amendment, as set forth in division (C) below, the Commission may defer action on the request until the commitment has been executed. Any action by the Commission shall be taken in accordance with IC 36-7-4-605 and the Commission's rules. In considering a zoning map amendment request, the Plan Commission and Common Council shall pay reasonable regard to the items and issues set forth in IC 36-7-4-603.

(iii) Notice of recommendation

Notice of the Plan Commission's recommendation on a proposed zoning map amendment shall be provided to the applicant and other applicable parties as established by rule.

(iv) Certification of recommendation

The Plan Commission's recommendation shall be certified to the Common Council, in accordance with IC 36-7-4-605 and IC 36-7-4-608.

(d) Common Council Consideration of Plan Commission Recommendation

The Common Council shall consider and take action on the Plan Commission's recommendation in accordance with its rules and procedures, and in conformance with IC 36-7-4-608.

(e) Veto by Mayor

Any proposed zoning map amendment shall be subject to veto by the Mayor as set forth in IC 36-7-4-609 and City Code.

(3) Written Commitments

(a) Authorization

As part of its review of and recommendation on a proposed zoning map amendment, the Plan Commission may permit or require the owner or applicant to make written commitments concerning the use or development of that property, in accordance with IC 36-7-4-615 and the Commission's rules.

(b) Procedure

The Plan Commission may permit or require written commitments in conjunction with its review of a proposed zoning map amendment. Written commitments may address or include the following issues:

(i) Limiting the uses which would be permitted on the property;

(ii) Placing restrictions on the size, location, height, or similar aspects of a proposed structure or structures in a proposed development or future development proposal;

(iii) Establishing standards or requirements relative to screening, buffering, landscaping, parking, or other similar site design aspects of a proposed development or future development proposal;

(iv) Limiting off-site impacts of a proposed structure or development or future development proposal, relative to noise, site lighting, signage, or similar issues; and

(v) Similar use, building layout, or site design issues.

(c) Form

Written commitments shall be prepared and submitted by the owner or applicant, and shall be in a form acceptable to the Commission's legal staff.

(d) Modification and termination

A written commitment made under this section shall automatically terminate if, after the adoption of the commitment and approval of the proposed zoning map amendment, the zoning classification of the applicable lot or development parcel is changed at some future point. Otherwise, written commitments made under this section shall only be modified or terminated by the Plan Commission. Prior to the Commission considering a request to modify or terminate a commitment previously approved under this section, the Commission shall hold a public hearing on the request. The procedure for the public hearing, including required notice, shall be as set forth in the Commission's rules.

(e) Recordation

Written commitments made under this section shall be executed by the owner or applicant, approved by the Plan Commission, and recorded in the Allen County Recorder's office, in accordance with the Commission's rules. Unless modified or terminated by the Plan Commission or automatically terminated, a recorded commitment made under this section is binding on:

(i) The owner of the parcel;

(ii) Any subsequent owner of the parcel; and

(iii) Any person(s) who acquires an interest in the parcel.

(f) Enforcement

Written commitments made under this section shall include provisions for the enforcement of the commitment. The commitment shall designate the Plan Commission as a party entitled to enforce the commitment. Other appropriate parties, including but not limited to registered neighborhood associations, may also be designated as a party entitled to enforce the commitment. A violation of a written commitment shall be considered a violation of this chapter.

(g) Miscellaneous Provisions

(i) By permitting or requiring a written commitment, the Plan Commission does not become obligated to recommend approval of

the proposed zoning map amendment. The Common Council shall likewise be under no obligation to approve the request.

(ii) By permitting or requiring a written commitment, the Plan Commission shall not be obligated to grant any requested waiver of an Ordinance standard or requirement.

(iii) If a written commitment is executed in conjunction with a proposed zoning map amendment, and the proposal is denied by the Common Council and/or the Mayor, the written commitment shall not be recorded.

(iv) This section does not affect the validity of any covenant, easement, equitable servitude, or other land use restriction created in accordance with the law.

§ 157.202 Permitted Uses

The following uses shall be permitted in the specified zoning districts. Permitted uses shall include but not be limited to the uses specified herein. All development proposals shall be subject to the applicable review and approval procedures as set forth in §157.304 (Development Plans), §157.305 (Site Plan Review), and §157.407(A) (Improvement Location Permit). If a proposed use is not listed, a Zoning Enforcement Officer shall determine which zoning district(s) the use would be permitted in. Permitted uses shall be allowed as set forth in the following sections.

§ 157.203 AR Low Intensity Residential

(A) Purpose

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

(B) Permitted Uses

The following uses are permitted in an AR District:

(1) accessory building, structure, or use;

(2) agricultural uses and structures, including the following:

(a) agronomic crop production; and

(b) low intensity livestock operation;

(3) churches, synagogues, and other religious buildings and facilities used for religious assembly;

(4) day care (adult or child), class I child care home, adult care home;

(5) home occupation;

(6) off-site parking areas for churches, synagogues, and other religious buildings and facilities used for religious assembly, public parochial or private preschools, elementary, junior and/or senior high schools if located within 500 feet of the primary use (as measured between closest property lines);

(7) police station, fire station, or similar public use;

(8) public park or recreation area, including accessory uses and structures;

(9) public, parochial, or private elementary, junior, and/or senior high schools;

(10) residential facility for the developmentally disabled;

(11) residential facility for the mentally ill, provided that the facility shall not be located within 1000 feet of another residential facility for the mentally ill, as measured between lot lines; and

(12) single family detached dwelling, including Type 1 manufactured home.

(C) Special Uses

(1) Agricultural uses, as further set forth below:

(a) Horticultural/specialty crop production. As part of its consideration of the request, the Board may also consider on-site retail sales of products grown.

(b) Specialty animal operation.

(2) Class II child care homes.

(3) Commercial communication towers, provided the Board finds the request to be in conformance with the following standards and requirements:

(a) In addition to meeting the requirements set forth in §157.404(C)(1)(b) the Board shall also find the following as a part of its approval:

(i) The proposed communications tower is reasonably necessary to serve the adjacent or nearby area; and

(ii) The applicant is unable to locate or co-locate on an existing structure.

(b) New communication towers approved by the Board of Zoning Appeals shall conform to the following development standards:

(i) The tower structure shall not exceed 150 feet in height;

(ii) The tower color shall be galvanized metal or similarly gray tone;

(iii) Guyed and self supporting lattice towers shall not be permitted;

(iv) The use of stealth technology shall be encouraged; and

(v) The setback requirement for towers shall be as follows. Setbacks shall be measured from the base of the town to the applicable property lines.

SETBACK REQUIREMENTS FOR TOWERS	
Front yard (including through lots)	75% of tower structure height
Side yard – interior lot line	50% of tower structure height
Side yard – street frontage side of corner lot	75% of tower structure height
Rear yard	50% of tower structure height

(c) A special use shall not be required for the location or co-location of antennas in any district on existing structures including but not limited to the following:

(i) rooftops of existing commercial, industrial, and institutional structures;
(ii) water towers;
(iii) church steeples;
(iv) electrical towers;
(v) communication towers; and
(vi) other established utility structures;
(vii) cabinets and shelters.

Antennae shall be permitted to extend up to 20 feet above the existing structure or up to a total height of 200 feet whichever is less. A Certificate of Compliance shall be obtained for all antennae locations and co-locations.

(4) Community facilities such as a botanical garden/conservatory, library, planetarium, public transportation or similar public facility, museum, zoo, or similar use.

(5) Country clubs; a country club may include related accessory and/or recreational uses such as a golf course.

(6) Funeral homes.

(7) Group residential facilities, provided the Board finds that the use will not be unduly detrimental to the surrounding area because of number of residents, noise, vehicle traffic, parking, signage, or other similar activity.

(8) Health care facilities, such as a nursing home, public health center, diagnostic or treatment center or similar facility.

(9) Home-based businesses, subject to the following additional requirements (unless waived or modified by the Board):

(a) The business shall only be operated by residents of the dwelling; no outside employees shall be permitted.

(b) The business shall not change the residential character of the structure or immediate area;

(c) The business must be incidental and secondary to the principal use of the dwelling as a residence, and must be conducted entirely within the dwelling or attached garage. No home-based business shall be operated from a detached accessory structure;

(d) The business shall use only normal office equipment, including but not limited to a typewriter, computer, calculator, fax machine, or copier. Equipment noise shall not be permitted to adversely affect adjacent properties;

(e) The business shall not occupy more than 25% of the gross floor area of the dwelling unit, including any space used for storage for the business. All storage related to the business use shall be contained within the dwelling or attached garage;

(f) The business shall not display or create any external evidence of the business, except that a single vehicle, used in conjunction with the business, may be parked outside and may display advertising or a logo. The vehicle shall comply with the restrictions listed in §72.23 of the City Code;

(g) No structural alterations shall be made to the dwelling unit to accommodate the business. No separate entrances or building additions shall be added for the use of the business;

(h) A home-based business shall not be permitted in a multiple family dwelling with three or more dwelling units;

(i) Only one (1) business shall be permitted per dwelling unit, and the Board may approve the business for use by the current resident/applicant only;

(j) There may be a limited number of clients or customers who come to the home; the number may be established by the Board;

(k) Retail sales shall not be permitted on the property; except that as part of its consideration of the request, the Board may permit limited retail sales as an accessory use;

(l) Wall and freestanding signage shall not be permitted in association with the home-based business, and the address of the home may not be used to advertise the business except for advertising such as printed literature or business cards; and

(m) As part of its review of a request for a home based business, the Board may consider any existing plat or deed restrictions limiting the uses of the property included in the request.

(n) Permitted home-based businesses shall include but not be limited to:

(i) Accounting or bookkeeping office;
(ii) Animal grooming;
(iii) Architect, engineer, land surveyor, or other similar office;
(iv) Massage therapy;
(v) One-chair beauty salon, barber shop, nail salon, or similar use;
(vi) Photography studio;
(vii) Psychic reading business;
(viii) Real estate, insurance, law, or similar office;
(ix) Seamstress or tailor; and
(x) Teaching/tutoring, including music lessons.

(o) Prohibited home-based businesses shall include but not be limited to:

(i) Amusement enterprises of any public nature;
(ii) Animal kennel, or pet shop; and
(iii) Production, manufacturing, assembly, or repair of products or components of products.

(10) Home workshops, in addition to meeting the criteria established in §157.404(C)(1)(b), the workshop shall meet the following requirements unless otherwise waived or modified by the Board.

(a) The person operating the home workshop shall be a resident of the premises; no outside employees shall be permitted;

(b) In no case shall a home workshop be allowed in an accessory structure prior to the occupancy of the principal dwelling on the lot, parcel, or tract of land;

(c) The workshop shall not change the residential character of the structure or immediate area;

(d) The workshop must be incidental and secondary to the principal use of the dwelling as a residence, and must be conducted entirely within the dwelling, attached garage, or accessory structure located on the same lot or tract;

(e) The workshop shall use only that equipment appropriate for small scale enterprises. Equipment noise shall not be permitted to adversely affect adjacent properties. As part of the application the applicant shall include a list of any equipment proposed to be used as part of the operation of the home workshop for review and approval by the Board;

(f) The workshop shall not occupy more than 25% of the gross floor area of a single family residence, or 50% of the gross floor area of an accessory structure, including any space used for storage for the workshop. All storage

related to the use of the workshop shall be contained within the dwelling or accessory structure;

(g) The business shall not display or create any external evidence of the business, except that a single vehicle, used in conjunction with the business, may be parked outside, and may display advertising or a logo. The vehicle shall comply with the restrictions listed in §72.23 of the City Code;

(h) No separate entrances or building additions shall be added to the dwelling unit or attached garage for the use of the workshop;

(i) A home workshop shall not be permitted in a two family or multiple family dwelling unit, or in an accessory structure on the same lot or tract as a two family or multiple family dwelling;

(j) Only one (1) home workshop shall be permitted per lot or tract, and the Board may approve the workshop for use by the current resident/applicant only;

(k) There may be a limited number of clients or customers who come to the home; the number may be established by the Board;

(l) Retail sales shall not be permitted on the property; except that as part of its consideration of the request, the Board may permit limited retail sales as an accessory use;

(m) Wall and freestanding signage shall not be permitted in association with the home workshop, and the address of the home may not be used to advertise the workshop except for advertising such as printed literature or business cards; and

(n) As part of its consideration of a request for a home workshop, the Board may consider any existing plat or deed restrictions limiting the uses of the property included in the request.

(o) Permitted home workshops. Permitted home workshops shall include but not be limited to:

(i) Ceramics/pottery making or similar crafts;
(ii) Copy and duplicating service;
(iii) Small electronic equipment repair such as televisions and video cassette recorders; and
(iv) Woodworking.

(p) Prohibited home workshops. Prohibited home workshops shall include but not be limited to:

(i) Amusement enterprises of any public nature;
(ii) Animal grooming, animal kennel, or pet shop;
(iii) Cabinet or furniture making;

(iv) Mechanical or body repair of automotive vehicles, other than routine maintenance and minor repair of personal motor vehicles titled to the occupants of the property; and
(v) Small engine repair.

(11) Household pet breeding (major) operations, as an accessory use to a permitted single family residential use, in accordance with the applicable provisions of chapter 91 of the City Code. Such an operation shall not be permitted in a two family or multiple family dwelling unit. As part of its review and consideration of the request, the Board may request comment and recommendations from the City Department of Animal Control.

(12) Manufactured homes (Type II), provided the Board finds the home is:

(a) Comparable with the existing housing pattern in the immediate area with regard to density and setbacks, and in compliance with the applicable minimum standards and requirements of this chapter; and

(b) Constructed with roofing and siding materials which are similar to the existing homes in the immediate area.

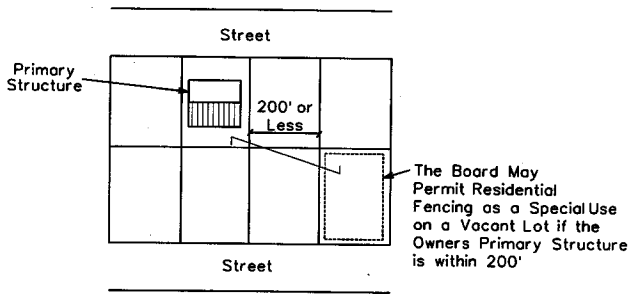
(13) Neighborhood facilities or uses, such as not-for-profit neighborhood educational, recreational, or cultural facilities including, but not limited to a branch YMCA, YWCA, Boys and Girls Club, or Boy Scout or Girl Scout facility, provided the Board finds that it will be compatible with the character of the neighborhood or area in which it is to be located. However, the dispensing of alcoholic beverages on the premises shall be permitted.

(14) Parking areas (public or employee), with the exception of off-site parking areas as permitted in 157.204 through 157.214. Parking areas may be permitted by the Board when used to meet on-site parking standards set forth in §157.313(C), as an accessory use to a conforming or legal nonconforming use and located within 500 feet of the primary use or structure.

(15) Private recreation facility such as a tennis/racquet club, indoor ice skating facility, swim club or fitness center. This use does not include recreational uses such as athletic fields, baseball/softball diamonds, batting cages, miniature golf courses, golf driving ranges and similar uses.

(16) Residential fencing may be permitted as the principal use of a residential lot or tract. The fencing shall be located within 200 feet of the lot or tract where the owner's primary structure is located. As part of its review of the request, the Board may also consider:

(1) The height, location, and materials of the proposed fencing;
(2) The location of structures on adjacent lots; and
(3) Granting a waiver of the required front yard setback.



Residential Fencing On A Vacant Lot

(17) Telephone switching buildings or other similar structures.

(D) Accessory Structures and Uses

(1) Purpose

The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar residential and nonresidential facilities.

(2) Permitted Accessory Structures

The following accessory structures shall be permitted, provided the structure meets the definitions in §157.410 and complies with setback, height, lot coverage, location and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools over a depth of 24 inches and 250 square feet in size (see §157.203(D)(3)(c) for fencing standards);

(b) Any other accessory structure which is placed on a permanent foundation;

(c) Arbors, trellises, or similar construction;

(d) Attached and detached decks or similar construction;

(e) Attached and detached residential garages. The square footage of a garage and all other similar accessory storage structures shall not exceed the ground floor square footage of the primary building for a one-story structure and 1.5 times the ground floor square footage for a structure over one-story in height. In either case, the square footage of any attached garage or attached accessory structure shall be excluded from the ground floor square footage total;

(f) Fences and walls;

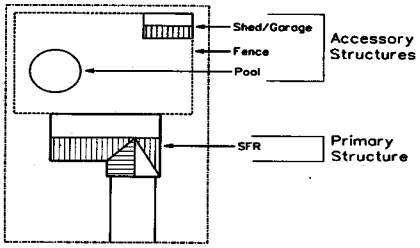
(g) Freestanding satellite dishes, amateur radio towers, and television aerials;

(h) Garbage dumpsters associated with multiple family uses;

(i) Gazebos;

(j) Storage sheds (see limitation on square footage noted in (e) above) however, portable storage containers shall not be permitted;

See §157.407(A) for Improvement Location Permit requirements.



Accessory and Primary Structures

(3) Fence and Wall Standards

(a) Purpose

The purpose of this section is to provide standards for the placement and erection of fences, walls, hedges and similar construction or elements for the conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with neighborhood character.

(b) Materials and Maintenance

(i) Permitted materials
All fences shall be constructed of customarily used materials such as chain link, split rail, split rail with welded wire mesh, masonry, wrought iron, wood, polyvinylchoride (PVC), or similar fencing material. The use of materials such as corrugated or sheet metal, chicken wire, woven wire, welded wire mesh as a primary material, temporary construction fencing, snow fencing or other similar materials shall not be permitted for permanent fencing.

(ii) Prohibited materials
In residential and commercial districts, or areas abutting residential or commercial districts, a fence or wall may not be designed to cause pain or injury to humans or animals. This includes the use of spikes, broken glass, barbed wire, razor wire, nails, electric charge or similar materials. For the purposes of this provision, "abutting" shall include any area separated from a residential or commercial district by an alley right-of-way.

(iii) Construction and Maintenance
Fences and walls shall be constructed in a sound and sturdy manner, according to standard construction practices, and shall be maintained in a good state of repair, including the replacement of defective parts, painting, and other acts required for maintenance.

(c) Swimming Pool Fencing (residential)

Any pool which meets the definition set forth in §157.410 of this chapter shall comply with the residential swimming pool safety feature requirements set forth in 675 IAC 20-4-27(c) (as may be amended). In accordance with and to supplement this section access to a pool must be restricted by one of the following:

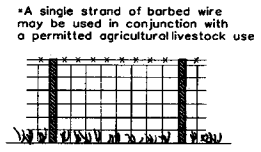
(i) A wall or fence not less than five (5) feet in height which completely surrounds the pool and deck area with the exception of self-closing and latching gates and doors both capable of being locked; or

(ii) A rigid power safety pool cover which meets the requirements set forth in 675 IAC 20-4-27(c)(4); all automatic pool covers shall be kept operable and in good working order; such pool covers shall not be operated in ways that create safety or access hazards, such as being permitted to be left open for extended periods of time, or to accumulate large amounts of water on top of the cover; or

(iii) For above ground swimming pools other structural methods not less than five (5) feet in height may be permitted if determined to provide adequate safety by the Planning staff.

(d) Exceptions to Standards

(i) Agricultural fencing. A fence, wall, or retaining wall, not exceeding five (5) feet in height may be located in a required front yard, subject to the corner visibility provisions in division (F)(3) below, for agricultural uses over ten (10) acres in size. A single strand of barbed wire shall also be permitted as a fencing material in conjunction with a permitted agricultural livestock use or operation.



Agricultural Fence

(ii) If a fence or other screening is required to comply with the provisions of the parking lot improvement section, the provisions of that section shall supersede this section, except for the corner visibility provisions in division (F)(3) below.

(iii) A hedge or retaining wall not exceeding three (3) feet in height above the grade of the adjacent sidewalk or ground, may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in division (F)(3) below.

(iv) An ornamental fence, as defined herein, not exceeding three (3) feet in height or 100 total lineal feet may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in division (F)(3) below.

(e) Waiver of Standards

As part of its review of a proposed primary plat or development plan, the Plan Commission may waive or modify the requirements of this section.

(3) Permitted Accessory Uses

The following residential accessory uses shall be permitted provided the uses meet the definitions in §157.410 and comply with applicable location, setback, and height restrictions:

(a) Play equipment;

(b) Play houses;

(c) Ponds and similar water features;

(d) Similar residential accessory uses;

(e) Slab on grade patios; and

(f) Swing sets.

(4) Outdoor Display

Outdoor display as defined in §157.410 shall be prohibited except for yard and garage sales. Yard, garage, and similar sales on residential properties may be held up to three (3) times in a calendar year, for up to three (3) days per sale.

(5) Outdoor Storage

In any residential district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, and other standards and limitations set forth in this chapter. The outdoor storage of the following materials shall be prohibited:

(a) Automobile or machinery equipment or parts including automobile/motor vehicle tires;

(b) Building construction materials except in conjunction with a permitted ongoing construction project;

(c) Home appliances and fixtures such refrigerators, stoves, and sinks;

(d) Indoor furniture;

(e) Scrap metal, wood and similar materials;

(f) Shelving, racks or similar structures; and

(g) Inoperable, wrecked or dismantled automobiles.

(6) Parking and Vehicle Storage

(a) Operable automobiles, vans and motorcycles shall be permitted to be parked in residential districts in a driveway, street, or alley only.

(b) Operable recreational vehicles, campers, boats, small (one-ton, panel or pickup) trucks, and pull trailers up to 32 square feet in size shall be permitted to be parked in residential districts in a driveway only;

(c) The following vehicles shall be prohibited to be parked or otherwise stored in residential districts:

(i) Inoperable automobiles, motorcycles, vans, recreational vehicles, campers, boats, small (one-ton, panel or pickup) trucks or other similar vehicles parked or stored outdoors;
(ii) Semi-trucks;
(iii) Semi trailers;
(iv) Agricultural or other tractors unless used in conjunction with a permitted agricultural use;
(v) Pull trailers over 32 square feet in size;
(vi) School, church or similar buses;
(vii) Large pick up or panel trucks (over one ton); and
(viii) Other large commercial vehicles, tractors or trailers not otherwise listed.

(E) Temporary Structures and Uses

(1) Temporary accessory structures.

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use, subject to the following requirements:

(a) The temporary use shall only be permitted for a period of up to two years;

(b) The temporary use must meet the requirements outlined in §157.203(D)(2) for accessory structures;

(c) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit; and

(d) This subsection shall not apply mobile food service units, tents or similar structures.

(2) Temporary special events.

Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(F) Development Standards

(1) Building Size

No primary residential building or structure shall be erected, altered, enlarged or reconstructed for residential purposes having a gross square footage, exclusive of terraces, breezeways, unenclosed porches and garages, of less than 950 square feet.

(2) Number of Buildings on a Lot

Only one primary residential structure shall be permitted on any lot, tract, or development parcel, except as provided below:

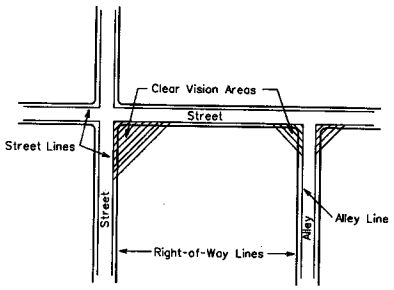
(a) As part of its review of a primary development plan, the Plan Commission may permit multiple primary residential structures on a lot, tract, or development parcel; and

(b) In the case of multiple family complexes or similar developments, multiple primary residential structures may be permitted.

(3) Corner visibility

(a) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8)feet.

(b) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less than three (3) feet from the side property line which abuts a public right-of-way.

(4) Height

(a) Height Limitations

No building or structure shall be erected, altered, enlarged or reconstructed to exceed: 30 feet, if the lot width is under 100 feet, or 35 feet, if the lot width is 100 feet or more, except that the maximum height for residential accessory structures shall be 25 feet, and the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section:

(i) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols;

(ii) Parapet or fire walls;

(iii) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and

(iv) Roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

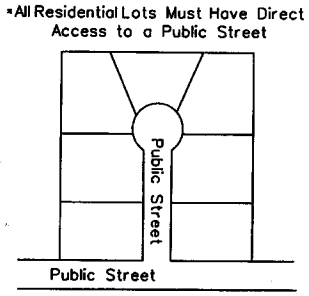
(5) Lot Area

(a) Lot Area Standards

All new residential lots shall be a minimum of 12,000 square feet.

(b) Lot Width Standards

All new residential lots shall be a minimum of 80 feet in width at the front building line. All residential lots, tracts, or development parcels shall have direct access to an improved public street as defined in the Zoning Ordinance for purposes of vehicular traffic, off-street parking, utilities and other services such as mail delivery, garbage collection, fire and emergency units. The width of such frontage shall be uniform and be no less than the established minimum building line width. Other residential access provisions shall be allowed as established by the Commission's rules.



Direct Access To Public Streets

(c) Exceptions to Lot Area and Width Standards

(i) For attached single family lots, tracts, or development parcels the minimum lot width at the building line may be a minimum of 40 feet and have a minimum lot area of 4800 square feet.

(ii) For residential cul-de-sac lots, tracts, or development parcels (those having a majority of frontage on a cul-de-sac) the minimum lot width at the building line may be 40 feet.

(iii) For flag lots, tracts, or development parcels, the access frontage may be a minimum of 24 feet wide, however the lot width at the building line shall be as established in this section.

(6) Lot Coverage

The ground floor area of residential buildings or structures, including accessory buildings or structures, shall not be erected, altered, enlarged or reconstructed to exceed a maximum lot coverage of 35% of the lot area or 2,000 square feet, whichever is greater. The area of open porches, decks, swimming pools, patios, satellite dishes, or similar structures and construction shall not be included in the calculation of lot coverage.

(7) Yard Requirements

No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located (including maximum yard requirements where applicable), except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be a front yard for each lot, tract, or development parcel; the minimum depth shall be 25 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located. One of those required front yards may serve as a required rear yard for the purposes of locating residential accessory structures and fencing, provided that the lot complies with the restrictions in §157.203(F)(3)(c) and §157.203(b)(iii).

(ii) Planning staff determination of front yards setbacks in areas with existing nonconforming primary structures or in infill situations where adjacent existing structures have a consistent setback.

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;
(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Platted front yard building lines

In the event of existing platted front building lines which impose a residential front yard setback requirement which is greater than the minimum setback established by this chapter, a Zoning Enforcement Officer shall require that the larger setback requirement be met, except in nonconforming situations as set forth in division (2) above.

(iv) Plat and development plan front yard waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(b) Rear Yard Requirements

(i) There shall be a rear yard for each lot, tract or development parcel; for residential uses, the minimum rear yard shall be 20% of the lot depth or 25 feet, whichever is less; for nonresidential uses, the minimum rear yard shall be 20% of the lot depth or 25 feet (subject to the provisions and exceptions noted in this division).

(ii) Plat and development plan rear yard waiver. As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(c) Side Yard Requirements

(i) There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be as listed in the following table (subject to the provisions and exceptions noted in this division).

SIDE YARD REQUIREMENTS		
Lot Type	**Lot Width**	**Required Side Yard**
Corner	Up to and including 50′	5′
	Greater than 50′ up to and including 60′	5′ interior 15′ side street
	Greater than 60′ up to and including 100′	7′ interior 20′ side street
	Over 100′	10′ interior 25′ side street
Interior	Up to and including 50′	5′
	Greater than 50′ up to and including 60′	5′ interior 15′ side street
	Greater than 60′ up to and including 100′	7′ interior 20′ side street
	Over 100′	10′ interior 25′ side street

(ii) Side yards waived for dwellings with common walls. Dwellings with common walls on a lot line (including single family attached residences, duplexes, and triplexes) shall be considered as one building occupying one lot for the purpose of determining side yard setback requirements.

(iii) Waiver of side yard requirements for additions to nonconforming nonresidential structures. The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

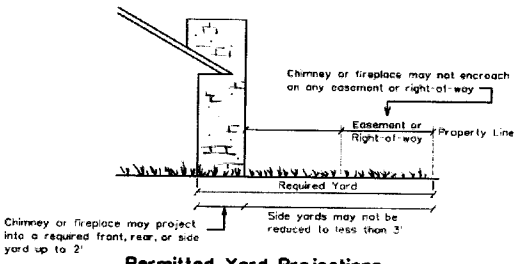
(iv) Plat and development plan side yard waiver. As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

(v) Previously approved nonconforming plats. Any lot established by a legally recorded plat between the dates of March 1, 1955 and March 2, 1998 with a side yard requirement established by the City of Fort Wayne Plan Commission or the Allen County Plan Commission which is less than these requirements, shall be permitted to be developed for single family residential use. Also, any existing single family residential structure may be enlarged in accordance with the previously established side yard requirements. A Zoning Enforcement Officer may require the applicant or owner to submit adequate documentation verifying the status of the plat and/or involved structure.

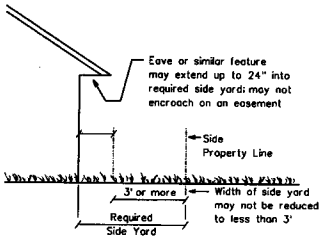
(d) Yard Projections

The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

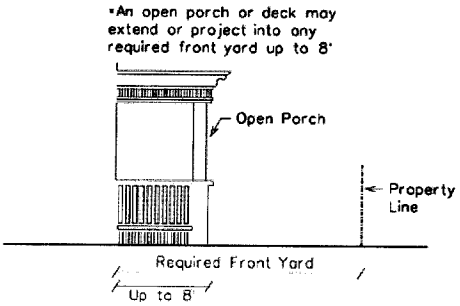
YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections (Chimneys and Fireplaces)



Permitted Yard Projections (Eave in Side Yard)



Permitted Yard Projections (Porch or Deck into Front Yard)

(e) Exceptions to Yard Requirements

(i) Residential fences. Except as provided below, a fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard. The fence or wall shall not be located any closer to the public right-of-way than the leading edge of the foundation of a legally established primary structure or the required front yard setback, whichever is less. This shall include the closest point on an open or enclosed porch, if the porch is constructed on a foundation similar to the foundation of the house.

(ii) Commercial, industrial, and other nonresidential fences. A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard on a property with an existing primary structure. If there is no required front yard or if the building is considered to be legal nonconforming with regard to required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

(iii) Additional exceptions to yard requirements. The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

§ 157.204 Reserved

§ 157.205 Reserved

§ 157.206 Reserved

§ 157.207 R1, Single Family Residential

(A) Purpose

The Single Family Residential District is intended to create areas for single family residential uses on individual lots or tracts. The purpose of this district is to provide for an environment of predominantly single family development with certain additional uses.

(B) Permitted Uses

The following uses are permitted in an R1 District:

(1) accessory building, structure, or use;

(2) churches, synagogues, and other religious buildings and facilities used for religious assembly;

(3) day care (adult or child), class I child care home, adult care home;

(4) home occupation;

(5) off-site parking areas for churches, synagogues, and other religious buildings and facilities used for religious assembly, public parochial or private preschools, elementary, junior and/or senior high schools if located within 500 feet of the primary use (as measured between closest property lines);

(6) police station, fire station, or similar public use;

(7) public park or recreation area, including accessory uses and structures;

(8) public, parochial, or private elementary, junior, and/or senior high schools;

(9) residential facility for the developmentally disabled;

(10) residential facility for the mentally ill, provided that the facility shall not be located within 1000 feet of another residential facility for the mentally ill, as measured between lot lines; and

(11) single family detached dwelling, including Type 1 manufactured home.

(C) Special Uses

(1) Class II child care homes.

(2) Community facilities such as a botanical garden/conservatory, library, planetarium, public transportation or similar public facility, museum, zoo, or similar use.

(3) Country clubs; a country club may include related accessory and/or recreational uses such as a golf course.

(4) Funeral homes.

(5) Group residential facilities, provided the Board finds that the use will not be unduly detrimental to the surrounding area because of number of residents, noise, vehicle traffic, parking, signage, or other similar activity.

(6) Health care facilities, such as a nursing home, public health center, diagnostic or treatment center or similar facility.

(7) Home-based businesses, subject to the following additional requirements (unless waived or modified by the Board):

(a) The business shall only be operated by residents of the dwelling; no outside employees shall be permitted.

(b) The business shall not change the residential character of the structure or immediate area;

(c) The business must be incidental and secondary to the principal use of the dwelling as a residence, and must be conducted entirely within the dwelling or attached garage. No home-based business shall be operated from a detached accessory structure;

(d) The business shall use only normal office equipment, including but not limited to a typewriter, computer, calculator, fax machine, or copier. Equipment noise shall not be permitted to adversely affect adjacent properties;

(e) The business shall not occupy more than 25% of the gross floor area of the dwelling unit, including any space used for storage for the business. All storage related to the business use shall be contained within the dwelling or attached garage;

(f) The business shall not display or create any external evidence of the business, except that a single vehicle, used in conjunction with the business, may be

parked outside and may display advertising or a logo. The vehicle shall comply with the restrictions listed in §72.23 of the City Code;

(g) No structural alterations shall be made to the dwelling unit to accommodate the business. No separate entrances or building additions shall be added for the use of the business;

(h) A home-based business shall not be permitted in a multiple family dwelling with three or more dwelling units;

(i) Only one (1) business shall be permitted per dwelling unit, and the Board may approve the business for use by the current resident/applicant only;

(j) There may be a limited number of clients or customers who come to the home; the number may be established by the Board;

(k) Retail sales shall not be permitted on the property; except that as part of its consideration of the request, the Board may permit limited retail sales as an accessory use;

(l) Wall and freestanding signage shall not be permitted in association with the home-based business, and the address of the home may not be used to advertise the business except for advertising such as printed literature or business cards; and

(m) As part of its review of a request for a home based business, the Board may consider any existing plat or deed restrictions limiting the uses of the property included in the request.

(n) Permitted home-based businesses shall include but not be limited to:

(i) Accounting or bookkeeping office;
(ii) Animal grooming;
(iii) Architect, engineer, land surveyor, or other similar office;
(iv) Massage therapy;
(v) One-chair beauty salon, barber shop, nail salon, or similar use;
(vi) Photography studio;
(vii) Psychic reading business;
(viii) Real estate, insurance, law, or similar office;
(ix) Seamstress or tailor; and
(x) Teaching/tutoring, including music lessons.

(o) Prohibited home-based businesses shall include but not be limited to:

(i) Amusement enterprises of any public nature;
(ii) Animal kennel, or pet shop; and
(iii) Production, manufacturing, assembly, or repair of products or components of products.

(8) Home workshops, in addition to meeting the criteria established in §157.404(C)(1)(b), the workshop shall meet the following requirements unless otherwise waived or modified by the Board.

(a) The person operating the home workshop shall be a resident of the premises; no outside employees shall be permitted;

(b) In no case shall a home workshop be allowed in an accessory structure prior to the occupancy of the principal dwelling on the lot, parcel, or tract of land;

(c) The workshop shall not change the residential character of the structure or immediate area;

(d) The workshop must be incidental and secondary to the principal use of the dwelling as a residence, and must be conducted entirely within the dwelling, attached garage, or accessory structure located on the same lot or tract;

(e) The workshop shall use only that equipment appropriate for small scale enterprises. Equipment noise shall not be permitted to adversely affect adjacent properties. As part of the application the applicant shall include a list of any equipment proposed to be used as part of the operation of the home workshop for review and approval by the Board;

(f) The workshop shall not occupy more than 25% of the gross floor area of a single family residence, or 50% of the gross floor area of an accessory structure, including any space used for storage for the workshop. All storage related to the use of the workshop shall be contained within the dwelling or accessory structure;

(g) The business shall not display or create any external evidence of the business, except that a single vehicle, used in conjunction with the business, may be parked outside, and may display advertising or a logo. The vehicle shall comply with the restrictions listed in §72.23 of the City Code;

(h) No separate entrances or building additions shall be added to the dwelling unit or attached garage for the use of the workshop;

(i) A home workshop shall not be permitted in a two family or multiple family dwelling unit, or in an accessory structure on the same lot or tract as a two family or multiple family dwelling;

(j) Only one (1) home workshop shall be permitted per lot or tract, and the Board may approve the workshop for use by the current resident/applicant only;

(k) There may be a limited number of clients or customers who come to the home; the number may be established by the Board;

(l) Retail sales shall not be permitted on the property; except that as part of its consideration of the request, the Board may permit limited retail sales as an accessory use;

(m) Wall and freestanding signage shall not be permitted in association with the home workshop, and the address of the home may not be used to advertise the workshop except for advertising such as printed literature or business cards; and

(n) As part of its consideration of a request for a home workshop, the Board may consider any existing plat or deed restrictions limiting the uses of the property included in the request.

(o) Permitted home workshops. Permitted home workshops shall include but not be limited to:

(i) Ceramics/pottery making or similar crafts;
(ii) Copy and duplicating service;
(iii) Small electronic equipment repair such as televisions and video cassette recorders; and
(iv) Woodworking.

(p) Prohibited home workshops. Prohibited home workshops shall include but not be limited to:

(i) Amusement enterprises of any public nature;
(ii) Animal grooming, animal kennel, or pet shop;
(iii) Cabinet or furniture making;
(iv) Mechanical or body repair of automotive vehicles, other than routine maintenance and minor repair of personal motor vehicles titled to the occupants of the property; and
(v) Small engine repair.

(9) Household pet breeding (major) operations, as an accessory use to a permitted single family residential use, in accordance with the applicable provisions of chapter 91 of the City Code. Such an operation shall not be permitted in a two family or multiple family dwelling unit. As part of its review and consideration of the request, the Board may request comment and recommendations from the City Department of Animal Control.

(10) Manufactured homes (Type II), provided the Board finds the home is:

(a) Comparable with the existing housing pattern in the immediate area with regard to density and setbacks, and in compliance with the applicable minimum standards and requirements of this chapter; and

(b) Constructed with roofing and siding materials which are similar to the existing homes in the immediate area.

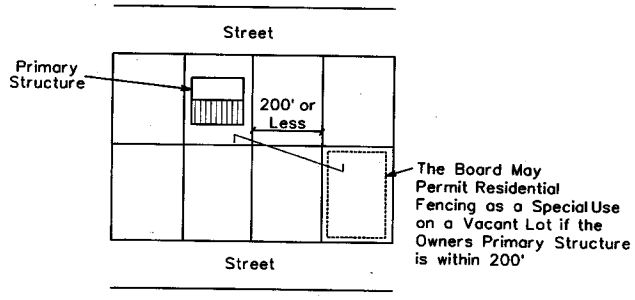
(11) Neighborhood facilities or uses, such as not-for-profit neighborhood educational, recreational, or cultural facilities including, but not limited to a branch YMCA, YWCA, Boys and Girls Club, or Boy Scout or Girl Scout facility, provided the Board finds that it will be compatible with the character of the neighborhood or area in which it is to be located. However, the dispensing of alcoholic beverages on the premises shall be permitted.

(12) Parking areas (public or employee), with the exception of off-site parking areas as permitted in §157.204 through §157.235. Parking areas may be permitted by the Board when used to meet on-site parking standards set forth in §157.313, as an accessory use to a conforming or legal nonconforming use and located within 500 feet of the primary use or structure.

(13) Private recreation facility such as a tennis/racquet club, indoor ice skating facility, swim club or fitness center. This use does not include recreational uses such as athletic fields, baseball/softball diamonds, batting cages, miniature golf courses, golf driving ranges and similar uses.

(14) Residential fencing, as the principal use of a residential lot or tract. The fencing shall be located within 200 feet of the lot or tract where the owner's primary structure is located. As part of its review of the request, the Board may also consider:

(a) The height, location, and materials of the proposed fencing;
(b) The location of structures on adjacent lots; and
(c) Granting a waiver of the required front yard setback.



Residential Fencing On A Vacant Lot

(15) Telephone switching buildings or other similar structures.

(D) Accessory Structures and Uses

(1) Purpose

The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar residential and nonresidential facilities.

(2) Permitted Accessory Structures

The following accessory structures shall be permitted, provided the structure meets the definitions in §157.410 and complies with setback, height, lot coverage, location and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools over a depth of 24 inches and 250 square feet in size (see §157.207(D)(3)(c) for fencing standards);

(b) Any other accessory structure which is placed on a permanent foundation;

(c) Arbors, trellises, or similar construction;

(d) Attached and detached decks or similar construction;

(e) Attached and detached residential garages. The square footage of a garage and all other similar accessory storage structures shall not exceed the ground floor square footage of the primary building for a one-story structure and 1.5 times the ground floor square footage for a structure over one-story in height. In either case, the square footage of any attached garage or attached accessory structure shall be excluded from the ground floor square footage total;

(f) Fences and walls;

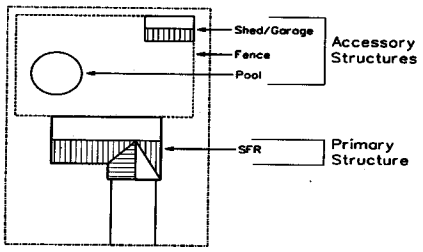
(g) Freestanding satellite dishes, amateur radio towers, and television aerials;

(h) Garbage dumpsters associated with multiple family uses;

(i) Gazebos;

(j) Storage sheds (see limitation on square footage noted in (e) above) however, portable storage containers shall not be permitted;

See §157.407(A) for Improvement Location Permit requirements.



Accessory and Primary Structures

(3) Fence and Wall Standards

(a) Purpose

The purpose of this section is to provide standards for the placement and erection of fences, walls, hedges and similar construction or elements for the conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with neighborhood character.

(b) Materials and Maintenance

(i) Permitted materials

All fences shall be constructed of customarily used materials such as chain link, split rail, split rail with welded wire mesh, masonry, wrought iron, wood, polyvinylchoride (PVC), or similar fencing material. The use of materials such as corrugated or sheet metal,

chicken wire, woven wire, welded wire mesh as a primary material, temporary construction fencing, snow fencing or other similar materials shall not be permitted for permanent fencing.

(ii) Prohibited materials

In residential and commercial districts, or areas abutting residential or commercial districts, a fence or wall may not be designed to cause pain or injury to humans or animals. This includes the use of spikes, broken glass, barbed wire, razor wire, nails, electric charge or similar materials. For the purposes of this provision, "abutting" shall include any area separated from a residential or commercial district by an alley right-of-way.

(iii) Construction and Maintenance

Fences and walls shall be constructed in a sound and sturdy manner, according to standard construction practices, and shall be maintained in a good state of repair, including the replacement of defective parts, painting, and other acts required for maintenance.

(c) Swimming Pool Fencing (residential)

Any pool which meets the definition set forth in §157.410 of this chapter shall comply with the residential swimming pool safety feature requirements set forth in 675 IAC 20-4-27(c) (as may be amended). In accordance with and to supplement this section access to a pool must be restricted by one of the following:

(i) A wall or fence not less than five (5) feet in height which completely surrounds the pool and deck area with the exception of self-closing and latching gates and doors both capable of being locked; or

(ii) A rigid power safety pool cover which meets the requirements set forth in 675 IAC 20-4-27(c)(4); all automatic pool covers shall be kept operable and in good working order; such pool covers shall not be operated in ways that create safety or access hazards, such as being permitted to be left open for extended periods of time, or to accumulate large amounts of water on top of the cover; or

(iii) For above ground swimming pools other structural methods not less than five (5) feet in height may be permitted if determined to provide adequate safety by the Planning staff.

(d) Exceptions to Standards

(i) If a fence or other screening is required to comply with the provisions of the parking lot improvement section, the provisions of that section shall supersede this section, except for the corner visibility provisions in division (F)(3) below.

(ii) A hedge or retaining wall not exceeding three (3) feet in height above the grade of the adjacent sidewalk or ground, may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in division (F)(3) below.

(iii) An ornamental fence, as defined herein, not exceeding three (3) feet in height or 100 total lineal feet may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in division (F)(3) below.

(e) Waiver of Standards

As part of its review of a proposed primary plat or development plan, the Plan Commission may waive or modify the requirements of this section.

(4) Permitted Accessory Uses

The following residential accessory uses shall be permitted provided the uses meet the definitions in §157.410 and comply with applicable location, setback, and height, and other restrictions:

(a) Home occupation;

(b) Play equipment;

(c) Play houses;

(d) Ponds and similar water features;

(e) Similar residential accessory uses;

(f) Slab on grade patios; and

(g) Swing sets.

An improvement location permit is not required for the accessory uses listed above.

(5) Outdoor Display

Outdoor display as defined in §157.410 shall be prohibited except for yard and garage sales. Yard, garage, and similar sales on residential properties may be held up to three (3) times in a calendar year, for up to three (3) days per sale.

(6) Outdoor Storage

In any residential district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, and other standards and limitations set forth in this chapter. Outdoor storage shall be prohibited in the required front yard. The outdoor storage of the following materials shall be prohibited:

(a) Automobile or machinery equipment or parts including automobile/motor vehicle tires;

(b) Building construction materials except in conjunction with a permitted ongoing construction project;

(c) Home appliances and fixtures such refrigerators, stoves, and sinks;
(d) Indoor furniture;
(e) Scrap metal, wood and similar materials;
(f) Shelving, racks or similar structures; and
(g) Inoperable, wrecked or dismantled automobiles.

(7) Parking and Vehicle Storage

(a) Operable automobiles, vans and motorcycles shall be permitted to be parked in residential districts in a driveway, street, or alley only.

(b) Operable recreational vehicles, campers, boats, small (one-ton, panel or pickup) trucks, and pull trailers up to 32 square feet in size shall be permitted to be parked in residential districts in a driveway only;

(c) The following vehicles shall be prohibited to be parked or otherwise stored in residential districts:

(i) Inoperable automobiles, motorcycles, vans, recreational vehicles, campers, boats, small (one-ton, panel or pickup) trucks or other similar vehicles parked or stored outdoors;
(ii) Semi-trucks;
(iii) Semi trailers;
(iv) Agricultural or other tractors unless used in conjunction with a permitted agricultural use;
(v) Pull trailers over 32 square feet in size;
(vi) School, church or similar buses;
(vii) Large pick up or panel trucks (over one ton); and
(viii) Other large commercial vehicles, tractors or trailers not otherwise listed.

(E) Temporary Structures and Uses

(1) Temporary Accessory Structures

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use, subject to the following requirements:

(a) The temporary use shall only be permitted for a period of up to two years;
(b) The temporary use must meet the requirements outlined in §157.207(D)(2) for accessory structures;
(c) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit; and

(d) This subsection shall not apply mobile food service units, tents or similar structures.

(2) Temporary Special Events

Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(3) Temporary Structures and uses in conjunction with approved construction and other development projects

(a) Construction trailers shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall not be required; however, trailers shall be located in conformance with visibility standards set forth in §157.207(F)(3).

(b) Temporary sales/leasing trailer shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall be required. If the trailer contains water and/or sewer, it shall be required to be reviewed and approved through the Site Plan Review process.

(c) A model home within an approved residential subdivision may be used as a temporary sales office for that subdivision for a period of up to 2 years unless otherwise extended by the Plan Commission.

(F) Development Standards

(1) Building Size

(a) Building Size Standards

No primary residential building or structure shall be erected, altered, enlarged or reconstructed for residential purposes having a gross square footage, exclusive of terraces, breezeways, unenclosed porches and garages, of less than 950 square feet.

(b) Exceptions to Building Size Standards

(i) Existing structures which do not meet the minimum residential building size requirements may continue to be used, and may be enlarged, added to, maintained, and repaired in accordance with the provisions of this chapter.

(ii) For buildings with three (3) or more units the minimum square footage per unit may be reduced to 350 square feet of gross square footage provided that a minimum of 50 square feet per unit is provided as common area exclusive of laundry facilities, restroom facilities, office area, storage area and hallways.

(2) Number of Buildings on a Lot

Only one primary residential structure shall be permitted on any lot, tract, or development parcel, except as provided below:

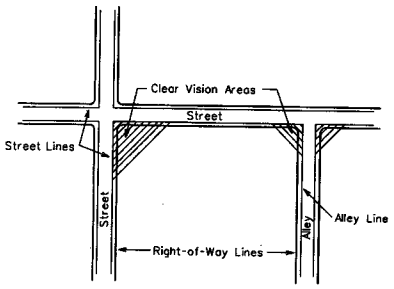
(a) As part of its review of a primary development plan, the Plan Commission may permit multiple primary residential structures on a lot, tract, or development parcel; and

(b) In the case of multiple family complexes or similar developments, multiple primary residential structures may be permitted.

(3) Corner Visibility and Other Visibility Standards

(a) No structure, fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No structure, fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less that three (3) feet from the side property line which abuts a public right-of-way.

(4) Height

(a) Height Limitations

No building or structure shall be erected, altered, enlarged or reconstructed to exceed: 30 feet, if the lot width is under 100 feet, or 35 feet, if the lot width is 100 feet or more, except that the maximum height for residential accessory structures shall be 25 feet, and the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section:

(i) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols;

(ii) Parapet or fire walls;

(iii) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and

(iv) Roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

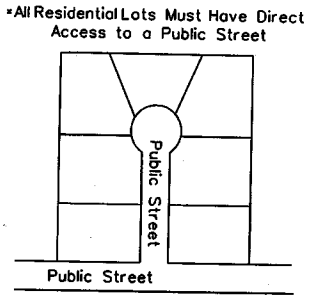
(5) Lot Area and Width

(a) Lot Area Standards

All new residential lots shall be a minimum of 6,000 square feet.

(b) Lot Width Standards

All new residential lots shall be a minimum of 50 feet in width at the front building line. All residential lots, tracts, or development parcels shall have direct access to an improved public street as defined in the Zoning Ordinance for purposes of vehicular traffic, off-street parking, utilities and other services such as mail delivery, garbage collection, fire and emergency units. The width of such frontage shall be uniform and be no less than the established minimum building line width. Other residential access provisions shall be allowed as established by the Commission's rules.



Direct Access To Public Streets

(c) Exceptions to Lot Area and Width Standards

(i) For attached single family lots, tracts, or development parcels the minimum lot width at the building line may be a minimum of 40 feet and have a minimum lot area of 4800 square feet.

(ii) For residential cul-de-sac lots, tracts, or development parcels (those having a majority of frontage on a cul-de-sac) the minimum lot width at the building line may be 40 feet.

(iii) For flag lots, tracts, or development parcels, the access frontage may be a minimum of 24 feet wide, however the lot width at the building line shall be as established in this section.

(iv) Lots established by legally recorded plat or otherwise legally established as of March 1, 1955 which do not meet the minimum size requirements established by this section may still be used for any use permitted within the district in which the lot is located. However, all proposed structures shall meet the minimum setback and yard requirements.

(v) As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may modify the minimum lot width and size requirements, at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(6) Lot Coverage

The ground floor area of residential buildings or structures, including accessory buildings or structures, shall not be erected, altered, enlarged or reconstructed to exceed maximum lot coverage of 35% of the lot area or 2,000 square feet, whichever is greater. The area of open porches, decks, swimming pools, patios, satellite dishes, or similar structures and construction shall not be included in the calculation of lot coverage.

(7) Yard Requirements

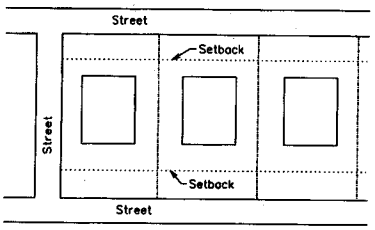
No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located (including maximum yard requirements where applicable), except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be a front yard for each lot, tract, or development parcel; the minimum depth shall be 25 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located. One of those required front yards may serve as a required rear yard for the purposes of locating residential accessory structures and fencing, provided that the lot complies with the restrictions in (a)(v) and (e) below.



Through Lot Front Setback Requirement

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;
(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Platted Front Yard Building Lines

In the event of existing platted front building lines which impose a residential front yard setback requirement which is greater than the minimum setback established by this chapter, a Zoning Enforcement

Officer shall require that the larger setback requirement be met, except in nonconforming situations as set forth in division (2) above.

(iv) Plat and Development Plan Front Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(v) Residential Accessory Uses

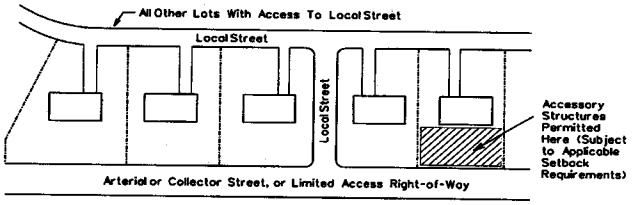
Residential accessory uses shall be located between the rear of the primary structure and the rear lot line. However, slab on grade patios may be permitted in a required front or side yard, subject to the limitations in division (d) below.

(vi) Residential Accessory Structures on Through Lots

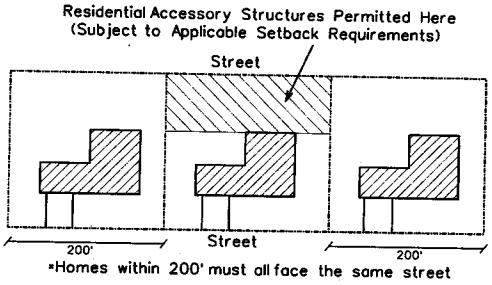
Accessory structures shall be permitted in the required front yard which functions as the rear yard for the lot, subject to the location restrictions listed in (b)(iii) below, in the following circumstances:

(1) If the through lot has a frontage on a street which is classified as an arterial or collector street, and none of the other through lots in that area has access to the arterial or collector street such that those front yards abutting the arterial or collector functions as the rear yard for those lots; or

(2) If the through lot has frontage on a street which has been declared or purchased as "limited access" right-of-way by the State of Indiana, such that those front yards abutting the limited access right-of-way functions as the rear yard for those lots; or



Residential Accessory Structures On Through Lots



Permitted Through Lot Residential Accessory Structure Locations

(3) If the through lot is adjacent to other through lots and all of the homes on the adjacent through lots for a distance of 200 feet from the property lines of the through lot face the same street, such that the front yards abutting that street functions at the rear yard for those lots.

(vii) Residential outdoor storage

Outdoor storage shall be prohibited in the required front yard.

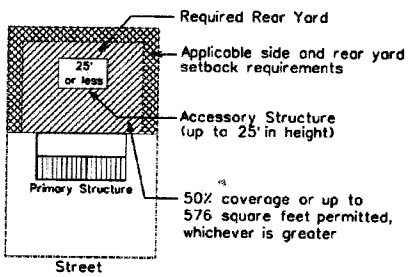
(b) Rear Yard Requirements

(i) Required rear yard

There shall be a rear yard for each lot, tract or development parcel; for residential uses, the minimum rear yard shall be 20% of the lot depth or 25 feet, whichever is less; for nonresidential uses, the minimum rear yard shall be 20% of the lot depth or 25 feet (subject to the provisions and exceptions noted in this division).

(ii) Residential accessory structures in the required rear yard

Residential accessory structures not exceeding 25 feet in height are permitted in a required rear yard. The structure(s) may occupy up to 50% of the area of the required rear yard or be up to 576 square feet in size, whichever is greater.



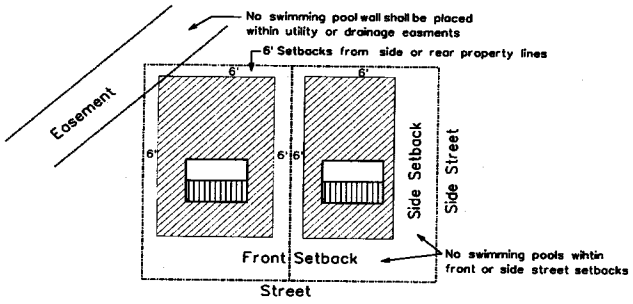
Residential Accessory Structure Rear Yard Coverage Limitation

(iii) Yard Requirements for Accessory Structures and Uses

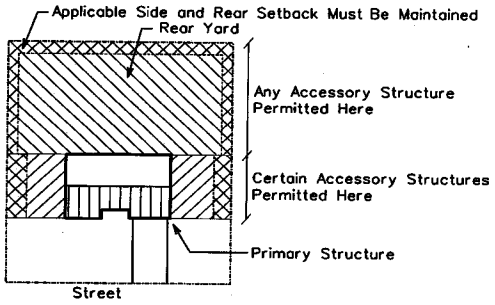
Yard requirements for accessory structures and uses are located in the following table. Except for fencing, no new accessory structures shall be located within a utility or surface drainage easement. For additional information regarding residential and nonresidential accessory structures and uses see §157.207(D)(2). See §157.207(D)(3)(c) for yard requirements for fences and walls, and for swimming pool fencing requirements.

YARD REQUIREMENTS FOR RESIDENTIAL ACCESSORY STRUCTURES AND USES

	Side yard	Rear yard
All accessory structures (except for swimming pools) located entirely between the rear of the primary structure and the rear lot line	3'	3'
Detached garages, storage sheds, decks, arbors, residential satellite dishes over one (1) meter in diameter, or other similar structures entirely or partially located beside the primary structure (between the front of the primary structure and the rear lot line)	Same setback as the primary structure	3'
Swimming pools (above or below ground)	6'	6'



Swimming Pool Setback Requirements



Residential Accessory Structure Permitted Locations

(iv) Exception to Accessory Structure Yard Requirements

A satellite dish is permitted as a residential accessory structure subject to the location restrictions noted in division (a)(1) above. However, a residential satellite dish, which is less than one (1) meter in diameter, may be located as necessary to allow unimpaired reception. A Zoning Enforcement Officer may require adequate documentation in conjunction with a request to locate a residential satellite dish, to show that alternative locations would not allow for unimpaired reception. This exclusion shall not apply in cases involving historic structures, or properties located in local historic districts. The intent of this provision is to allow reasonable accommodation for unimpaired residential satellite dish reception, while at the same time protecting the health, safety, aesthetic quality, and historic character of the City.

(v) Plat and Development Plan Rear Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(c) Side Yard Requirements

(i) Required Side Yard

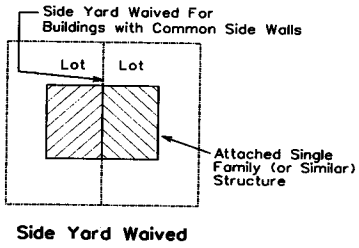
There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be as listed in the following table (subject to the provisions and exceptions noted in this division).

RESIDENTIAL SIDE YARD REQUIREMENTS		
Lot Type	**Lot Width**	**Required Side Yard**
Corner	Up to and including 50′	5′
	Greater than 50′ up to and including 60′	5′ interior 15′ side street
	Greater than 60′ up to and including 100′	7′ interior 20′ side street
	Over 100′	10′ interior 25′ side street
Interior	Up to and including 50′	5′
	Greater than 50′ up to and including 60′	5′ interior 15′ side street
	Greater than 60′ up to and including 100′	7′ interior 20′ side street
	Over 100′	10′ interior 25′ side street

NONRESIDENTIAL SIDE YARD REQUIREMENTS		
Lot Type	**Lot Width**	**Required Side Yard**
Corner	All lots	10′ or as established by the Board/Plan Commission
Interior	All lots	10′ or as established by the Board/Plan Commission

(ii) Side yards waived for dwellings with common walls.

Dwellings with common walls on a lot line(including single family attached residences, duplexes, and triplexes) shall be considered as one building occupying one lot for the purpose of determining side yard setback requirements.



Side Yard Waived

(iii) Waiver of side yard requirements for additions to nonconforming nonresidential structures

The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

(iv) Plat and development plan side yard waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

(v) Previously approved nonconforming plats.

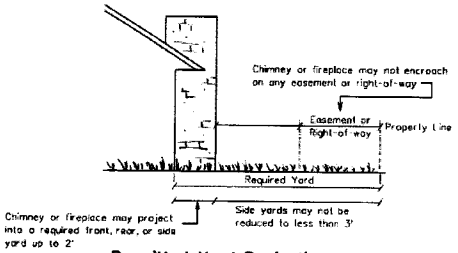
Any lot established by a legally recorded plat between the dates of March 1, 1955 and March 2, 1998 with a side yard requirement established by the City of Fort Wayne Plan Commission or the Allen County Plan Commission which is less than these requirements, shall be permitted to be developed for single family residential use. Also,

any existing single family residential structure may be enlarged in accordance with the previously established side yard requirements. A Zoning Enforcement Officer may require the applicant or owner to submit adequate documentation verifying the status of the plat and/or involved structure.

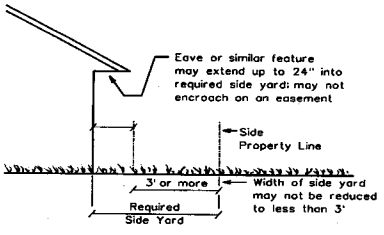
(d) Yard Projections

The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

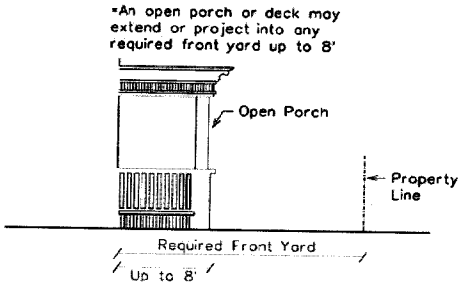
YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections
(Chimneys and Fireplaces)



Permitted Yard Projections
(Eave in Side Yard)



Permitted Yard Projections
(Porch or Deck into Front Yard)

(e) Exceptions to Yard Requirements

(i) Fences for Residential Uses

Except as provided below, a fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard. The fence or wall shall not be located any closer to the public right-of-way than the leading edge of the foundation of a primary structure, or the required front yard setback, whichever is less. This shall include the closest point on an open or enclosed porch, if the porch is constructed on a foundation similar to the foundation of the house.

(ii) Fences for Nonresidential Uses

A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard on a property with an existing primary structure. If there is no required front yard or if the building is considered to be legal nonconforming with regard to required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

(iii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

§ 157.208 R2, Two Family Residential

(A) Purpose

The Attached Single Family and Two Family Residential District is intended to create areas for medium density residential uses on individual lots or tracts. The purpose of this District is to provide for a combination of predominantly single family and two family residential development.

(B) Permitted Uses

The following uses are permitted in an R2 District:

(1) all uses permitted in the R1 District;
(2) attached single family dwelling; and
(3) two family dwelling.

(C) Special Uses

(1) Class II child care homes.

(2) Community facilities such as a botanical garden/conservatory, library, planetarium, public transportation or similar public facility, museum, zoo, or similar use.

(3) Country clubs; a country club may include related accessory and/or recreational uses such as a golf course.

(4) Funeral homes.

(5) Group residential facilities, provided the Board finds that the use will not be unduly detrimental to the surrounding area because of number of residents, noise, vehicle traffic, parking, signage, or other similar activity.

(6) Health care facilities, such as a nursing home, public health center, diagnostic or treatment center or similar facility.

(7) Home-based businesses, subject to the following additional requirements (unless waived or modified by the Board):

(a) The business shall only be operated by residents of the dwelling; no outside employees shall be permitted.

(b) The business shall not change the residential character of the structure or immediate area;

(c) The business must be incidental and secondary to the principal use of the dwelling as a residence, and must be conducted entirely within the dwelling or attached garage. No home-based business shall be operated from a detached accessory structure;

(d) The business shall use only normal office equipment, including but not limited to a typewriter, computer, calculator, fax machine, or copier. Equipment noise shall not be permitted to adversely affect adjacent properties;

(e) The business shall not occupy more than 25% of the gross floor area of the dwelling unit, including any space used for storage for the business. All storage related to the business use shall be contained within the dwelling or attached garage;

(f) The business shall not display or create any external evidence of the business, except that a single vehicle, used in conjunction with the business, may be parked outside and may display advertising or a logo. The vehicle shall comply with the restrictions listed in §72.23 of the City Code;

(g) No structural alterations shall be made to the dwelling unit to accommodate the business. No separate entrances or building additions shall be added for the use of the business;

(h) A home-based business shall not be permitted in a multiple family dwelling with three or more dwelling units;

(i) Only one (1) business shall be permitted per dwelling unit, and the Board may approve the business for use by the current resident/applicant only;

(j) There may be a limited number of clients or customers who come to the home; the number may be established by the Board;

(k) Retail sales shall not be permitted on the property; except that as part of its consideration of the request, the Board may permit limited retail sales as an accessory use;

(l) Wall and freestanding signage shall not be permitted in association with the home-based business, and the address of the home may not be used to advertise the business except for advertising such as printed literature or business cards; and

(m) As part of its review of a request for a home based business, the Board may consider any existing plat or deed restrictions limiting the uses of the property included in the request.

(n) Permitted home-based businesses shall include but not be limited to:

(i) Accounting or bookkeeping office;
(ii) Animal grooming;
(iii) Architect, engineer, land surveyor, or other similar office;
(iv) Massage therapy;
(v) One-chair beauty salon, barber shop, nail salon, or similar use;
(vi) Photography studio;
(vii) Psychic reading business;
(viii) Real estate, insurance, law, or similar office;

(ix) Seamstress or tailor; and

(x) Teaching/tutoring, including music lessons.

(o) Prohibited home-based businesses shall include but not be limited to:

(i) Amusement enterprises of any public nature;

(ii) Animal kennel, or pet shop; and

(iii) Production, manufacturing, assembly, or repair of products or components of products.

(8) Home workshops, in addition to meeting the criteria established in §157.404(C)(1)(b), the workshop shall meet the following requirements unless otherwise waived or modified by the Board.

(a) The person operating the home workshop shall be a resident of the premises; no outside employees shall be permitted;

(b) In no case shall a home workshop be allowed in an accessory structure prior to the occupancy of the principal dwelling on the lot, parcel, or tract of land;

(c) The workshop shall not change the residential character of the structure or immediate area;

(d) The workshop must be incidental and secondary to the principal use of the dwelling as a residence, and must be conducted entirely within the dwelling, attached garage, or accessory structure located on the same lot or tract;

(e) The workshop shall use only that equipment appropriate for small scale enterprises. Equipment noise shall not be permitted to adversely affect adjacent properties. As part of the application the applicant shall include a list of any equipment proposed to be used as part of the operation of the home workshop for review and approval by the Board;

(f) The workshop shall not occupy more than 25% of the gross floor area of a single family residence, or 50% of the gross floor area of an accessory structure, including any space used for storage for the workshop. All storage related to the use of the workshop shall be contained within the dwelling or accessory structure;

(g) The business shall not display or create any external evidence of the business, except that a single vehicle, used in conjunction with the business, may be parked outside, and may display advertising or a logo. The vehicle shall comply with the restrictions listed in §72.23 of the City Code;

(h) No separate entrances or building additions shall be added to the dwelling unit or attached garage for the use of the workshop;

(i) A home workshop shall not be permitted in a two family or multiple family dwelling unit, or in an accessory structure on the same lot or tract as a two family or multiple family dwelling;

(j) Only one (1) home workshop shall be permitted per lot or tract, and the Board may approve the workshop for use by the current resident/applicant only;

(k) There may be a limited number of clients or customers who come to the home; the number may be established by the Board;

(l) Retail sales shall not be permitted on the property; except that as part of its consideration of the request, the Board may permit limited retail sales as an accessory use;

(m) Wall and freestanding signage shall not be permitted in association with the home workshop, and the address of the home may not be used to advertise the workshop except for advertising such as printed literature or business cards; and

(n) As part of its consideration of a request for a home workshop, the Board may consider any existing plat or deed restrictions limiting the uses of the property included in the request.

(o) Permitted home workshops. Permitted home workshops shall include but not be limited to:

(i) Ceramics/pottery making or similar crafts;
(ii) Copy and duplicating service;
(iii) Small electronic equipment repair such as televisions and video cassette recorders; and
(iv) Woodworking.

(p) Prohibited home workshops. Prohibited home workshops shall include but not be limited to:

(i) Amusement enterprises of any public nature;
(ii) Animal grooming, animal kennel, or pet shop;
(iii) Cabinet or furniture making;
(iv) Mechanical or body repair of automotive vehicles, other than routine maintenance and minor repair of personal motor vehicles titled to the occupants of the property; and
(v) Small engine repair.

(9) Household pet breeding (major) operations, as an accessory use to a permitted single family residential use, in accordance with the applicable provisions of chapter 91 of the City Code. Such an operation shall not be permitted in a two family or multiple family dwelling unit. As part of its review and consideration of the request, the Board may request comment and recommendations from the City Department of Animal Control.

(10) Manufactured homes (Type II), provided the Board finds the home is:

(a) Comparable with the existing housing pattern in the immediate area with regard to density and setbacks, and in compliance with the applicable minimum standards and requirements of this chapter; and

(b) Constructed with roofing and siding materials which are similar to the existing homes in the immediate area.

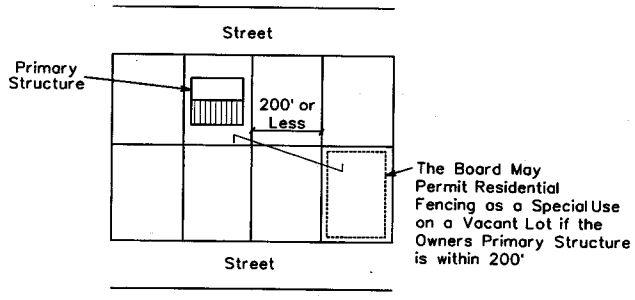
(11) Neighborhood facilities or uses, such as not-for-profit neighborhood educational, recreational, or cultural facilities including, but not limited to a branch YMCA, YWCA, Boys and Girls Club, or Boy Scout or Girl Scout facility, provided the Board finds that it will be compatible with the character of the neighborhood or area in which it is to be located. However, the dispensing of alcoholic beverages on the premises shall be permitted.

(12) Parking areas (public or employee), with the exception of off-site parking areas as permitted in 157.104. Parking areas may be permitted by the Board when used to meet on-site parking standards set forth in §157.313, as an accessory use to a conforming or legal nonconforming use and located within 500 feet of the primary use or structure.

(13) Private recreation facility such as a tennis/racquet club, indoor ice skating facility, swim club or fitness center. This use does not include recreational uses such as athletic fields, baseball/softball diamonds, batting cages, miniature golf courses, golf driving ranges and similar uses.

(14) Residential fencing, as the principal use of a residential lot or tract. The fencing shall be located within 200 feet of the lot or tract where the owner's primary structure is located. As part of its review of the request, the Board may also consider:

(a) The height, location, and materials of the proposed fencing;
(b) The location of structures on adjacent lots; and
(c) Granting a waiver of the required front yard setback.



Residential Fencing On A Vacant Lot

(15) Telephone switching buildings or other similar structures.

(D) Accessory Structures and Uses

(1) Purpose

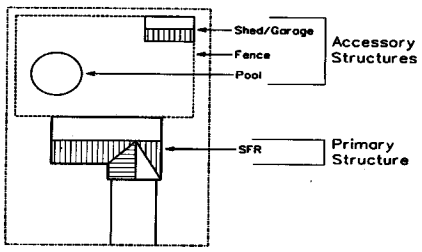
The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar residential and nonresidential facilities.

(2) Permitted Accessory Structures

The following accessory structures shall be permitted, provided the structure meets the definitions in §157.410 and complies with setback, height, lot coverage, location and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools over a depth of 24 inches and 250 square feet in size (see §157.208(D)(3)(c) for fencing standards);
(b) Any other accessory structure which is placed on a permanent foundation;
(c) Arbors, trellises, or similar construction;
(d) Attached and detached decks or similar construction;
(e) Attached and detached residential garages. The square footage of a garage and all other similar accessory storage structures shall not exceed the ground floor square footage of the primary building for a one-story structure and 1.5 times the ground floor square footage for a structure over one-story in height. In either case, the square footage of any attached garage or attached accessory structure shall be excluded from the ground floor square footage total;
(f) Fences and walls;
(g) Freestanding satellite dishes, amateur radio towers, and television aerials;
(h) Garbage dumpsters associated with multiple family uses;
(i) Gazebos;
(j) Storage sheds (see limitation on square footage noted in (e) above) however, portable storage containers shall not be permitted;

See §157.407(A) for Improvement Location Permit requirements.



Accessory and Primary Structures

(3) Fence and Wall Standards

(a) Purpose

The purpose of this section is to provide standards for the placement and erection of fences, walls, hedges and similar construction or elements for the conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with neighborhood character.

(b) Materials and Maintenance

(i) Permitted materials

All fences shall be constructed of customarily used materials such as chain link, split rail, split rail with welded wire mesh, masonry, wrought iron, wood, polyvinylchoride (PVC), or similar fencing material. The use of materials such as corrugated or sheet metal, chicken wire, woven wire, welded wire mesh as a primary material, temporary construction fencing, snow fencing or other similar materials shall not be permitted for permanent fencing.

(ii) Prohibited materials

In residential and commercial districts, or areas abutting residential or commercial districts, a fence or wall may not be designed to cause pain or injury to humans or animals. This includes the use of spikes, broken glass, barbed wire, razor wire, nails, electric charge or similar materials. For the purposes of this provision, "abutting" shall include any area separated from a residential or commercial district by an alley right-of-way.

(iii) Construction and Maintenance

Fences and walls shall be constructed in a sound and sturdy manner, according to standard construction practices, and shall be maintained in a good state of repair, including the replacement of defective parts, painting, and other acts required for maintenance.

(c) Swimming Pool Fencing (residential)

Any pool which meets the definition set forth in §157.410 of this chapter shall comply with the residential swimming pool safety feature requirements set forth in 675 IAC 20-4-27(c) (as may be amended). In accordance with and to supplement this section access to a pool must be restricted by one of the following:

(i) A wall or fence not less than five (5) feet in height which completely surrounds the pool and deck area with the exception of self-closing and latching gates and doors both capable of being locked; or

(ii) A rigid power safety pool cover which meets the requirements set forth in 675 IAC 20-4-27(c)(4); all automatic pool covers shall be kept operable and in good working order; such pool covers shall not be operated in ways that create safety or access hazards, such as being permitted to be left open for extended periods of time, or to accumulate large amounts of water on top of the cover; or

(iii) For above ground swimming pools other structural methods not less than five (5) feet in height may be permitted if determined to provide adequate safety by the Planning staff.

(d) Exceptions to Standards

(i) If a fence or other screening is required to comply with the provisions of the parking lot improvement section, the provisions of that section shall supersede this section, except for the corner visibility provisions in division (F)(3) below.

(ii) A hedge or retaining wall not exceeding three (3) feet in height above the grade of the adjacent sidewalk or ground, may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in division (F)(3) below.

(iii) An ornamental fence, as defined herein, not exceeding three (3) feet in height or 100 total lineal feet may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in division (F)(3) below.

(e) Waiver of Standards

As part of its review of a proposed primary plat or development plan, the Plan Commission may waive or modify the requirements of this section.

(4) Permitted Accessory Uses

The following residential accessory uses shall be permitted provided the uses meet the definitions in §157.410 and comply with applicable location, setback, and height restrictions:

(a) Play equipment;
(b) Play houses;
(c) Ponds and similar water features;
(d) Similar residential accessory uses;
(e) Slab on grade patios; and
(f) Swing sets.

An improvement location permit is not required for the accessory uses listed above.

(5) Outdoor Display

Outdoor display as defined in §157.410 shall be prohibited except for yard and garage sales. Yard, garage, and similar sales on residential properties may be held up to three (3) times in a calendar year, for up to three (3) days per sale.

(6) Outdoor Storage

In any residential district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, and other standards and limitations set forth in this chapter. The outdoor storage of the following materials shall be prohibited:

(a) Automobile or machinery equipment or parts including automobile/motor vehicle tires;

(b) Building construction materials except in conjunction with a permitted ongoing construction project;

(c) Home appliances and fixtures such refrigerators, stoves, and sinks;

(d) Indoor furniture;

(e) Scrap metal, wood and similar materials;

(f) Shelving, racks or similar structures; and

(g) Inoperable, wrecked or dismantled automobiles.

(7) Parking and Vehicle Storage

(a) Operable automobiles, vans and motorcycles shall be permitted to be parked in residential districts in a driveway, street, or alley only.

(b) Operable recreational vehicles, campers, boats, small (one-ton, panel or pickup) trucks, and pull trailers up to 32 square feet in size shall be permitted to be parked in residential districts in a driveway only;

(c) The following vehicles shall be prohibited to be parked or otherwise stored in residential districts:

(i) Inoperable automobiles, motorcycles, vans, recreational vehicles, campers, boats, small (one-ton, panel or pickup) trucks or other similar vehicles parked or stored outdoors;

(ii) Semi-trucks;

(iii) Semi trailers;

(iv) Agricultural or other tractors unless used in conjunction with a permitted agricultural use;

(v) Pull trailers over 32 square feet in size;

(vi) School, church or similar buses;

(vii) Large pick up or panel trucks (over one ton); and

(viii) Other large commercial vehicles, tractors or trailers not otherwise listed.

(E) Temporary Structures and Uses

(1) Temporary Accessory Structures

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use, subject to the following requirements:

(a) The temporary use shall only be permitted for a period of up to two years;

(b) The temporary use must meet the requirements outlined in §157.203(D)(2) for accessory structures;

(c) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit; and

(d) This subsection shall not apply mobile food service units, tents or similar structures.

(2) Temporary Special Events

Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(3) Temporary structures and uses in conjunction with approved construction and other development projects

(a) Construction trailers shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall not be required; however, trailers shall be located in conformance with visibility standards set forth in 157.208(F)(3).

(b) Temporary sales/leasing trailer shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall be required. If the trailer contains water and/or sewer, it shall be required to be reviewed and approved through the Site Plan Review process.

(c) A model home within an approved residential subdivision may be used as a temporary sales office for that subdivision for a period of up to 2 years unless otherwise extended by the Plan Commission.

(F) Development Standards

(1) Building Size

(a) Building Size Standards

No primary residential building or structure shall be erected, altered, enlarged or reconstructed for residential purposes having a gross square footage, exclusive of terraces, breezeways, unenclosed porches and garages, of less than 950 square feet.

(b) Exceptions to Building Size Standards

(i) Existing structures which do not meet the minimum residential building size requirements may continue to be used, and may be enlarged, added to, maintained, and repaired in accordance with the provisions of this chapter.

(ii) For buildings with three (3) or more units the minimum square footage per unit may be reduced to 350 square feet of gross square footage provided that a minimum of 50 square feet per unit is provided as common area exclusive of laundry facilities, restroom facilities, office area, storage area and hallways.

(2) Number of Buildings on a Lot

Only one primary residential structure shall be permitted on any lot, tract, or development parcel, except as provided below:

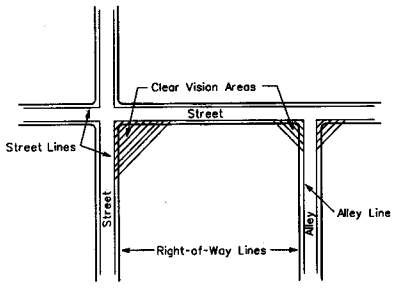
(a) As part of its review of a primary development plan, the Plan Commission may permit multiple primary residential structures on a lot, tract, or development parcel; and

(b) In the case of multiple family complexes or similar developments, multiple primary residential structures may be permitted.

(3) Corner Visibility and Other Visibility Standards

(a) No structure, fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No structure, fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less that three (3) feet from the side property line which abuts a public right-of-way.

(4) Height

(a) Height Limitations

No building or structure shall be erected, altered, enlarged or reconstructed to exceed: 30 feet, if the lot width is under 100 feet, or 35 feet, if the lot width is 100 feet or more, except that the maximum height for residential accessory structures shall be 25 feet, and the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section:

(i) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols;

(ii) Parapet or fire walls;

(iii) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and

(iv) Roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

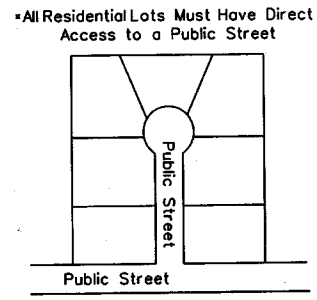
(5) Lot Area and Width

(a) Lot Area Standards

All new residential lots shall be a minimum of 6,000 square feet.

(b) Lot Width Standards

All new residential lots shall be a minimum of 50 feet in width at the front building line. All residential lots, tracts, or development parcels shall have direct access to an improved public street as defined in the Zoning Ordinance for purposes of vehicular traffic, off-street parking, utilities and other services such as mail delivery, garbage collection, fire and emergency units. The width of such frontage shall be uniform and be no less than the established minimum building line width. Other residential access provisions shall be allowed as established by the Commission's rules.



Direct Access To Public Streets

(c) Exceptions to Lot Area and Width Standards

(i) For attached single family lots, tracts, or development parcels the minimum lot width at the building line may be a minimum of 40 feet and have a minimum lot area of 4800 square feet.

(ii) For residential cul-de-sac lots, tracts, or development parcels (those having a majority of frontage on a cul-de-sac) the minimum lot width at the building line may be 40 feet.

(iii) For flag lots, tracts, or development parcels, the access frontage may be a minimum of 24 feet wide, however the lot width at the building line shall be as established in this section.

(iv) Lots established by legally recorded plat or otherwise legally established as of March 1, 1955 which do not meet the minimum size requirements established by this section may still be used for any use permitted within the district in which the lot is located. However, all proposed structures shall meet the minimum setback and yard requirements.

(v) As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may modify the minimum lot width and size requirements, at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(6) Lot Coverage

The ground floor area of residential buildings or structures, including accessory buildings or structures, shall not be erected, altered, enlarged or reconstructed to exceed maximum lot coverage of 35% of the lot area or 2,000 square feet, whichever is greater. The area of open porches, decks, swimming pools, patios, satellite dishes, or similar structures and construction shall not be included in the calculation of lot coverage.

(7) Yard Requirements

No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is

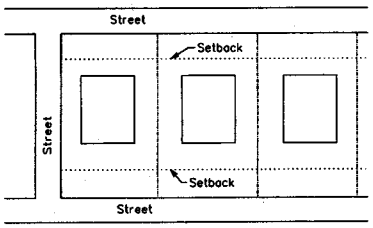
located (including maximum yard requirements where applicable), except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be a front yard for each lot, tract, or development parcel; the minimum depth shall be 25 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located. One of those required front yards may serve as a required rear yard for the purposes of locating residential accessory structures and fencing, provided that the lot complies with the restrictions in §157.208(D)(3)(c) and §157.208(b)(iii).



Through Lot Front Setback Requirement

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;
(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Platted Front Yard Building Lines

In the event of existing platted front building lines which impose a residential front yard setback requirement which is greater than the minimum setback established by this chapter, a Zoning Enforcement Officer shall require that the larger setback requirement be met, except in nonconforming situations as set forth in division (2) above.

(iv) Plat and Development Plan Front Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(v) Residential accessory uses.

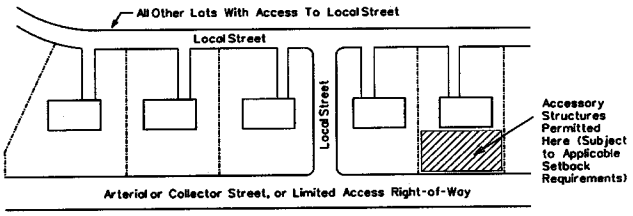
Residential accessory uses shall be located between the rear of the primary structure and the rear lot line. However, slab on grade patios may be permitted in a required front or side yard, subject to the limitations in division (d) below.

(vi) Residential accessory structures on through lots.

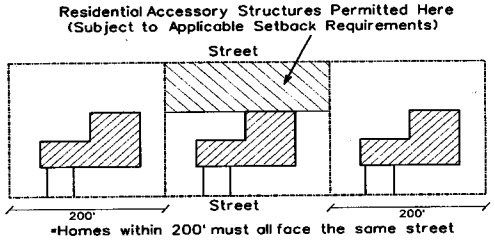
Accessory structures shall be permitted in the required front yard which functions as the rear yard for the lot, subject to the location restrictions listed in (b)(iii) below, in the following circumstances:

(1) If the through lot has a frontage on a street which is classified as an arterial or collector street, and none of the other through lots in that area has access to the arterial or collector street such that those front yards abutting the arterial or collector functions as the rear yard for those lots; or

(2) If the through lot has frontage on a street which has been declared or purchased as "limited access" right-of-way by the State of Indiana, such that those front yards abutting the limited access right-of-way functions as the rear yard for those lots; or



Residential Accessory Structures On Through Lots



Permitted Through Lot Residential Accessory Structure Locations

(3) If the through lot is adjacent to other through lots and all of the homes on the adjacent through lots for a distance of 200 feet from the property lines of the through lot face the same street, such that the front yards abutting that street functions at the rear yard for those lots.

(vii) Residential outdoor storage.

In any residential district, outdoor storage shall be prohibited in the required front yard.

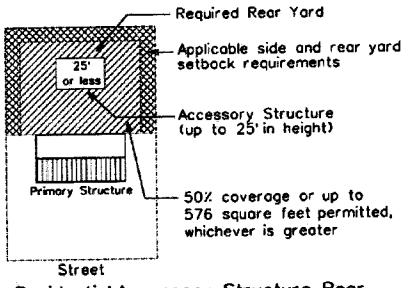
(b) Rear Yard Requirements

(i) Required Rear Yard

There shall be a rear yard for each lot, tract or development parcel; for residential uses, the minimum rear yard shall be 20% of the lot depth or 25 feet, whichever is less; for nonresidential uses, the minimum rear yard shall be 20% of the lot depth or 25 feet (subject to the provisions and exceptions noted in this division).

(ii) Residential Accessory Structures in the Required Rear Yard

Residential accessory structures not exceeding 25 feet in height are permitted in a required rear yard. The structure(s) may occupy up to 50% of the area of the required rear yard or be up to 576 square feet in size, whichever is greater.

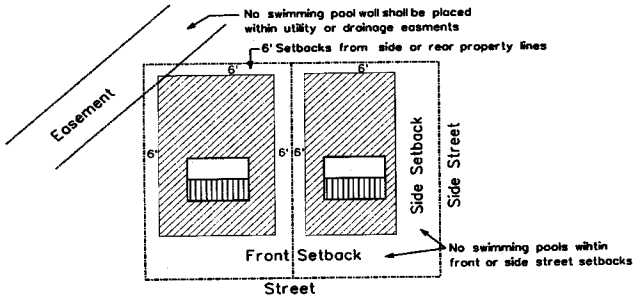


Residential Accessory Structure Rear Yard Coverage Limitation

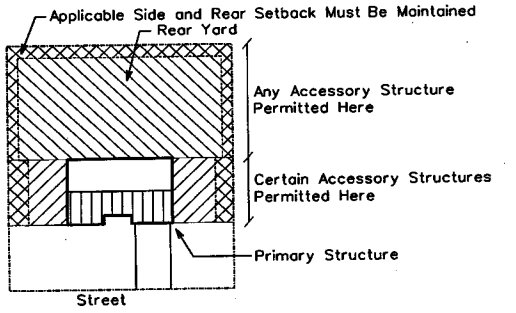
(iii) Yard Requirements for Accessory Structures and Uses

Yard requirements for accessory structures and uses are located in the following table. Except for fencing, no new accessory structures shall be located within a utility or surface drainage easement. For additional information regarding residential and nonresidential accessory structures and uses see §157.208(D)(2). See §157.208(D)(3) for yard requirements for fences and walls, and for swimming pool fencing requirements.

YARD REQUIREMENTS FOR RESIDENTIAL ACCESSORY STRUCTURES AND USES		
	Side yard	**Rear yard**
All accessory structures (except for swimming pools) located entirely between the rear of the primary structure and the rear lot line	3'	3'
Detached garages, storage sheds, decks, arbors, residential satellite dishes over one (1) meter in diameter, or other similar structures entirely or partially located beside the primary structure (between the front of the primary structure and the rear lot line).	Same setback as the primary structure	3'
Swimming pools (above or below ground)	6'	6'



Swimming Pool Setback Requirements



Residential Accessory Structure Permitted Locations

(iv) Exception to accessory structure yard requirements.

A satellite dish is permitted as a residential accessory structure subject to the location restrictions noted in division (b)(iii) below. However, a residential satellite dish, which is less than one (1) meter in diameter, may be located as necessary to allow unimpaired reception. A Zoning Enforcement Officer may require adequate documentation in conjunction with a request to locate a residential satellite dish, to show that alternative locations would not allow for unimpaired reception. This exclusion shall not apply in cases involving historic structures, or properties located in local historic districts. The intent of this provision

is to allow reasonable accommodation for unimpaired residential satellite dish reception, while at the same time protecting the health, safety, aesthetic quality, and historic character of the City.

(v) Plat and development plan rear yard waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(c) Side Yard Requirements

(i) Required Side Yard

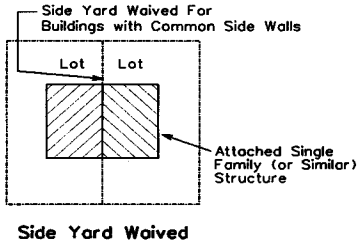
There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be as listed in the following table (subject to the provisions and exceptions noted in this division).

RESIDENTIAL SIDE YARD REQUIREMENTS		
Lot Type	**Lot Width**	**Required Side Yard**
Corner	Up to and including 50′	5′
	Greater than 50′ up to and including 60′	5′ interior 15′ side street
	Greater than 60′ up to and including 100′	7′ interior 20′ side street
	Over 100′	10′ interior 25′ side street
Interior	Up to and including 50′	5′
	Greater than 50′ up to and including 60′	5′ interior 15′ side street
	Greater than 60′ up to and including 100′	7′ interior 20′ side street
	Over 100′	10′ interior 25′ side street

NONRESIDENTIAL SIDE YARD REQUIREMENTS		
Lot Type	**Lot Width**	**Required Side Yard**
Corner	All lots	10′ or as established by the Board/Plan Commission
Interior	All lots	10′ or as established by the Board/Plan Commission

(ii) Side yards waived for dwellings with common walls

Dwellings with common walls on a lot line(including single family attached residences, duplexes, and triplexes) shall be considered as one building occupying one lot for the purpose of determining side yard setback requirements.



(iii) Waiver of side yard requirements for additions to nonconforming nonresidential structures

The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of the the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

(iv) Plat and Development Plan Side Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

(v) Previously approved nonconforming plats

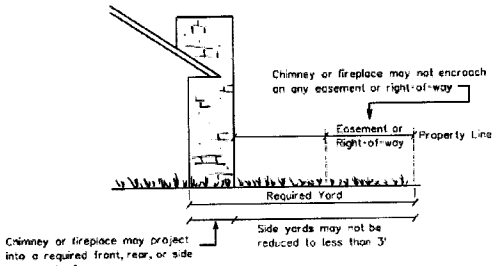
Any lot established by a legally recorded plat between the dates of March 1, 1955 and March 2, 1998 with a side yard requirement established by the City of Fort Wayne Plan Commission or the Allen County Plan Commission which is less than these requirements, shall be permitted to be developed for single family residential use. Also, any existing single

family residential structure may be enlarged in accordance with the previously established side yard requirements. A Zoning Enforcement Officer may require the applicant or owner to submit adequate documentation verifying the status of the plat and/or involved structure.

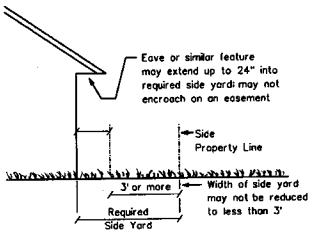
(d) Yard Projections

The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

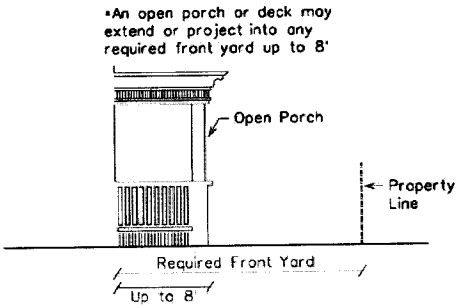
YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections (Chimneys and Fireplaces)



Permitted Yard Projections (Eave in Side Yard)



Permitted Yard Projections
(Porch or Deck into Front Yard)

(e) Exceptions to Yard Requirements

(i) Residential Fences

Except as provided below, a fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard. The fence or wall shall not be located any closer to the public right-of-way than the leading edge of the foundation of a legally established primary structure or the required front yard setback, whichever is less. This shall include the closest point on an open or enclosed porch, if the porch is constructed on a foundation similar to the foundation of the house.

(ii) Commercial, Industrial, and Other Nonresidential Fences

A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard on a property with an existing primary structure. If there is no required front yard or if the building is considered to be legal nonconforming with regard to required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

(iii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

§ 157.209 R3, Multiple Family Residential

(A) Purpose

The Multiple Family Residential District is intended to create areas for high density multiple family residential uses, as well as single and two-family dwelling units and other compatible or essential nonresidential uses, while also allowing for certain compatible professional office and commercial uses if first approved by the Board of Zoning Appeals (see §157.404). Multiple family complexes shall require the review and approval of a development plan (see §157.304).

(B) Permitted Uses

The following uses are permitted in an R3 District:

(1) all uses permitted in the R2 District
(2) assisted living facility;
(3) fraternity or sorority house;
(4) funeral home (excluding crematorium);
(5) multiple family dwelling;
(6) multiple family complex;
(7) off-site campus housing; and
(8) retirement facility.

(C) Special Uses

(1) Bed and breakfast establishments.

(2) Class II child care homes.

(3) Commercial communication towers, provided the Board finds the request to be in conformance with the following standards and requirements:

(a) In addition to meeting the requirements set forth in §157.404(C)(1)(b) the Board shall also find the following as a part of its approval:

(i) The proposed communications tower is reasonably necessary to serve the adjacent or nearby area; and

(ii) The applicant is unable to locate or co-locate on an existing structure.

(b) New communication towers approved by the Board of Zoning Appeals shall conform to the following development standards:

(i) The tower structure shall not exceed 150 feet in height,

(ii) The tower color shall be galvanized metal or similarly gray tone;

(iii) Guyed and self supporting lattice towers shall not be permitted;

(iv) The use of stealth technology shall be encouraged; and

(v) The setback requirement for towers shall be as follows. Setbacks shall be measured from the base of the town to the applicable property lines.

SETBACK REQUIREMENTS FOR TOWERS	
Front yard (including through lots)	75% of tower structure height
Side yard – interior lot line	50% of tower structure height
Side yard – street frontage side of corner lot	75% of tower structure height
Rear yard	50% of tower structure height

(c) A special use shall not be required for the location or co-location of antennas in any district on existing structures including but not limited to the following:

(i) rooftops of existing commercial, industrial, and institutional structures;

(ii) water towers;

(iii) church steeples;

(iv) electrical towers;

(v) communication towers;

(vi) other established utility structures; and

(vi) cabinets and shelters.

Antennae shall be permitted to extend up to 20 feet above the existing structure or up to a total height of 200 feet whichever is less. A Certificate of Compliance shall be obtained for all antennae locations and co-locations.

(4) Community facilities such as a botanical garden/conservatory, library, planetarium, public transportation or similar public facility, museum, zoo, or similar use.

(5) Country clubs; a country club may include related accessory and/or recreational uses such as a golf course.

(6) Funeral homes.

(7) Group residential facilities, provided the Board finds that the use will not be unduly detrimental to the surrounding area because of number of residents, noise, vehicle traffic, parking, signage, or other similar activity.

(8) Health care facilities, such as a nursing home, public health center, diagnostic or treatment center or similar facility.

(9) Home-based businesses, subject to the following additional requirements (unless waived or modified by the Board):

(a) The business shall only be operated by residents of the dwelling; no outside employees shall be permitted.

(b) The business shall not change the residential character of the structure or immediate area;

(c) The business must be incidental and secondary to the principal use of the dwelling as a residence, and must be conducted entirely within the dwelling or attached garage. No home-based business shall be operated from a detached accessory structure;

(d) The business shall use only normal office equipment, including but not limited to a typewriter, computer, calculator, fax machine, or copier. Equipment noise shall not be permitted to adversely affect adjacent properties;

(e) The business shall not occupy more than 25% of the gross floor area of the dwelling unit, including any space used for storage for the business. All storage related to the business use shall be contained within the dwelling or attached garage;

(f) The business shall not display or create any external evidence of the business, except that a single vehicle, used in conjunction with the business, may be parked outside and may display advertising or a logo. The vehicle shall comply with the restrictions listed in §72.23 of the City Code;

(g) No structural alterations shall be made to the dwelling unit to accommodate the business. No separate entrances or building additions shall be added for the use of the business;

(h) A home-based business shall not be permitted in a multiple family dwelling with three or more dwelling units;

(i) Only one (1) business shall be permitted per dwelling unit, and the Board may approve the business for use by the current resident/applicant only;

(j) There may be a limited number of clients or customers who come to the home; the number may be established by the Board;

(k) Retail sales shall not be permitted on the property; except that as part of its consideration of the request, the Board may permit limited retail sales as an accessory use;

(l) Wall and freestanding signage shall not be permitted in association with the home-based business, and the address of the home may not be used to advertise the business except for advertising such as printed literature or business cards; and

(m) As part of its review of a request for a home based business, the Board may consider any existing plat or deed restrictions limiting the uses of the property included in the request.

(n) Permitted home-based businesses shall include but not be limited to:

(i) Accounting or bookkeeping office;
(ii) Animal grooming;
(iii) Architect, engineer, land surveyor, or other similar office;
(iv) Massage therapy;
(v) One-chair beauty salon, barber shop, nail salon, or similar use;
(vi) Photography studio;
(vii) Psychic reading business;
(viii) Real estate, insurance, law, or similar office;
(ix) Seamstress or tailor; and
(x) Teaching/tutoring, including music lessons.

(o) Prohibited home-based businesses shall include but not be limited to:

(i) Amusement enterprises of any public nature;
(ii) Animal kennel, or pet shop; and
(iii) Production, manufacturing, assembly, or repair of products or components of products.

(10) Home workshops, in addition to meeting the criteria established in §157.404(C)(1)(b), the workshop shall meet the following requirements unless otherwise waived or modified by the Board.

(a) The person operating the home workshop shall be a resident of the premises; no outside employees shall be permitted;

(b) In no case shall a home workshop be allowed in an accessory structure prior to the occupancy of the principal dwelling on the lot, parcel, or tract of land;

(c) The workshop shall not change the residential character of the structure or immediate area;

(d) The workshop must be incidental and secondary to the principal use of the dwelling as a residence, and must be conducted entirely within the dwelling, attached garage, or accessory structure located on the same lot or tract;

(e) The workshop shall use only that equipment appropriate for small scale enterprises. Equipment noise shall not be permitted to adversely affect adjacent properties. As part of the application the applicant shall include a list of any equipment proposed to be used as part of the operation of the home workshop for review and approval by the Board;

(f) The workshop shall not occupy more than 25% of the gross floor area of a single family residence, or 50% of the gross floor area of an accessory structure, including any space used for storage for the workshop. All storage

related to the use of the workshop shall be contained within the dwelling or accessory structure;

(g) The business shall not display or create any external evidence of the business, except that a single vehicle, used in conjunction with the business, may be parked outside, and may display advertising or a logo. The vehicle shall comply with the restrictions listed in §72.23 of the City Code;

(h) No separate entrances or building additions shall be added to the dwelling unit or attached garage for the use of the workshop;

(i) A home workshop shall not be permitted in a two family or multiple family dwelling unit, or in an accessory structure on the same lot or tract as a two family or multiple family dwelling;

(j) Only one (1) home workshop shall be permitted per lot or tract, and the Board may approve the workshop for use by the current resident/applicant only;

(k) There may be a limited number of clients or customers who come to the home; the number may be established by the Board;

(l) Retail sales shall not be permitted on the property; except that as part of its consideration of the request, the Board may permit limited retail sales as an accessory use;

(m) Wall and freestanding signage shall not be permitted in association with the home workshop, and the address of the home may not be used to advertise the workshop except for advertising such as printed literature or business cards; and

(n) As part of its consideration of a request for a home workshop, the Board may consider any existing plat or deed restrictions limiting the uses of the property included in the request.

(o) Permitted home workshops. Permitted home workshops shall include but not be limited to:

(i) Ceramics/pottery making or similar crafts;
(ii) Copy and duplicating service;
(iii) Small electronic equipment repair such as televisions and video cassette recorders; and
(iv) Woodworking.

(p) Prohibited home workshops. Prohibited home workshops shall include but not be limited to:

(i) Amusement enterprises of any public nature;
(ii) Animal grooming, animal kennel, or pet shop;
(iii) Cabinet or furniture making;

(iv) Mechanical or body repair of automotive vehicles, other than routine maintenance and minor repair of personal motor vehicles titled to the occupants of the property; and
(v) Small engine repair.

(11) Household pet breeding (major) operations, as an accessory use to a permitted single family residential use, in accordance with the applicable provisions of chapter 91 of the City Code. Such an operation shall not be permitted in a two family or multiple family dwelling unit. As part of its review and consideration of the request, the Board may request comment and recommendations from the City Department of Animal Control.

(12) Manufactured homes (Type II), provided the Board finds the home is:

(a) Comparable with the existing housing pattern in the immediate area with regard to density and setbacks, and in compliance with the applicable minimum standards and requirements of this chapter; and
(b) Constructed with roofing and siding materials which are similar to the existing homes in the immediate area.

(13) Medical centers or clinics, provided the Board finds the proposed use will be compatible with the neighborhood or area in which it is to be located.

(14) Neighborhood facilities or uses, such as not-for-profit neighborhood educational, recreational, or cultural facilities including, but not limited to a branch YMCA, YWCA, Boys and Girls Club, or Boy Scout or Girl Scout facility, provided the Board finds that it will be compatible with the character of the neighborhood or area in which it is to be located. However, the dispensing of alcoholic beverages on the premises shall be permitted.

(15) Nonprofit private clubs such as an American Legion hall or similar fraternal organization; however, if the operation of the club includes serving alcoholic beverages, the owner/operator must obtain all required state alcoholic beverage permits and any proposed new facility shall conform with minimum separation requirement from a church or school, as set forth in IC 7.1-3-21-11 (as may be amended).

(16) Outdoor recreational uses such as softball/baseball diamonds and/or soccer fields, golf driving range, or similar private outdoor recreational uses, as a principal use of the property.

(17) Parking areas (public or employee), with the exception of off-site parking areas as permitted in 157.104. Parking areas may be permitted by the Board when used to meet on-site parking standards set forth in §157.313, as an accessory use to a conforming or legal nonconforming use and located within 500 feet of the primary use or structure.

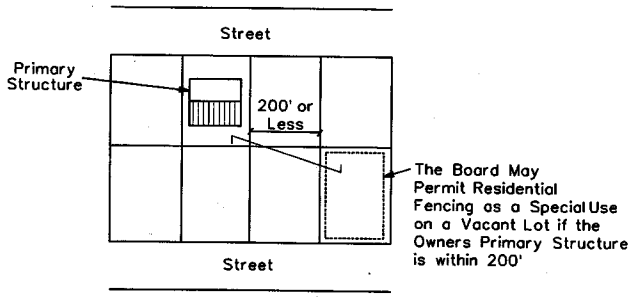
(18) Private recreation facility such as a tennis/racquet club, indoor ice skating facility, swim club or fitness center. This use does not include recreational uses such as athletic fields, baseball/softball diamonds, batting cages, miniature golf courses, golf driving ranges and similar uses.

(19) Professional offices and personal services may be permitted. This use shall include services as described below, where the service is proposed to be provided from a location which is not the primary residence of the person(s) providing the service. It shall also include services which are operated in a way which prevents their being classified as a home occupation or home-based business. It is intended that the Board only consider professional offices, personal services, and similar low intensity nonresidential uses under this division. The Board may approve the business for the current resident/applicant only. Permitted offices and services shall include, but not be limited to:

(a) Adoption agency;
(b) Advertising office;
(c) Architect, engineer, land surveyor, or similar office;
(d) Artist studio or school;
(e) Bank, credit union, or savings and loan association;
(f) Barber shop;
(g) Beauty salon;
(h) Child and/or adult care center;
(i) Consulting service;
(j) Counseling service;
(k) Dance studio or school;
(l) Dentist office;
(m) Doctor office;
(n) Finance office;
(o) Insurance office;
(p) Interior designer office;
(q) Law office;
(r) Loan office;
(s) Massage therapy establishment;
(t) Medical related services;
(u) Nail salon;
(v) Optician or optometrist office;
(w) Professional or commercial office not otherwise listed;
(x) Real estate, broker, or appraiser office;
(y) Stockbroker office; and
(z) Tanning salon.

(20) Residential fencing may be permitted as the principal use of a residential lot or tract. The fencing shall be located within 200 feet of the lot or tract where the owner's primary structure is located. As part of its review of the request, the Board may also consider:

(a) The height, location, and materials of the proposed fencing;
(b) The location of structures on adjacent lots; and
(c) Granting a waiver of the required front yard setback.



Residential Fencing On A Vacant Lot

(21) Telephone switching buildings or other similar structures.

(D) Accessory Structures and Uses

(1) Purpose

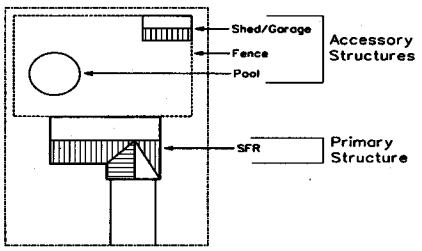
The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar residential and nonresidential facilities.

(2) Permitted Accessory Structures

The following accessory structures shall be permitted, provided the structure meets the definitions in §157.410 and complies with setback, height, lot coverage, location and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools over a depth of 24 inches and 250 square feet in size (see §157.209(D)(3)(c) for fencing standards);
(b) Any other accessory structure which is placed on a permanent foundation;
(c) Arbors, trellises, or similar construction;
(d) Attached and detached decks or similar construction;
(e) Attached and detached residential garages. The square footage of a garage and all other similar accessory storage structures shall not exceed the ground floor square footage of the primary building for a one-story structure and 1.5 times the ground floor square footage for a structure over one-story in height. In either case, the square footage of any attached garage or attached accessory structure shall be excluded from the ground floor square footage total;
(f) Fences and walls;
(g) Freestanding satellite dishes, amateur radio towers, and television aerials;
(h) Garbage dumpsters associated with multiple family uses;
(i) Gazebos;
(j) Storage sheds (see limitation on square footage noted in (e) above) however, portable storage containers shall not be permitted;

See §157.407(A) for Improvement Location Permit requirements.



Accessory and Primary Structures

(3) Fence and Wall Standards

(a) Purpose

The purpose of this section is to provide standards for the placement and erection of fences, walls, hedges and similar construction or elements for the conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with neighborhood character.

(b) Materials and Maintenance

(i) Permitted materials

All fences shall be constructed of customarily used materials such as chain link, split rail, split rail with welded wire mesh, masonry, wrought iron, wood, polyvinylchoride (PVC), or similar fencing material. The use of materials such as corrugated or sheet metal, chicken wire, woven wire, welded wire mesh as a primary material, temporary construction fencing, snow fencing or other similar materials shall not be permitted for permanent fencing.

(ii) Prohibited materials

In residential and commercial districts, or areas abutting residential or commercial districts, a fence or wall may not be designed to cause pain or injury to humans or animals. This includes the use of spikes, broken glass, barbed wire, razor wire, nails, electric charge or similar materials. For the purposes of this provision, "abutting" shall include any area separated from a residential or commercial district by an alley right-of-way.

(iii) Construction and Maintenance

Fences and walls shall be constructed in a sound and sturdy manner, according to standard construction practices, and shall be maintained in a good state of repair, including the replacement of defective parts, painting, and other acts required for maintenance.

(c) Swimming Pool Fencing (residential)

Any pool which meets the definition set forth in §157.410 of this chapter shall comply with the residential swimming pool safety feature requirements set forth in 675 IAC 20-4-27(c) (as may be amended). In accordance with and to supplement this section access to a pool must be restricted by one of the following:

(i) A wall or fence not less than five (5) feet in height which completely surrounds the pool and deck area with the exception of self-closing and latching gates and doors both capable of being locked; or

(ii) A rigid power safety pool cover which meets the requirements set forth in 675 IAC 20-4-27(c)(4); all automatic pool covers shall be kept operable and in good working order; such pool covers shall not be operated in ways that create safety or access hazards, such as being permitted to be left open for extended periods of time, or to accumulate large amounts of water on top of the cover; or

(iii) For above ground swimming pools other structural methods not less than five (5) feet in height may be permitted if determined to provide adequate safety by the Planning staff.

(d) Exceptions to Standards

(i) If a fence or other screening is required to comply with the provisions of the parking lot improvement section, the provisions of that section shall supersede this section, except for the corner visibility provisions in division (F)(3) below.

(ii) A hedge or retaining wall not exceeding three (3) feet in height above the grade of the adjacent sidewalk or ground, may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in division (F)(3) below.

(iii) An ornamental fence, as defined herein, not exceeding three (3) feet in height or 100 total lineal feet may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in division (F)(3) below.

(e) Waiver of Standards

As part of its review of a proposed primary plat or development plan, the Plan Commission may waive or modify the requirements of this section.

(4) Permitted Accessory Uses

The following residential accessory uses shall be permitted provided the uses meet the definitions in §157.410 and comply with applicable location, setback, and height restrictions:

(a) Play equipment;
(b) Play houses;

(c) Ponds and similar water features;
(d) Similar residential accessory uses;
(e) Slab on grade patios; and
(f) Swing sets.

An improvement location permit is not required for the accessory uses listed above.

(5) Outdoor Display

Outdoor display as defined in §157.410 shall be prohibited except for yard and garage sales. Yard, garage, and similar sales on residential properties may be held up to three (3) times in a calendar year, for up to three (3) days per sale.

(6) Outdoor Storage

In any residential district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, and other standards and limitations set forth in this chapter. The outdoor storage of the following materials shall be prohibited:

(a) Automobile or machinery equipment or parts including automobile/motor vehicle tires;
(b) Building construction materials except in conjunction with a permitted ongoing construction project;
(c) Home appliances and fixtures such refrigerators, stoves, and sinks;
(d) Indoor furniture;
(e) Scrap metal, wood and similar materials;
(f) Shelving, racks or similar structures; and
(g) Inoperable, wrecked or dismantled automobiles.

(7) Parking and Vehicle Storage

(a) Operable automobiles, vans and motorcycles shall be permitted to be parked in residential districts in a driveway, street, or alley only.

(b) Operable recreational vehicles, campers, boats, small (one-ton, panel or pickup) trucks, and pull trailers up to 32 square feet in size shall be permitted to be parked in residential districts in a driveway only;

(c) The following vehicles shall be prohibited to be parked or otherwise stored in residential districts:

(i) Inoperable automobiles, motorcycles, vans, recreational vehicles, campers, boats, small (one-ton, panel or pickup) trucks or other similar vehicles parked or stored outdoors;
(ii Semi-trucks;
(iii) Semi trailers;
(iv) Agricultural or other tractors unless used in conjunction with a permitted agricultural use;
(v) Pull trailers over 32 square feet in size;

(vi) School, church or similar buses;
(vii) Large pick up or panel trucks (over one ton); and
(viii) Other large commercial vehicles, tractors or trailers not otherwise listed.

(E) Temporary Structures and Uses

(1) Temporary Accessory Structures

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use, subject to the following requirements:

(a) The temporary use shall only be permitted for a period of up to two years;

(b) The temporary use must meet the requirements outlined in §157.209(D)(2) for accessory structures;

(c) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit; and

(d) This subsection shall not apply mobile food service units, tents or similar structures.

(2) Temporary Special Events

Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(3) Temporary structures and uses in conjunction with approved construction and other development projects

(a) Construction trailers shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall not be required; however, trailers shall be located in conformance with visibility standards set forth in 157.209(F)(3).

(b) Temporary sales/leasing trailer shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall be required. If the trailer contains water and/or sewer, it shall be required to be reviewed and approved through the Site Plan Review process.

(c) A model home within an approved residential subdivision may be used as a temporary sales office for that subdivision for a period of up to 2 years unless otherwise extended by the Plan Commission.

(F) Development Standards

(1) Building Size

(a) Building Size Standards

No primary residential building or structure shall be erected, altered, enlarged or reconstructed for residential purposes having a gross square footage, exclusive of terraces, breezeways, unenclosed porches and garages, of less than 950 square feet.

(b) Exceptions to Building Size Standards

(i) Existing structures which do not meet the minimum residential building size requirements may continue to be used, and may be enlarged, added to, maintained, and repaired in accordance with the provisions of this chapter.

(ii) For buildings with three (3) or more units the minimum square footage per unit may be reduced to 350 square feet of gross square footage provided that a minimum of 50 square feet per unit is provided as common area exclusive of laundry facilities, restroom facilities, office area, storage area and hallways.

(2) Number of Buildings on a Lot

Only one primary residential structure shall be permitted on any lot, tract, or development parcel, except as provided below:

(a) As part of its review of a primary development plan, the Plan Commission may permit multiple primary residential structures on a lot, tract, or development parcel; and

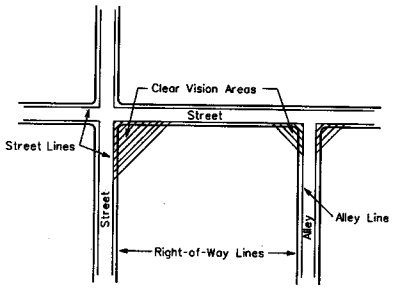
(b) In the case of multiple family complexes or similar developments, multiple primary residential structures may be permitted.

(3) Corner Visibility and Other Visibility Standards

(a) No structure, fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No structure, fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner

which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less that three (3) feet from the side property line which abuts a public right-of-way.

(4) Height

(a) Height Limitations

No building or structure shall be erected, altered, enlarged or reconstructed to exceed: 30 feet, if the lot width is under 100 feet, or 35 feet, if the lot width is 100 feet or more, except that the maximum height for residential accessory structures shall be 25 feet, and the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section:

(i) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols;

(ii) Parapet or fire walls;

(iii) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and

(iv) Roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

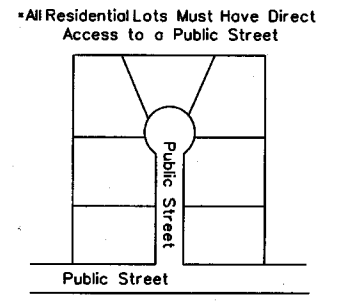
(5) Lot Area and Width

(a) Lot Area Standards

All new residential lots shall be a minimum of 6,000 square feet.

(b) Lot Width Standards

All new residential lots shall be a minimum of 50 feet in width at the front building line. All residential lots, tracts, or development parcels shall have direct access to an improved public street as defined in the Zoning Ordinance for purposes of vehicular traffic, off-street parking, utilities and other services such as mail delivery, garbage collection, fire and emergency units. The width of such frontage shall be uniform and be no less than the established minimum building line width. Other residential access provisions shall be allowed as established by the Commission's rules.



Direct Access To Public Streets

(c) Exceptions to Lot Area and Width Standards

(i) For attached single family lots, tracts, or development parcels the minimum lot width at the building line may be a minimum of 40 feet and have a minimum lot area of 4800 square feet.

(ii) For residential cul-de-sac lots, tracts, or development parcels (those having a majority of frontage on a cul-de-sac) the minimum lot width at the building line may be 40 feet.

(iii) For flag lots, tracts, or development parcels, the access frontage may be a minimum of 24 feet wide, however the lot width at the building line shall be as established in this section.

(iv) Lots established by legally recorded plat or otherwise legally established as of March 1, 1955 which do not meet the minimum size requirements established by this section may still be used for any use permitted within

the district in which the lot is located. However, all proposed structures shall meet the minimum setback and yard requirements.

(v) As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may modify the minimum lot width and size requirements, at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(6) Lot Coverage

The ground floor area of residential buildings or structures, including accessory buildings or structures, shall not be erected, altered, enlarged or reconstructed to exceed maximum lot coverage of 35% of the lot area or 2,000 square feet, whichever is greater. The area of open porches, decks, swimming pools, patios, satellite dishes, or similar structures and construction shall not be included in the calculation of lot coverage.

(7) Yard Requirements

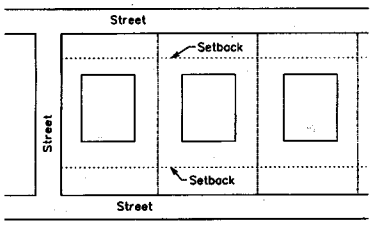
No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located (including maximum yard requirements where applicable), except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be a front yard for each lot, tract, or development parcel; the minimum depth shall be 25 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located. One of those required front yards may serve as a required rear yard for the purposes of locating residential accessory structures and fencing, provided that the lot complies with the restrictions in § 157.209(D)(3)(c) and §157.209(b)(iii).



Through Lot Front Setback Requirement

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;
(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Platted Front Yard Building Lines

In the event of existing platted front building lines which impose a residential front yard setback requirement which is greater than the minimum setback established by this chapter, a Zoning Enforcement Officer shall require that the larger setback requirement be met, except in nonconforming situations as set forth in division (2) above.

(iv) Plat and Development Plan Front Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(v) Residential accessory uses

Residential accessory uses shall be located between the rear of the primary structure and the rear lot line. However, slab on grade patios may be permitted in a required front or side yard, subject to the limitations in division (d) below.

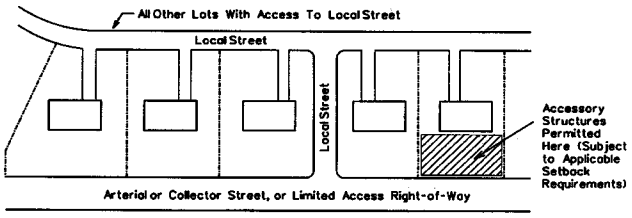
(vi) Residential accessory structures on through lots

Accessory structures shall be permitted in the required front yard which functions as the rear yard for the lot, subject to the location restrictions listed in (b)(iii) below, in the following circumstances:

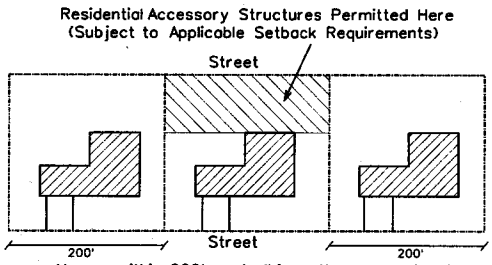
(1) If the through lot has a frontage on a street which is classified as an arterial or collector street, and none of the other through lots in that area has access to the arterial or collector street such that those front yards abutting the arterial or collector functions as the rear yard for those lots; or

(2) If the through lot has frontage on a street which has been declared or purchased as "limited access" right-of-way by the State of Indiana,

such that those front yards abutting the limited access right-of-way functions as the rear yard for those lots; or



Residential Accessory Structures On Through Lots



Permitted Through Lot Residential Accessory Structure Locations

(3) If the through lot is adjacent to other through lots and all of the homes on the adjacent through lots for a distance of 200 feet from the property lines of the through lot face the same street, such that the front yards abutting that street functions at the rear yard for those lots.

(vii) Residential outdoor storage.

In any residential district, outdoor storage shall be prohibited in the required front yard.

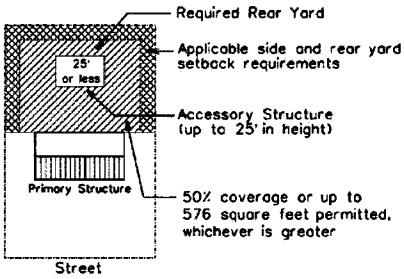
(b) Rear Yard Requirements

(i) Required Rear Yard

There shall be a rear yard for each lot, tract or development parcel; for residential uses, the minimum rear yard shall be 20% of the lot depth or 25 feet, whichever is less; for nonresidential uses, the minimum rear yard shall be 20% of the lot depth or 25 feet (subject to the provisions and exceptions noted in this division).

(ii) Residential accessory structures in the required rear yard

Residential accessory structures not exceeding 25 feet in height are permitted in a required rear yard. The structure(s) may occupy up to 50% of the area of the required rear yard or be up to 576 square feet in size, whichever is greater.

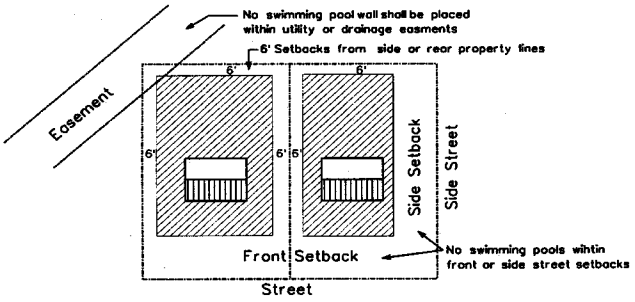


Residential Accessory Structure Rear Yard Coverage Limitation

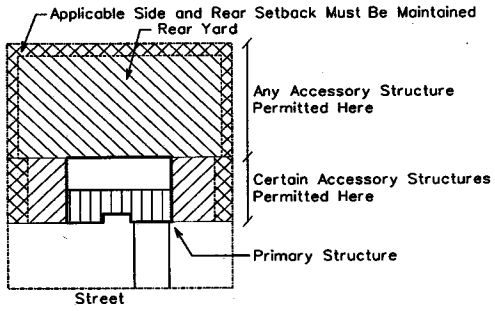
(iii) Yard requirements for accessory structures and uses

Yard requirements for accessory structures and uses are located in the following table. Except for fencing, no new accessory structures shall be located within a utility or surface drainage easement. For additional information regarding residential and nonresidential accessory structures and uses see §157.209(D)(2). See §157.209(D)(3) for yard requirements for fences and walls, and for swimming pool fencing requirements.

YARD REQUIREMENTS FOR RESIDENTIAL ACCESSORY STRUCTURES AND USES		
	Side yard	**Rear yard**
All accessory structures (except for swimming pools) located entirely between the rear of the primary structure and the rear lot line	3'	3'
Detached garages, storage sheds, decks, arbors, residential satellite dishes over one (1) meter in diameter, or other similar structures entirely or partially located beside the primary structure (between the front of the primary structure and the rear lot line)	Same setback as the primary structure	3'
Swimming pools (above or below ground)	6'	6'



Swimming Pool Setback Requirements



Residential Accessory Structure Permitted Locations

(iv) Exception to accessory structure yard requirements

A satellite dish is permitted as a residential accessory structure subject to the location restrictions noted in division (b)(iii) below. However, a residential satellite dish, which is less than one (1) meter in diameter, may be located as necessary to allow unimpaired reception. A Zoning Enforcement Officer may require adequate documentation in conjunction with a request to locate a residential satellite dish, to show that alternative locations would not allow for unimpaired reception. This exclusion shall not apply in cases involving historic structures, or properties located in local historic districts. The intent of this provision is to allow reasonable accommodation for unimpaired residential satellite dish reception, while at the same time protecting the health, safety, aesthetic quality, and historic character of the City.

(v) Plat and development plan rear yard waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(c) Side Yard Requirements

(i) Required Side Yard

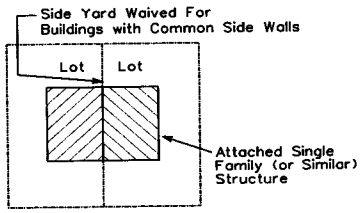
There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be as listed in the following table (subject to the provisions and exceptions noted in this division).

RESIDENTIAL SIDE YARD REQUIREMENTS		
Lot Type	**Lot Width**	**Required Side Yard**
Corner	Up to and including 50′	5′
	Greater than 50′ up to and including 60′	5′ interior 15′ side street
	Greater than 60′ up to and including 100′	7′ interior 20′ side street
	Over 100′	10′ interior 25′ side street
Interior	Up to and including 50′	5′
	Greater than 50′ up to and including 60′	5′ interior 15′ side street
	Greater than 60′ up to and including 100′	7′ interior 20′ side street
	Over 100′	10′ interior 25′ side street

NONRESIDENTIAL SIDE YARD REQUIREMENTS		
Lot Type	**Lot Width**	**Required Side Yard**
Corner	All lots	10′ or as established by the Board/Plan Commission
Interior	All lots	10′ or as established by the Board/Plan Commission

(ii) Side yards waived for dwellings with common walls

Dwellings with common walls on a lot line(including single family attached residences, duplexes, and triplexes) shall be considered as one building occupying one lot for the purpose of determining side yard setback requirements.



Side Yard Waived

(iii) Waiver of side yard requirements for additions to nonconforming nonresidential structures

The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of the the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

(iv) Plat and development plan side yard waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

(v) Previously approved nonconforming plats

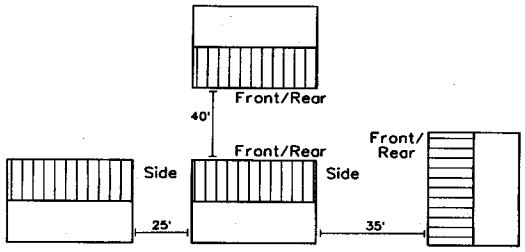
Any lot established by a legally recorded plat between the dates of March 1, 1955 and March 2, 1998 with a side yard requirement established by the City of Fort Wayne Plan Commission or the Allen County Plan Commission which is less than these requirements, shall be permitted to be developed for single family residential use. Also, any existing single family residential structure may be enlarged in accordance with the previously established side yard requirements. A Zoning Enforcement Officer may require the applicant or owner to submit adequate documentation verifying the status of the plat and/or involved structure.

(d) Building separation requirements for multiple family and townhouse complexes.

(i) No building in a multiple family complex shall be located closer than 25 feet to any property line in the case of a one-story building, or closer than 30 feet to any property line in the case of a building over one-story in height.

(ii) No building in a multiple family complex shall be located closer to other buildings in the complex than specified in the table below.

MULTIPLE FAMILY COMPLEX INTERNAL BUILDING SEPARATION REQUIREMENTS	
Situation of building	**Minimum building separation**
From the front or rear of a building, to the front or rear of an adjacent building	40′
From the front or rear of a building, to the side of an adjacent building	35′
From the side of a building to the side of an adjacent building	25′



Multiple Family Complex Internal Building Separation Requirements

(iii) No building in a townhouse complex shall be located any closer than 10 feet from the side or rear of another townhouse building.

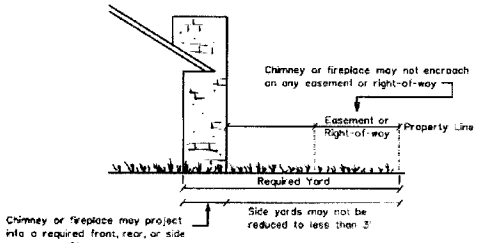
(iv) No building in a townhouse complex shall be located any closer than 20 feet from the front or rear of another townhouse building.

(v) As part of its review and approval of a primary development plan for a multiple family or townhouse complex, the Plan Commission may waive or modify the minimum setback and building separation requirements.

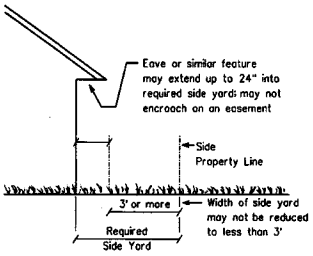
(e) Yard Projections

The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

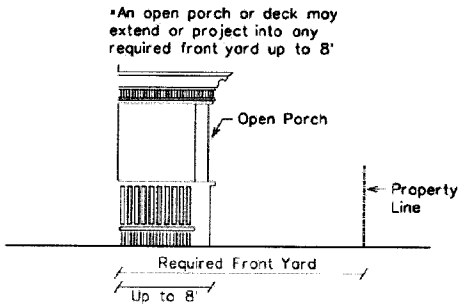
YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections
(Chimneys and Fireploces)



Permitted Yard Projections
(Eave in Side Yard)



Permitted Yard Projections
(Porch or Deck into Front Yard)

(f) Exceptions to Yard Requirements

(i) Residential Fences

Except as provided below, a fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard. The fence or wall shall not be located any closer to the public right-of-way than the leading edge of the foundation of a legally established primary structure or the required front yard setback, whichever is less. This shall include the closest point on an open or enclosed porch, if the porch is constructed on a foundation similar to the foundation of the house.

(ii) Commercial, Industrial, and Other Nonresidential Fences

A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard on a property with an existing primary structure. If there is no required front yard or if the building is considered to be legal nonconforming with regard to required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

(iii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

§ 157.210 RP, Planned Residential

(A) Purpose

The Planned Residential District is intended to create areas for mixed residential uses. The purpose of this district is to permit residential and other compatible or essential nonresidential uses while also allowing for certain compatible professional office and commercial uses if first approved by the Board of Zoning Appeals (see §157.404). Multiple family dwellings and multiple family complexes shall require the review and approval of a development plan (see §157.304).

(B) Permitted Uses

The following uses are permitted in an RP District:

(1) accessory building, structure, or use;
(2) assisted living facility;
(3) attached single family dwelling;
(4) churches, synagogues, and other religious buildings and facilities used for religious assembly;
(5) day care (adult or child), class I child care home, adult care home;
(6) home occupation;
(7) multiple family complex;
(8) multiple family dwelling;
(9) off-site campus housing;
(10) off-site parking areas for: churches, synagogues, and other religious buildings and facilities used for religious assembly; and public, parochial, or private preschools, elementary, junior, middle, and/or senior high schools; if located within 500 feet of the primary use (as measured between closest property lines);
(11) police station, fire station, or similar public use;
(12) public park or recreation area, including accessory uses and structures;
(13) public, parochial, or private elementary, junior, or senior high schools;
(14) residential condominium development;
(15) residential facility for the developmentally disabled;
(16) residential facility for the mentally ill, provided that the facility shall not be located within 1000 feet of another residential facility for the mentally ill, as measured between lot lines;
(17) retirement facility;
(18) single family detached dwelling, including Type I manufactured home; and
(19) two family dwelling.

(C) Special Uses

(1) Bed and breakfast establishments.

(2) Class II child care homes.

(3) Commercial communication towers, provided the Board finds the request to be in conformance with the following standards and requirements:

(a) In addition to meeting the requirements set forth in §157.404(C)(1)(b) the Board shall also find the following as a part of its approval:

(i) The proposed communications tower is reasonably necessary to serve the adjacent or nearby area; and

(ii) The applicant is unable to locate or co-locate on an existing structure.

(b) New communication towers approved by the Board of Zoning Appeals shall conform to the following development standards:

(i) The tower structure shall not exceed 150 feet in height,

(ii) The tower color shall be galvanized metal or similarly gray tone;

(iii) Guyed and self supporting lattice towers shall not be permitted;

(iv) The use of stealth technology shall be encouraged; and

(v) The setback requirement for towers shall be as follows. Setbacks shall be measured from the base of the town to the applicable property lines.

SETBACK REQUIREMENTS FOR TOWERS	
Front yard (including through lots)	75% of tower structure height
Side yard – interior lot line	50% of tower structure height
Side yard – street frontage side of corner lot	75% of tower structure height
Rear yard	50% of tower structure height

(c) A special use shall not be required for the location or co-location of antennas in any district on existing structures including but not limited to the following:

(i) rooftops of existing commercial, industrial, and institutional structures;

(ii) water towers;

(iii) church steeples;

(iv) electrical towers;

(v) communication towers;

(vi) other established utility structures; and

(vi) cabinets and shelters.

Antennae shall be permitted to extend up to 20 feet above the existing structure or up to a total height of 200 feet whichever is less. A Certificate of Compliance shall be obtained for all antennae locations and co-locations.

(4) Community facilities such as a botanical garden/conservatory, library, planetarium, public transportation or similar public facility, museum, zoo, or similar use.

(5) Country clubs; a country club may include related accessory and/or recreational uses such as a golf course.

(6) Funeral homes.

(7) Group residential facilities, provided the Board finds that the use will not be unduly detrimental to the surrounding area because of number of residents, noise, vehicle traffic, parking, signage, or other similar activity.

(8) Health care facilities, such as a nursing home, public health center, diagnostic or treatment center or similar facility.

(9) Home-based businesses, subject to the following additional requirements (unless waived or modified by the Board):

(a) The business shall only be operated by residents of the dwelling; no outside employees shall be permitted.

(b) The business shall not change the residential character of the structure or immediate area;

(c) The business must be incidental and secondary to the principal use of the dwelling as a residence, and must be conducted entirely within the dwelling or attached garage. No home-based business shall be operated from a detached accessory structure;

(d) The business shall use only normal office equipment, including but not limited to a typewriter, computer, calculator, fax machine, or copier. Equipment noise shall not be permitted to adversely affect adjacent properties;

(e) The business shall not occupy more than 25% of the gross floor area of the dwelling unit, including any space used for storage for the business. All storage related to the business use shall be contained within the dwelling or attached garage;

(f) The business shall not display or create any external evidence of the business, except that a single vehicle, used in conjunction with the business, may be parked outside and may display advertising or a logo. The vehicle shall comply with the restrictions listed in §72.23 of the City Code;

(g) No structural alterations shall be made to the dwelling unit to accommodate the business. No separate entrances or building additions shall be added for the use of the business;

(h) A home-based business shall not be permitted in a multiple family dwelling with three or more dwelling units;

(i) Only one (1) business shall be permitted per dwelling unit, and the Board may approve the business for use by the current resident/applicant only;

(j) There may be a limited number of clients or customers who come to the home; the number may be established by the Board;

(k) Retail sales shall not be permitted on the property; except that as part of its consideration of the request, the Board may permit limited retail sales as an accessory use;

(l) Wall and freestanding signage shall not be permitted in association with the home-based business, and the address of the home may not be used to advertise the business except for advertising such as printed literature or business cards; and

(m) As part of its review of a request for a home based business, the Board may consider any existing plat or deed restrictions limiting the uses of the property included in the request.

(n) Permitted home-based businesses shall include but not be limited to:

(i) Accounting or bookkeeping office;
(ii) Animal grooming;
(iii) Architect, engineer, land surveyor, or other similar office;
(iv) Massage therapy;
(v) One-chair beauty salon, barber shop, nail salon, or similar use;
(vi) Photography studio;
(vii) Psychic reading business;
(viii) Real estate, insurance, law, or similar office;
(ix) Seamstress or tailor; and
(x) Teaching/tutoring, including music lessons.

(o) Prohibited home-based businesses shall include but not be limited to:

(i) Amusement enterprises of any public nature;
(ii) Animal kennel, or pet shop; and
(iii) Production, manufacturing, assembly, or repair of products or components of products.

(10) Home workshops, in addition to meeting the criteria established in §157.404(C)(1)(b), the workshop shall meet the following requirements unless otherwise waived or modified by the Board.

(a) The person operating the home workshop shall be a resident of the premises; no outside employees shall be permitted;

(b) In no case shall a home workshop be allowed in an accessory structure prior to the occupancy of the principal dwelling on the lot, parcel, or tract of land;

(c) The workshop shall not change the residential character of the structure or immediate area;

(d) The workshop must be incidental and secondary to the principal use of the dwelling as a residence, and must be conducted entirely within the dwelling, attached garage, or accessory structure located on the same lot or tract;

(e) The workshop shall use only that equipment appropriate for small scale enterprises. Equipment noise shall not be permitted to adversely affect adjacent properties. As part of the application the applicant shall include a list of any equipment proposed to be used as part of the operation of the home workshop for review and approval by the Board;

(f) The workshop shall not occupy more than 25% of the gross floor area of a single family residence, or 50% of the gross floor area of an accessory structure, including any space used for storage for the workshop. All storage related to the use of the workshop shall be contained within the dwelling or accessory structure;

(g) The business shall not display or create any external evidence of the business, except that a single vehicle, used in conjunction with the business, may be parked outside, and may display advertising or a logo. The vehicle shall comply with the restrictions listed in §72.23 of the City Code;

(h) No separate entrances or building additions shall be added to the dwelling unit or attached garage for the use of the workshop;

(i) A home workshop shall not be permitted in a two family or multiple family dwelling unit, or in an accessory structure on the same lot or tract as a two family or multiple family dwelling;

(j) Only one (1) home workshop shall be permitted per lot or tract, and the Board may approve the workshop for use by the current resident/applicant only;

(k) There may be a limited number of clients or customers who come to the home; the number may be established by the Board;

(l) Retail sales shall not be permitted on the property; except that as part of its consideration of the request, the Board may permit limited retail sales as an accessory use;

(m) Wall and freestanding signage shall not be permitted in association with the home workshop, and the address of the home may not be used to advertise the workshop except for advertising such as printed literature or business cards; and

(n) As part of its consideration of a request for a home workshop, the Board may consider any existing plat or deed restrictions limiting the uses of the property included in the request.

(o) Permitted home workshops. Permitted home workshops shall include but not be limited to:

(i) Ceramics/pottery making or similar crafts;
(ii) Copy and duplicating service;
(iii) Small electronic equipment repair such as televisions and video cassette recorders; and
(iv) Woodworking.

(p) Prohibited home workshops. Prohibited home workshops shall include but not be limited to:

(i) Amusement enterprises of any public nature;
(ii) Animal grooming, animal kennel, or pet shop;
(iii) Cabinet or furniture making;
(iv) Mechanical or body repair of automotive vehicles, other than routine maintenance and minor repair of personal motor vehicles titled to the occupants of the property; and
(v) Small engine repair.

(11) Household pet breeding (major) operations, as an accessory use to a permitted single family residential use, in accordance with the applicable provisions of chapter 91 of the City Code. Such an operation shall not be permitted in a two family or multiple family dwelling unit. As part of its review and consideration of the request, the Board may request comment and recommendations from the City Department of Animal Control.

(12) Manufactured homes (Type II), provided the Board finds the home is:

(a) Comparable with the existing housing pattern in the immediate area with regard to density and setbacks, and in compliance with the applicable minimum standards and requirements of this chapter; and
(b) Constructed with roofing and siding materials which are similar to the existing homes in the immediate area.

(13) Medical centers or clinics, provided the Board finds the proposed use will be compatible with the neighborhood or area in which it is to be located.

(14) Neighborhood facilities or uses, such as not-for-profit neighborhood educational, recreational, or cultural facilities including, but not limited to a branch YMCA, YWCA, Boys and Girls Club, or Boy Scout or Girl Scout facility, provided the Board finds that it will be compatible with the character of the neighborhood or area in which it is to be located. However, the dispensing of alcoholic beverages on the premises shall be permitted.

(15) Nonprofit private clubs such as an American Legion hall or similar fraternal organization; however, if the operation of the club includes serving alcoholic beverages, the owner/operator must obtain all required state alcoholic beverage permits and any proposed new facility shall conform with minimum separation requirement from a church or school, as set forth in IC 7.1-3-21-11 (as may be amended).

(16) Outdoor recreational uses such as softball/baseball diamonds and/or soccer fields, golf driving range, or similar private outdoor recreational uses, as a principal use of the property, may be permitted.

(17) Parking areas (public or employee), with the exception of off-site parking areas as permitted in 157.104. Parking areas may be permitted by the Board when used to meet on-site parking standards set forth in §157.313, as an accessory use to a conforming or legal nonconforming use and located within 500 feet of the primary use or structure.

(18) Private recreation facility such as a tennis/racquet club, indoor ice skating facility, swim club or fitness center. This use does not include recreational uses such as athletic fields, baseball/softball diamonds, batting cages, miniature golf courses, golf driving ranges and similar uses.

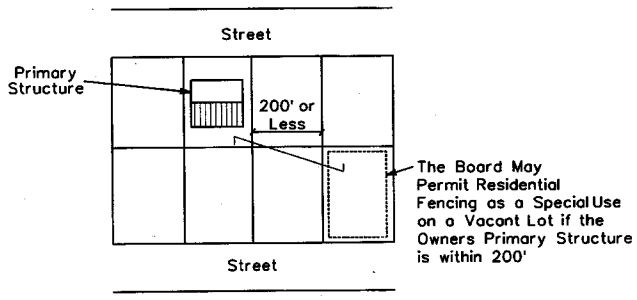
(19) Professional offices and personal services may be permitted. This use shall include services as described below, where the service is proposed to be provided from a location which is not the primary residence of the person(s) providing the service. It shall also include services which are operated in a way which prevents their being classified as a home occupation or home-based business. It is intended that the Board only consider professional offices, personal services, and similar low intensity nonresidential uses under this division. The Board may approve the business for the current resident/applicant only. Permitted offices and services shall include, but not be limited to:

(a) Adoption agency;
(b) Advertising office;
(c) Architect, engineer, land surveyor, or similar office;
(d) Artist studio or school;
(e) Bank, credit union, or savings and loan association;
(f) Barber shop;
(g) Beauty salon;
(h) Child and/or adult care center;
(i) Consulting service;
(j) Counseling service;
(k) Dance studio or school;
(l) Dentist office;
(m) Doctor office;
(n) Finance office;
(o) Insurance office;
(p) Interior designer office;
(q) Law office;
(r) Loan office;
(s) Massage therapy establishment;

(t) Medical related services;
(u) Nail salon;
(v) Optician or optometrist office;
(w) Professional or commercial office not otherwise listed;
(x) Real estate, broker, or appraiser office;
(y) Stockbroker office; and
(z) Tanning salon.

(20) Residential fencing may be permitted as the principal use of a residential lot or tract. The fencing shall be located within 200 feet of the lot or tract where the owner's primary structure is located. As part of its review of the request, the Board may also consider:

(a) The height, location, and materials of the proposed fencing;
(b) The location of structures on adjacent lots; and
(c) Granting a waiver of the required front yard setback.



Residential Fencing On A Vacant Lot

(21) Telephone switching buildings or other similar structures.

(D) Accessory Structures and Uses

(1) Purpose

The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar residential and nonresidential facilities.

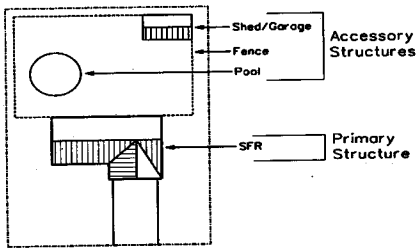
(2) Permitted Accessory Structures

The following accessory structures shall be permitted, provided the structure meets the definitions in §157.410 and complies with setback, height, lot coverage, location and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools over a depth of 24 inches and 250 square feet in size (see §157.210(D)(3)(c) for fencing standards);
(b) Any other accessory structure which is placed on a permanent foundation;
(c) Arbors, trellises, or similar construction;

(d) Attached and detached decks or similar construction;
(e) Attached and detached residential garages. The square footage of a garage and all other similar accessory storage structures shall not exceed the ground floor square footage of the primary building for a one-story structure and 1.5 times the ground floor square footage for a structure over one-story in height. In either case, the square footage of any attached garage or attached accessory structure shall be excluded from the ground floor square footage total;
(f) Fences and walls;
(g) Freestanding satellite dishes, amateur radio towers, and television aerials;
(h) Garbage dumpsters associated with multiple family uses;
(i) Gazebos;
(j) Storage sheds (see limitation on square footage noted in (e) above) however, portable storage containers shall not be permitted;

See §157.407(A) for Improvement Location Permit requirements.



Accessory and Primary Structures

(3) Fence and Wall Standards

(a) Purpose

The purpose of this section is to provide standards for the placement and erection of fences, walls, hedges and similar construction or elements for the conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with neighborhood character.

(b) Materials and Maintenance

(i) Permitted materials

All fences shall be constructed of customarily used materials such as chain link, split rail, split rail with welded wire mesh, masonry, wrought iron, wood, polyvinylchoride (PVC), or similar fencing material. The use of materials such as corrugated or sheet metal, chicken wire, woven wire, welded wire mesh as a primary material, temporary construction fencing, snow fencing or other similar materials shall not be permitted for permanent fencing.

(ii) Prohibited materials

In residential and commercial districts, or areas abutting residential or commercial districts, a fence or wall may not be designed to cause pain or injury to humans or animals. This includes the use of spikes, broken glass, barbed wire, razor wire, nails, electric charge or similar materials. For the purposes of this provision, "abutting" shall include any area separated from a residential or commercial district by an alley right-of-way.

(iii) Construction and Maintenance

Fences and walls shall be constructed in a sound and sturdy manner, according to standard construction practices, and shall be maintained in a good state of repair, including the replacement of defective parts, painting, and other acts required for maintenance.

(c) Swimming Pool Fencing (residential)

Any pool which meets the definition set forth in §157.410 of this chapter shall comply with the residential swimming pool safety feature requirements set forth in 675 IAC 20-4-27(c) (as may be amended). In accordance with and to supplement this section access to a pool must be restricted by one of the following:

(i) A wall or fence not less than five (5) feet in height which completely surrounds the pool and deck area with the exception of self-closing and latching gates and doors both capable of being locked; or

(ii) A rigid power safety pool cover which meets the requirements set forth in 675 IAC 20-4-27(c)(4); all automatic pool covers shall be kept operable and in good working order; such pool covers shall not be operated in ways that create safety or access hazards, such as being permitted to be left open for extended periods of time, or to accumulate large amounts of water on top of the cover; or

(iii) For above ground swimming pools other structural methods not less than five (5) feet in height may be permitted if determined to provide adequate safety by the Planning staff.

(d) Exceptions to Standards

(i) If a fence or other screening is required to comply with the provisions of the parking lot improvement section, the provisions of that section shall supersede this section, except for the corner visibility provisions in division (F)(3) below.

(ii) A hedge or retaining wall not exceeding three (3) feet in height above the grade of the adjacent sidewalk or ground, may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in division (F)(3) below.

(iii) An ornamental fence, as defined herein, not exceeding three (3) feet in height or 100 total lineal feet may be located in the required front yard with

no minimum setback, subject to the corner visibility provisions in division (F)(3) below.

(e) Waiver of Standards

As part of its review of a proposed primary plat or development plan, the Plan Commission may waive or modify the requirements of this section.

(4) Permitted Accessory Uses

The following residential accessory uses shall be permitted provided the uses meet the definitions in §157.410 and comply with applicable location, setback, and height restrictions:

(a) Play equipment;
(b) Play houses;
(c) Ponds and similar water features;
(d) Similar residential accessory uses;
(e) Slab on grade patios; and
(f) Swing sets.

An improvement location permit is not required for the accessory uses listed above.

(5) Outdoor Display

Outdoor display as defined in §157.410 shall be prohibited except for yard and garage sales. Yard, garage, and similar sales on residential properties may be held up to three (3) times in a calendar year, for up to three (3) days per sale.

(6) Outdoor Storage

In any residential district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, and other standards and limitations set forth in this chapter. The outdoor storage of the following materials shall be prohibited:

(a) Automobile or machinery equipment or parts including automobile/motor vehicle tires;
(b) Building construction materials except in conjunction with a permitted ongoing construction project;
(c) Home appliances and fixtures such refrigerators, stoves, and sinks;
(d) Indoor furniture;
(e) Scrap metal, wood and similar materials;
(f) Shelving, racks or similar structures; and
(g) Inoperable, wrecked or dismantled automobiles.

(7) Parking and Vehicle Storage

(a) Operable automobiles, vans and motorcycles shall be permitted to be parked in residential districts in a driveway, street, or alley only.

(b) Operable recreational vehicles, campers, boats, small (one-ton, panel or pickup) trucks, and pull trailers up to 32 square feet in size shall be permitted to be parked in residential districts in a driveway only;

(c) The following vehicles shall be prohibited to be parked or otherwise stored in residential districts:

(i) Inoperable automobiles, motorcycles, vans, recreational vehicles, campers, boats, small (one-ton, panel or pickup) trucks or other similar vehicles parked or stored outdoors;
(ii) Semi-trucks;
(iii) Semi trailers;
(iv) Agricultural or other tractors unless used in conjunction with a permitted agricultural use;
(v) Pull trailers over 32 square feet in size;
(vi) School, church or similar buses;
(vii) Large pick up or panel trucks (over one ton); and
(viii) Other large commercial vehicles, tractors or trailers not otherwise listed.

(E) Temporary Structures and Uses

(1) Temporary Accessory Structures

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use, subject to the following requirements:

(a) The temporary use shall only be permitted for a period of up to two years;

(b) The temporary use must meet the requirements outlined in §157.210(D)(2) for accessory structures;

(c) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit; and

(d) This subsection shall not apply mobile food service units, tents or similar structures.

(2) Temporary Special Events

Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(3) Temporary structures and uses in conjunction with approved construction and other development projects

(a) Construction trailers shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall not be required; however, trailers shall be located in conformance with visibility standards set forth in 157.210(F)(3).

(b) Temporary sales/leasing trailer shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall be required. If the trailer contains water and/or sewer, it shall be required to be reviewed and approved through the Site Plan Review process.

(c) A model home within an approved residential subdivision may be used as a temporary sales office for that subdivision for a period of up to 2 years unless otherwise extended by the Plan Commission.

(F) Development Standards

(1) Building Size

(a) Building Size Standards

No primary residential building or structure shall be erected, altered, enlarged or reconstructed for residential purposes having a gross square footage, exclusive of terraces, breezeways, unenclosed porches and garages, of less than 950 square feet.

(b) Exceptions to Building Size Standards

(i) Existing structures which do not meet the minimum residential building size requirements may continue to be used, and may be enlarged, added to, maintained, and repaired in accordance with the provisions of this chapter.

(ii) For buildings with three (3) or more units the minimum square footage per unit may be reduced to 350 square feet of gross square footage provided that a minimum of 50 square feet per unit is provided as common area exclusive of laundry facilities, restroom facilities, office area, storage area and hallways.

(2) Number of Buildings on a Lot

Only one primary residential structure shall be permitted on any lot, tract, or development parcel, except as provided below:

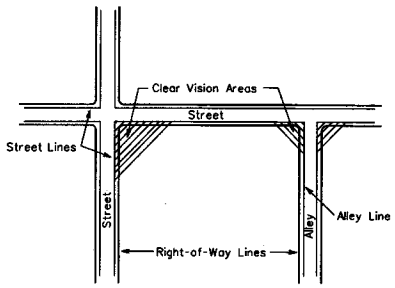
(a) As part of its review of a primary development plan, the Plan Commission may permit multiple primary residential structures on a lot, tract, or development parcel; and

(b) In the case of multiple family complexes or similar developments, multiple primary residential structures may be permitted.

(3) Corner Visibility and Other Visibility Standards

(a) No structure, fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No structure, fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less that three (3) feet from the side property line which abuts a public right-of-way.

(4) Height

(a) Height Limitations

No building or structure shall be erected, altered, enlarged or reconstructed to exceed: 30 feet, if the lot width is under 100 feet, or 35 feet, if the lot width is 100 feet or more, except that the maximum height for residential accessory structures shall be 25 feet, and the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section:

(i) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols;

(ii) Parapet or fire walls;

(iii) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and

(iv) Roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

(c) Waiver of Height Limitations
As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

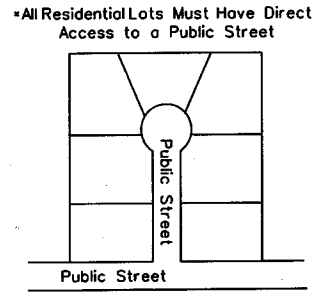
(5) Lot Area and Width

(a) Lot Area Standards

All new residential lots shall be a minimum of 6,000 square feet.

(b) Lot Width Standards

All new residential lots shall be a minimum of 50 feet in width at the front building line. All residential lots, tracts, or development parcels shall have direct access to an improved public street as defined in the Zoning Ordinance for purposes of vehicular traffic, off-street parking, utilities and other services such as mail delivery, garbage collection, fire and emergency units. The width of such frontage shall be uniform and be no less than the established minimum building line width. Other residential access provisions shall be allowed as established by the Commission's rules.



Direct Access To Public Streets

(c) Exceptions to Lot Area and Width Standards

(i) For attached single family lots, tracts, or development parcels the minimum lot width at the building line may be a minimum of 40 feet and have a minimum lot area of 4800 square feet.

(ii) For residential cul-de-sac lots, tracts, or development parcels (those having a majority of frontage on a cul-de-sac) the minimum lot width at the building line may be 40 feet.

(ii) For flag lots, tracts, or development parcels, the access frontage may be a minimum of 24 feet wide, however the lot width at the building line shall be as established in this section.

(iii) Lots established by legally recorded plat or otherwise legally established as of March 1, 1955 which do not meet the minimum size requirements established by this section may still be used for any use permitted within the district in which the lot is located. However, all proposed structures shall meet the minimum setback and yard requirements.

(iv) As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may modify the minimum lot width and size requirements, at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(6) Lot Coverage

The ground floor area of residential buildings or structures, including accessory buildings or structures, shall not be erected, altered, enlarged or reconstructed to exceed maximum lot coverage of 35% of the lot area or 2,000 square feet, whichever is greater. The area of open porches, decks, swimming pools, patios, satellite dishes, or similar structures and construction shall not be included in the calculation of lot coverage.

(7) Yard Requirements

No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located (including maximum yard requirements where applicable), except as permitted in §157.312 (Nonconforming Structures and Uses).

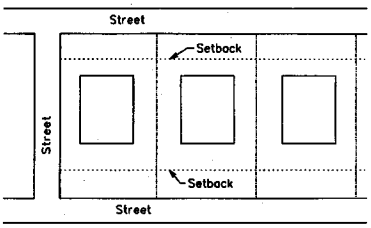
(a) Front Yard Requirements

There shall be a front yard for each lot, tract, or development parcel; the minimum depth shall be 25 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located. One of those required front yards may serve as a required rear yard for the purposes of locating residential accessory

structures and fencing, provided that the lot complies with the restrictions in §157.210(D)(3)(2) and §157.210(b)(iii).



Through Lot Front Setback Requirement

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;
(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Platted Front Yard Building Lines

In the event of existing platted front building lines which impose a residential front yard setback requirement which is greater than the minimum setback established by this chapter, a Zoning Enforcement Officer shall require that the larger setback requirement be met, except in nonconforming situations as set forth in division (2) above.

(iv) Plat and Development Plan Front Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(v) Residential accessory uses

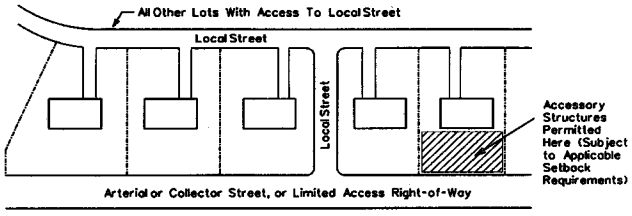
Residential accessory uses shall be located between the rear of the primary structure and the rear lot line. However, slab on grade patios may be permitted in a required front or side yard, subject to the limitations in division (d) below.

(vi) Residential accessory structures on through lots

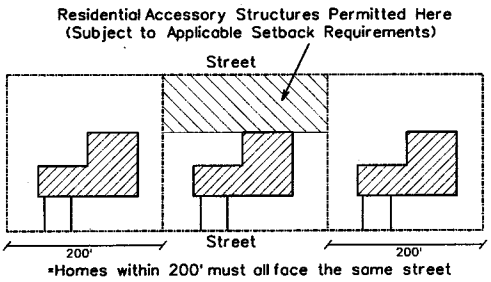
Accessory structures shall be permitted in the required front yard which functions as the rear yard for the lot, subject to the location restrictions listed in (b)(iii) below, in the following circumstances:

(1) If the through lot has a frontage on a street which is classified as an arterial or collector street, and none of the other through lots in that area has access to the arterial or collector street such that those front yards abutting the arterial or collector functions as the rear yard for those lots; or

(2) If the through lot has frontage on a street which has been declared or purchased as "limited access" right-of-way by the State of Indiana, such that those front yards abutting the limited access right-of-way functions as the rear yard for those lots; or



Residential Accessory Structures On Through Lots



Permitted Through Lot Residential Accessory Structure Locations

(3) If the through lot is adjacent to other through lots and all of the homes on the adjacent through lots for a distance of 200 feet from the property lines of the through lot face the same street, such that the front yards abutting that street functions at the rear yard for those lots.

(vii) Residential outdoor storage. In any residential district, outdoor storage shall be prohibited in the required front yard.

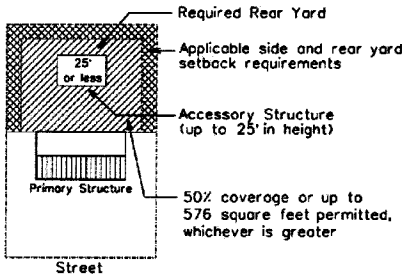
(b) Rear Yard Requirements

(i) Required Rear Yard

There shall be a rear yard for each lot, tract or development parcel; for residential uses, the minimum rear yard shall be 20% of the lot depth or 25 feet, whichever is less; for nonresidential uses, the minimum rear yard shall be 20% of the lot depth or 25 feet (subject to the provisions and exceptions noted in this division).

(ii) Residential accessory structures in the required rear yard

Residential accessory structures not exceeding 25 feet in height are permitted in a required rear yard. The structure(s) may occupy up to 50% of the area of the required rear yard or be up to 576 square feet in size, whichever is greater.

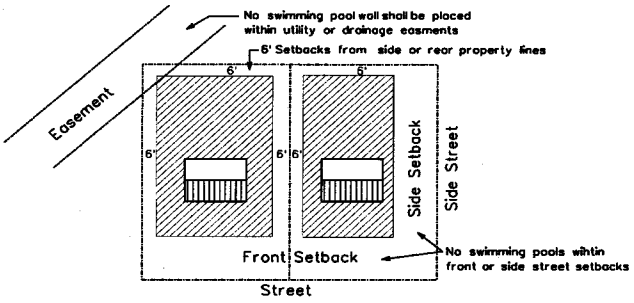


Residential Accessory Structure Rear Yard Coverage Limitation

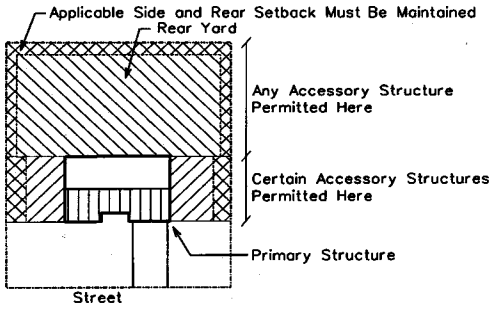
(iii) Yard requirements for accessory structures and uses

Yard requirements for accessory structures and uses are located in the following table. Except for fencing, no new accessory structures shall be located within a utility or surface drainage easement. For additional information regarding residential and nonresidential accessory structures and uses see §157.210(D)(2). See §157.210(D)(3) for yard requirements for fences and walls, and for swimming pool fencing requirements.

YARD REQUIREMENTS FOR RESIDENTIAL ACCESSORY STRUCTURES AND USES		
	Side yard	**Rear yard**
All accessory structures (except for swimming pools) located entirely between the rear of the primary structure and the rear lot line	3'	3'
Detached garages, storage sheds, decks, arbors, residential satellite dishes over one (1) meter in diameter, or other similar structures entirely or partially located beside the primary structure (between the front of the primary structure and the rear lot line).	Same setback as the primary structure	3'
Swimming pools (above or below ground)	6'	6'



Swimming Pool Setback Requirements



Residential Accessory Structure Permitted Locations

(iv) Exception to accessory structure yard requirements

A satellite dish is permitted as a residential accessory structure subject to the location restrictions noted in division (b)(iii) below. However, a residential satellite dish, which is less than one (1) meter in diameter, may be located as necessary to allow unimpaired reception. A Zoning Enforcement Officer may require adequate documentation in conjunction with a request to locate a residential satellite dish, to show

that alternative locations would not allow for unimpaired reception. This exclusion shall not apply in cases involving historic structures, or properties located in local historic districts. The intent of this provision is to allow reasonable accommodation for unimpaired residential satellite dish reception, while at the same time protecting the health, safety, aesthetic quality, and historic character of the City.

(v) Plat and development plan rear yard waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(c) Side Yard Requirements

(i) Required Side Yards

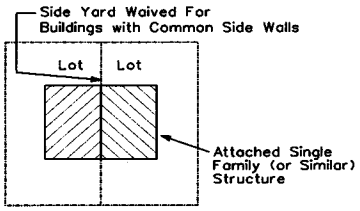
There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be as listed in the following table (subject to the provisions and exceptions noted in this division).

RESIDENTIAL SIDE YARD REQUIREMENTS		
Lot Type	**Lot Width**	**Required Side Yard**
Corner	Up to and including 50′	5′
	Greater than 50′ up to and including 60′	5′ interior 15′ side street
	Greater than 60′ up to and including 100′	7′ interior 20′ side street
	Over 100′	10′ interior 25′ side street
Interior	Up to and including 50′	5′
	Greater than 50′ up to and including 60′	5′ interior 15′ side street
	Greater than 60′ up to and including 100′	7′ interior 20′ side street
	Over 100′	10′ interior 25′ side street

NONRESIDENTIAL SIDE YARD REQUIREMENTS		
Lot Type	**Lot Width**	**Required Side Yard**
Corner	All lots	10′ or as established by the Board/Plan Commission
Interior	All lots	10′ or as established by the Board/Plan Commission

(ii) Side yards waived for dwellings with common walls

Dwellings with common walls on a lot line(including single family attached residences, duplexes, and triplexes) shall be considered as one building occupying one lot for the purpose of determining side yard setback requirements.



Side Yard Waived

(iii) Waiver of side yard requirements for additions to nonconforming nonresidential structures

The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

(iv) Plat and development plan side yard waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

(v) Previously approved nonconforming plats

Any lot established by a legally recorded plat between the dates of March 1, 1955 and March 2, 1998 with a side yard requirement established by the City of Fort Wayne Plan Commission or the Allen County Plan Commission which is less than these requirements, shall be permitted to be developed for single family residential use. Also, any existing single family residential structure may be enlarged in

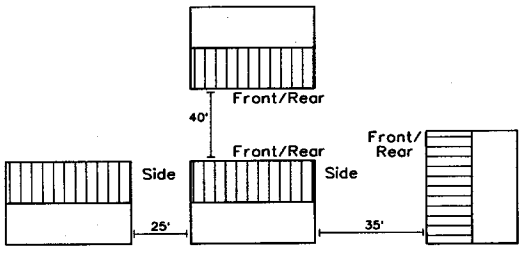
accordance with the previously established side yard requirements. A Zoning Enforcement Officer may require the applicant or owner to submit adequate documentation verifying the status of the plat and/or involved structure.

(d) Building separation requirements for multiple family and townhouse complexes.

(i) No building in a multiple family complex shall be located closer than 25 feet to any property line in the case of a one-story building, or closer than 30 feet to any property line in the case of a building over one-story in height.

(ii) No building in a multiple family complex shall be located closer to other buildings in the complex than specified in the table below.

MULTIPLE FAMILY COMPLEX INTERNAL BUILDING SEPARATION REQUIREMENTS	
Situation of building	**Minimum building separation**
From the front or rear of a building, to the front or rear of an adjacent building	40′
From the front or rear of a building, to the side of an adjacent building	35′
From the side of a building to the side of an adjacent building	25′



Multiple Family Complex Internal Building Separation Requirements

(iii) No building in a townhouse complex shall be located any closer than 10 feet from the side or rear of another townhouse building.

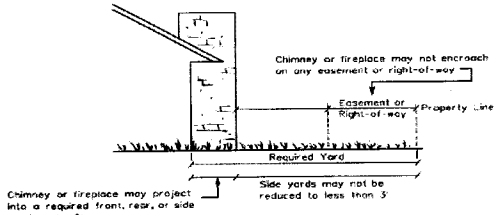
(iv) No building in a townhouse complex shall be located any closer than 20 feet from the front or rear of another townhouse building.

(v) As part of its review and approval of a primary development plan for a multiple family or townhouse complex, the Plan Commission may waive or modify the minimum setback and building separation requirements.

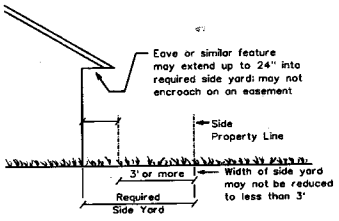
(e) Yard Projections

The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

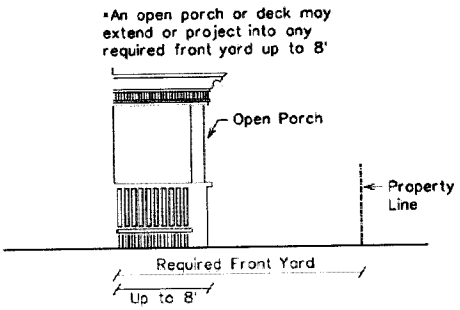
YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections (Chimneys and Fireplaces)



Permitted Yard Projections (Eave in Side Yard)



Permitted Yard Projections
(Porch or Deck into Front Yard)

(f) Exceptions to Yard Requirements

(i) Residential Fences

Except as provided below, a fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard. The fence or wall shall not be located any closer to the public right-of-way than the leading edge of the foundation of a legally established primary structure or the required front yard setback, whichever is less. This shall include the closest point on an open or enclosed porch, if the porch is constructed on a foundation similar to the foundation of the house.

(ii) Commercial, Industrial, and Other Nonresidential Fences

A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard on a property with an existing primary structure. If there is no required front yard or if the building is considered to be legal nonconforming with regard to required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

(iii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

§ 157.211 MR1, Manufactured Housing Subdivision

(A) Purpose

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

(B) Permitted Uses

The following uses are permitted in an MR1 District:

(1) single family detached dwelling, including Type I and Type II manufactured home;
(2) accessory building, structure, or use;
(3) churches, synagogues, and other religious buildings and facilities used for religious assembly;
(4) day care (adult or child), class I child care home, adult care home;
(5) home occupation;
(6) police station, fire station, or similar public use;
(7) public park or recreation area, including accessory uses and structures;
(8) public, parochial, or private elementary, junior, and/or senior high schools;
(9) residential facility for the developmentally disabled; and
(10) residential facility for the mentally ill, provided that the facility shall not be located within 1000 feet of another residential facility for the mentally ill, as measured between lot lines.

(C) Accessory Structures and Uses

(1) Purpose

The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar residential and nonresidential facilities.

(2) Permitted Accessory Structures

The following accessory structures shall be permitted, provided the structure meets the definitions in §157.410 and complies with setback, height, lot coverage, location and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools over a depth of 24 inches and 250 square feet in size (see §157.211(D)(3)(c) for fencing standards);
(b) Any other accessory structure which is placed on a permanent foundation;
(c) Arbors, trellises, or similar construction;
(d) Attached and detached decks or similar construction;
(e) Attached and detached residential garages. The square footage of a garage and all other similar accessory storage structures shall not exceed the ground floor square footage of the primary building for a one-story structure and 1.5

times the ground floor square footage for a structure over one-story in height. In either case, the square footage of any attached garage or attached accessory structure shall be excluded from the ground floor square footage total;

(f) Fences and walls;

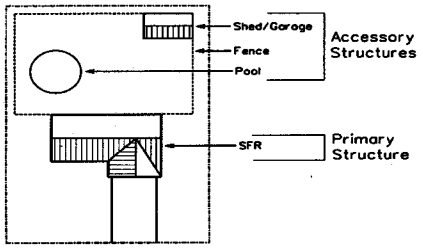
(g) Freestanding satellite dishes, amateur radio towers, and television aerials;

(h) Garbage dumpsters associated with multiple family uses;

(i) Gazebos;

(j) Storage sheds (see limitation on square footage noted in (e) above) however, portable storage containers shall not be permitted;

See §157.407(A) for Improvement Location Permit requirements.



Accessory and Primary Structures

(3) Fence and Wall Standards

(a) Purpose

The purpose of this section is to provide standards for the placement and erection of fences, walls, hedges and similar construction or elements for the conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with neighborhood character.

(b) Materials and Maintenance

(i) Permitted materials

All fences shall be constructed of customarily used materials such as chain link, split rail, split rail with welded wire mesh, masonry, wrought iron, wood, polyvinylchoride (PVC), or similar fencing material. The use of materials such as corrugated or sheet metal, chicken wire, woven wire, welded wire mesh as a primary material, temporary construction fencing, snow fencing or other similar materials shall not be permitted for permanent fencing.

(ii) Prohibited materials

In residential and commercial districts, or areas abutting residential or commercial districts, a fence or wall may not be designed to cause pain or injury to humans or animals. This includes the use of spikes, broken glass, barbed wire, razor wire, nails, electric charge or similar

materials. For the purposes of this provision, "abutting" shall include any area separated from a residential or commercial district by an alley right-of-way.

(iii) Construction and Maintenance

Fences and walls shall be constructed in a sound and sturdy manner, according to standard construction practices, and shall be maintained in a good state of repair, including the replacement of defective parts, painting, and other acts required for maintenance.

(c) Swimming Pool Fencing (residential)

Any pool which meets the definition set forth in §157.410 of this chapter shall comply with the residential swimming pool safety feature requirements set forth in 675 IAC 20-4-27(c) (as may be amended). In accordance with and to supplement this section access to a pool must be restricted by one of the following:

(i) A wall or fence not less than five (5) feet in height which completely surrounds the pool and deck area with the exception of self-closing and latching gates and doors both capable of being locked; or

(ii) A rigid power safety pool cover which meets the requirements set forth in 675 IAC 20-4-27(c)(4); all automatic pool covers shall be kept operable and in good working order; such pool covers shall not be operated in ways that create safety or access hazards, such as being permitted to be left open for extended periods of time, or to accumulate large amounts of water on top of the cover; or

(iii) For above ground swimming pools other structural methods not less than five (5) feet in height may be permitted if determined to provide adequate safety by the Planning staff.

(d) Exceptions to Standards

(i) If a fence or other screening is required to comply with the provisions of the parking lot improvement section, the provisions of that section shall supersede this section, except for the corner visibility provisions in division (F)(3) below.

(ii) A hedge or retaining wall not exceeding three (3) feet in height above the grade of the adjacent sidewalk or ground, may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in division (F)(3) below.

(iii) An ornamental fence, as defined herein, not exceeding three (3) feet in height or 100 total lineal feet may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in division (F)(3) below.

(e) Waiver of Standards

As part of its review of a proposed primary plat or development plan, the Plan Commission may waive or modify the requirements of this section.

(4) Permitted Accessory Uses

The following residential accessory uses shall be permitted provided the uses meet the definitions in §157.410 and comply with applicable location, setback, and height restrictions:

(a) Play equipment;
(b) Play houses;
(c) Ponds and similar water features;
(d) Similar residential accessory uses;
(e) Slab on grade patios; and
(f) Swing sets.

An improvement location permit is not required for the accessory uses listed above.

(5) Outdoor Display

Outdoor display as defined in §157.410 shall be prohibited except for yard and garage sales. Yard, garage, and similar sales on residential properties may be held up to three (3) times in a calendar year, for up to three (3) days per sale.

(6) Outdoor Storage

In any residential district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, and other standards and limitations set forth in this chapter. The outdoor storage of the following materials shall be prohibited:

(a) Automobile or machinery equipment or parts including automobile/motor vehicle tires;
(b) Building construction materials except in conjunction with a permitted ongoing construction project;
(c) Home appliances and fixtures such refrigerators, stoves, and sinks;
(d) Indoor furniture;
(e) Scrap metal, wood and similar materials;
(f) Shelving, racks or similar structures; and
(g) Inoperable, wrecked or dismantled automobiles.

(7) Parking and Vehicle Storage

(a) Operable automobiles, vans and motorcycles shall be permitted to be parked in residential districts in a driveway, street, or alley only.

(b) Operable recreational vehicles, campers, boats, small (one-ton, panel or pickup) trucks, and pull trailers up to 32 square feet in size shall be permitted to be parked in residential districts in a driveway only;

(c) The following vehicles shall be prohibited to be parked or otherwise stored in residential districts:

(i) Inoperable automobiles, motorcycles, vans, recreational vehicles, campers, boats, small (one-ton, panel or pickup) trucks or other similar vehicles parked or stored outdoors;
(ii) Semi-trucks;
(iii) Semi trailers;
(iv) Agricultural or other tractors unless used in conjunction with a permitted agricultural use;
(v) Pull trailers over 32 square feet in size;
(vi) School, church or similar buses;
(vii) Large pick up or panel trucks (over one ton); and
(viii) Other large commercial vehicles, tractors or trailers not otherwise listed.

(F) Development Standards

(1) Building Size

(a) Building Size Standards

No primary residential building or structure shall be erected, altered, enlarged or reconstructed for residential purposes having a gross square footage, exclusive of terraces, breezeways, unenclosed porches and garages, of less than 950 square feet.

(b) Exceptions to Building Size Standards

Existing structures which do not meet the minimum residential building size requirements may continue to be used, and may be enlarged, added to, maintained, and repaired in accordance with the provisions of this chapter.

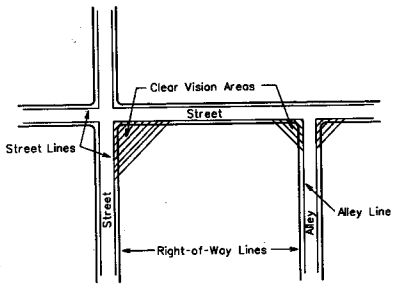
(2) Number of Buildings on a Lot

Only one primary residential structure shall be permitted on any lot, tract, or development parcel, except that as part of its review of a primary development plan, the Plan Commission may permit multiple primary residential structures on a lot, tract, or development parcel.

(3) Corner Visibility and Other Visibility Standards

(a) No structure, fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No structure, fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less that three (3) feet from the side property line which abuts a public right-of-way.

(4) Height

(a) Height Limitations

No building or structure shall be erected, altered, enlarged or reconstructed to exceed: 30 feet, if the lot width is under 100 feet, or 35 feet, if the lot width is 100 feet or more, except that the maximum height for residential accessory structures shall be 25 feet, and the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section:

(i) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols; and

(ii) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

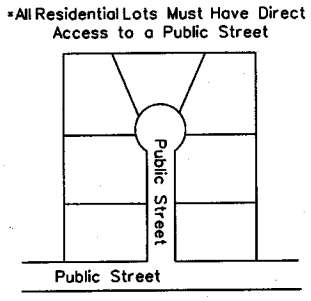
(5) Lot Area and Width

(a) Lot Area Standards

All new residential lots shall be a minimum of 6,000 square feet.

(b) Lot Width Standards

All new residential lots shall be a minimum of 50 feet in width at the front building line. All residential lots, tracts, or development parcels shall have direct access to an improved public street as defined in the Zoning Ordinance for purposes of vehicular traffic, off-street parking, utilities and other services such as mail delivery, garbage collection, fire and emergency units. The width of such frontage shall be uniform and be no less than the established minimum building line width. Other residential access provisions shall be allowed as established by the Commission's rules.



Direct Access To Public Streets

(c) Exceptions to Lot Area and Width Standards

(i) For attached single family lots, tracts, or development parcels the minimum lot width at the building line may be a minimum of 40 feet and have a minimum lot area of 4800 square feet.

(ii) For residential cul-de-sac lots, tracts, or development parcels (those having a majority of frontage on a cul-de-sac) the minimum lot width at the building line may be 40 feet.

(iii) For flag lots, tracts, or development parcels, the access frontage may be a minimum of 24 feet wide, however the lot width at the building line shall be as established in this section.

(iv) Lots established by legally recorded plat or otherwise legally established as of March 1, 1955 which do not meet the minimum size requirements established by this section may still be used for any use permitted within the district in which the lot is located. However, all proposed structures shall meet the minimum setback and yard requirements.

(v) As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may modify the minimum lot width and size requirements, at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(6) Lot Coverage

The ground floor area of residential buildings or structures, including accessory buildings or structures, shall not be erected, altered, enlarged or reconstructed to exceed maximum lot coverage of 35% of the lot area or 2,000 square feet, whichever is greater. The area of open porches, decks, swimming pools, patios, satellite dishes, or similar structures and construction shall not be included in the calculation of lot coverage.

(7) Yard Requirements

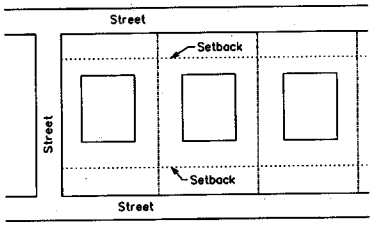
No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located (including maximum yard requirements where applicable), except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be a front yard for each lot, tract, or development parcel; the minimum depth shall be 25 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located. One of those required front yards may serve as a required rear yard for the purposes of locating residential accessory structures and fencing, provided that the lot complies with the restrictions in §§ 157.211(D)(3)(c) and 157.211(b)(iii).



Through Lot Front Setback Requirement

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;
(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Platted Front Yard Building Lines

In the event of existing platted front building lines which impose a residential front yard setback requirement which is greater than the minimum setback established by this chapter, a Zoning Enforcement Officer shall require that the larger setback requirement be met, except in nonconforming situations as set forth in division (2) above.

(iv) Plat and Development Plan Front Yard Waiver

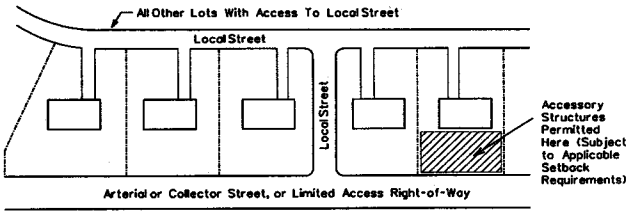
As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(v) Residential accessory uses. Residential accessory uses shall be located between the rear of the primary structure and the rear lot line. However, slab on grade patios may be permitted in a required front or side yard, subject to the limitations in division (d) below.

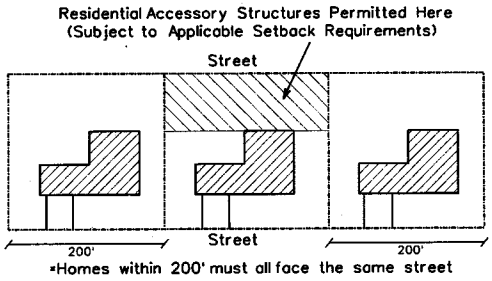
(vi) Residential accessory structures on through lots. Accessory structures shall be permitted in the required front yard which functions as the rear yard for the lot, subject to the location restrictions listed in (b)(iii) below, in the following circumstances:

(1) If the through lot has a frontage on a street which is classified as an arterial or collector street, and none of the other through lots in that area has access to the arterial or collector street such that those front yards abutting the arterial or collector functions as the rear yard for those lots; or

(2) If the through lot has frontage on a street which has been declared or purchased as "limited access" right-of-way by the State of Indiana, such that those front yards abutting the limited access right-of-way functions as the rear yard for those lots; or



Residential Accessory Structures On Through Lots



Permitted Through Lot Residential Accessory Structure Locations

(3) If the through lot is adjacent to other through lots and all of the homes on the adjacent through lots for a distance of 200 feet from the property lines of the through lot face the same street, such that the front yards abutting that street functions at the rear yard for those lots.

(vii) Residential outdoor storage.

In any residential district, outdoor storage shall be prohibited in the required front yard.

(b) Rear Yard Requirements

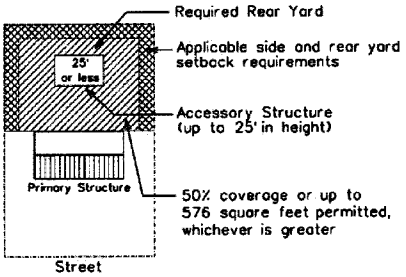
(i) Required Rear Yard

There shall be a rear yard for each lot, tract or development parcel; for residential uses, the minimum rear yard shall be 20% of the lot depth or 25 feet, whichever is less, (subject to the provisions and exceptions noted in this division)

(ii) Residential accessory structures in the required rear yard.

Residential accessory structures not exceeding 25 feet in height are permitted in a required rear yard. The structure(s) may occupy up to

50% of the area of the required rear yard or be up to 576 square feet in size, whichever is greater.

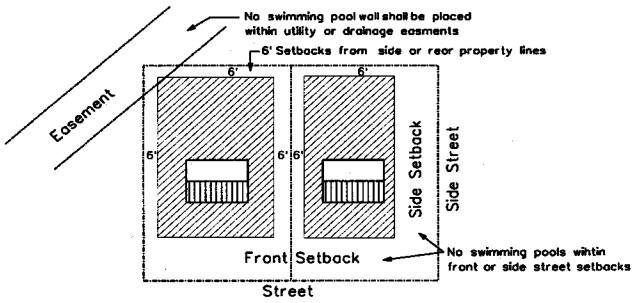


Residential Accessory Structure Rear Yard Coverage Limitation

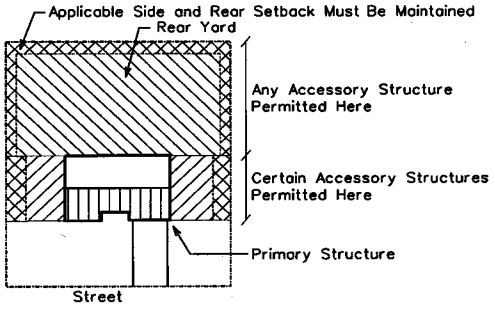
(iii) Yard requirements for accessory structures and uses.

Yard requirements for accessory structures and uses are located in the following table. Except for fencing, no new accessory structures shall be located within a utility or surface drainage easement. For additional information regarding residential and nonresidential accessory structures and uses see §157.211(D)(2). See §157.211(D)(3) for yard requirements for fences and walls, and for swimming pool fencing requirements.

YARD REQUIREMENTS FOR RESIDENTIAL ACCESSORY STRUCTURES AND USES		
	Side yard	**Rear yard**
All accessory structures (except for swimming pools) located entirely between the rear of the primary structure and the rear lot line	3'	3'
Detached garages, storage sheds, decks, arbors, residential satellite dishes over one (1) meter in diameter, or other similar structures entirely or partially located beside the primary structure (between the front of the primary structure and the rear lot line).	Same setback as the primary structure	3'
Swimming pools (above or below ground)	6'	6'



Swimming Pool Setback Requirements



Residential Accessory Structure Permitted Locations

(iv) Exception to accessory structure yard requirements.

A satellite dish is permitted as a residential accessory structure subject to the location restrictions noted in division (b)(iii) below. However, a residential satellite dish, which is less than one (1) meter in diameter, may be located as necessary to allow unimpaired reception. A Zoning Enforcement Officer may require adequate documentation in conjunction with a request to locate a residential satellite dish, to show that alternative locations would not allow for unimpaired reception. This exclusion shall not apply in cases involving historic structures, or properties located in local historic districts. The intent of this provision is to allow reasonable accommodation for unimpaired residential satellite dish reception, while at the same time protecting the health, safety, aesthetic quality, and historic character of the City.

(v) Plat and development plan rear yard waiver.

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(c) Side Yard Requirements

(i) Required Side Yard

There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be as listed in the following table (subject to the provisions and exceptions noted in this division).

RESIDENTIAL SIDE YARD REQUIREMENTS		
Lot Type	**Lot Width**	**Required Side Yard**
Corner	Up to and including 50′	5′
	Greater than 50′ up to and including 60′	5′ interior 15′ side street
	Greater than 60′ up to and including 100′	7′ interior 20′ side street
	Over 100′	10′ interior 25′ side street
Interior	Up to and including 50′	5′
	Greater than 50′ up to and including 60′	5′ interior 15′ side street
	Greater than 60′ up to and including 100′	7′ interior 20′ side street
	Over 100′	10′ interior 25′ side street

NONRESIDENTIAL SIDE YARD REQUIREMENTS		
Lot Type	**Lot Width**	**Required Side Yard**
Corner	All lots	10′ or as established by the Board/Plan Commission
Interior	All lots	10′ or as established by the Board/Plan Commission

(ii) Plat and development plan side yard waiver. As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

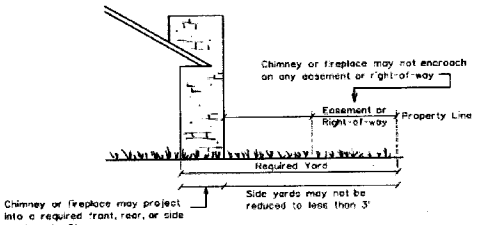
(iii) Previously approved nonconforming plats. Any lot established by a legally recorded plat between the dates of March 1, 1955 and March 2, 1998 with a side yard requirement established by the City of Fort Wayne Plan Commission or the Allen County Plan Commission which is less than these requirements, shall be permitted to be developed for single family residential use. Also, any existing single family residential structure may be enlarged in accordance with the previously established side yard

requirements. A Zoning Enforcement Officer may require the applicant or owner to submit adequate documentation verifying the status of the plat and/or involved structure.

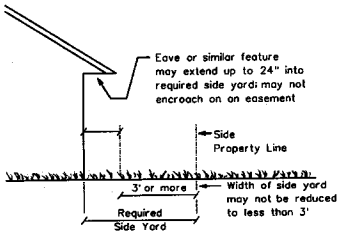
(d) Yard Projections

The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

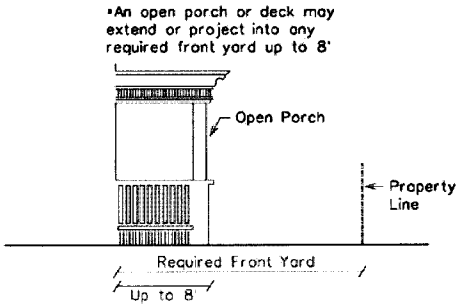
YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections
(Chimneys and Fireplaces)



Permitted Yard Projections
(Eave in Side Yard)



Permitted Yard Projections
(Porch or Deck into Front Yard)

(e) Exceptions to Yard Requirements

(i) Residential Fences

Except as provided below, a fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard. The fence or wall shall not be located any closer to the public right-of-way than the leading edge of the foundation of a legally established primary structure or the required front yard setback, whichever is less. This shall include the closest point on an open or enclosed porch, if the porch is constructed on a foundation similar to the foundation of the house.

(ii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

§ 157.212 MR2, Manufactured Housing Park

(A) Purpose

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

(B) Permitted Uses

The following uses are permitted in an MR2 District:

(1) Type III manufactured home;
(2) accessory building, structure, or use;
(3) day care (adult or child), class I child care home, adult care home;
(4) home occupation; and
(5) public park or recreation area, including accessory uses and structures.

(C) Accessory Structures and Uses

(1) Purpose

The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar residential and nonresidential facilities.

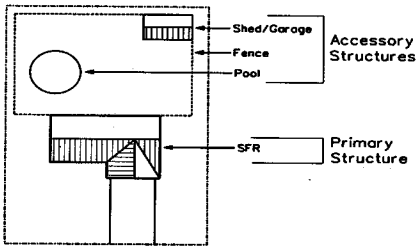
(2) Permitted Accessory Structures

The following accessory structures shall be permitted, provided the structure meets the definitions in §157.410 and complies with setback, height, lot coverage, location and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools over a depth of 24 inches and 250 square feet in size (see §157.212(D)(3)(c) for fencing standards);
(b) Any other accessory structure which is placed on a permanent foundation;
(c) Arbors, trellises, or similar construction;
(d) Attached and detached decks or similar construction;
(e) Attached and detached residential garages. The square footage of a garage and all other similar accessory storage structures shall not exceed the ground floor square footage of the primary building for a one-story structure and 1.5 times the ground floor square footage for a structure over one-story in height. In either case, the square footage of any attached garage or attached accessory structure shall be excluded from the ground floor square footage total;
(f) Fences and walls;
(g) Freestanding satellite dishes, amateur radio towers, and television aerials;
(h) Garbage dumpsters associated with multiple family uses;
(i) Gazebos;

(j) Storage sheds (see limitation on square footage noted in (e) above) however, portable storage containers shall not be permitted;

See §157.407(A) for Improvement Location Permit requirements.



Accessory and Primary Structures

(3) Fence and Wall Standards

(a) Purpose

The purpose of this section is to provide standards for the placement and erection of fences, walls, hedges and similar construction or elements for the conservation and protection of property; the assurance of safety, security, and privacy; and the improvement of the visual environment, including the provision of an orderly appearance in keeping with neighborhood character.

(b) Materials and Maintenance

(i) Permitted materials

All fences shall be constructed of customarily used materials such as chain link, split rail, split rail with welded wire mesh, masonry, wrought iron, wood, polyvinylchoride (PVC), or similar fencing material. The use of materials such as corrugated or sheet metal, chicken wire, woven wire, welded wire mesh as a primary material, temporary construction fencing, snow fencing or other similar materials shall not be permitted for permanent fencing.

(ii) Prohibited materials

In residential and commercial districts, or areas abutting residential or commercial districts, a fence or wall may not be designed to cause pain or injury to humans or animals. This includes the use of spikes, broken glass, barbed wire, razor wire, nails, electric charge or similar materials. For the purposes of this provision, "abutting" shall include any area separated from a residential or commercial district by an alley right-of-way.

(iii) Construction and Maintenance

Fences and walls shall be constructed in a sound and sturdy manner, according to standard construction practices, and shall be maintained in a

good state of repair, including the replacement of defective parts, painting, and other acts required for maintenance.

(c) Swimming Pool Fencing (residential)

Any pool which meets the definition set forth in §157.410 of this chapter shall comply with the residential swimming pool safety feature requirements set forth in 675 IAC 20-4-27(c) (as may be amended). In accordance with and to supplement this section access to a pool must be restricted by one of the following:

(i) A wall or fence not less than five (5) feet in height which completely surrounds the pool and deck area with the exception of self-closing and latching gates and doors both capable of being locked; or

(ii) A rigid power safety pool cover which meets the requirements set forth in 675 IAC 20-4-27(c)(4); all automatic pool covers shall be kept operable and in good working order; such pool covers shall not be operated in ways that create safety or access hazards, such as being permitted to be left open for extended periods of time, or to accumulate large amounts of water on top of the cover; or

(iii) For above ground swimming pools other structural methods not less than five (5) feet in height may be permitted if determined to provide adequate safety by the Planning staff.

(d) Exceptions to Standards

(i) If a fence or other screening is required to comply with the provisions of the parking lot improvement section, the provisions of that section shall supersede this section, except for the corner visibility provisions in division (F)(3) below.

(ii) A hedge or retaining wall not exceeding three (3) feet in height above the grade of the adjacent sidewalk or ground, may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in division (F)(3) below.

(iii) An ornamental fence, as defined herein, not exceeding three (3) feet in height or 100 total lineal feet may be located in the required front yard with no minimum setback, subject to the corner visibility provisions in division (F)(3) below.

(e) Waiver of Standards

As part of its review of a proposed primary plat or development plan, the Plan Commission may waive or modify the requirements of this section.

(3) Permitted Accessory Uses

The following residential accessory uses shall be permitted provided the uses meet the definitions in §157.410 and comply with applicable location, setback, and height restrictions:

(a) Play equipment;
(b) Play houses;
(c) Ponds and similar water features;
(d) Similar residential accessory uses;
(e) Slab on grade patios; and
(f) Swing sets.

An improvement location permit is not required for the accessory uses listed above.

(4) Outdoor Display

Outdoor display as defined in §157.410 shall be prohibited except for yard and garage sales. Yard, garage, and similar sales on residential properties may be held up to three (3) times in a calendar year, for up to three (3) days per sale.

(5) Outdoor Storage

In any residential district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, and other standards and limitations set forth in this chapter. The outdoor storage of the following materials shall be prohibited:

(a) Automobile or machinery equipment or parts including automobile/motor vehicle tires;
(b) Building construction materials except in conjunction with a permitted ongoing construction project;
(c) Home appliances and fixtures such refrigerators, stoves, and sinks;
(d) Indoor furniture;
(e) Scrap metal, wood and similar materials;
(f) Shelving, racks or similar structures; and
(g) Inoperable, wrecked or dismantled automobiles.

(6) Parking and Vehicle Storage

(a) Operable automobiles, vans and motorcycles shall be permitted to be parked in residential districts in a driveway, street, or alley only.

(b) Operable recreational vehicles, campers, boats, small (one-ton, panel or pickup) trucks, and pull trailers up to 32 square feet in size shall be permitted to be parked in residential districts in a driveway only;

(c) The following vehicles shall be prohibited to be parked or otherwise stored in residential districts:

(i) Inoperable automobiles, motorcycles, vans, recreational vehicles, campers, boats, small (one-ton, panel or pickup) trucks or other similar vehicles parked or stored outdoors;

(ii) Semi-trucks;

(iii) Semi trailers;

(iv) Agricultural or other tractors unless used in conjunction with a permitted agricultural use;

(v) Pull trailers over 32 square feet in size;

(vi) School, church or similar buses;

(vii) Large pick up or panel trucks (over one ton); and

(viii)Other large commercial vehicles, tractors or trailers not otherwise listed.

(E) Development Standards

(1) Building Size

(a) Building Size Standards

No primary residential building or structure shall be erected, altered, enlarged or reconstructed for residential purposes having a gross square footage, exclusive of terraces, breezeways, unenclosed porches and garages, of less than 950 square feet.

(b) Exceptions to Building Size Standards

Existing structures which do not meet the minimum residential building size requirements may continue to be used, and may be enlarged, added to, maintained, and repaired in accordance with the provisions of this chapter.

(2) Number of Buildings on a Lot

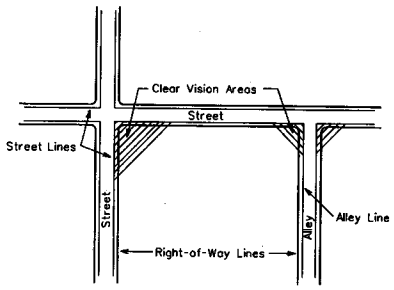
Only one primary residential structure shall be permitted on any lot, tract, or development parcel, except that as part of its review of a primary development plan, the Plan Commission may permit multiple primary residential structures on a lot, tract, or development parcel.

(3) Corner Visibility and Other Visibility Standards

(a) No structure, fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No structure, fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may

also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less that three (3) feet from the side property line which abuts a public right-of-way.

(4) Height

(a) Height Limitations

No building or structure shall be erected, altered, enlarged or reconstructed to exceed: 20 feet, except that the maximum height for residential accessory structures shall be 25 feet, and the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section:

(i) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols; and

(ii) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

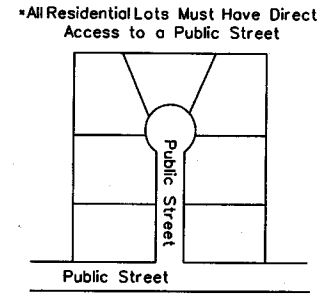
(5) Lot Area and Width

(a) Lot Area Standards

All new residential lots shall be a minimum of 5,000 square feet.

(b) Lot Width Standards

All new residential lots shall be a minimum of 50 feet in width at the front building line. All residential lots, tracts, or development parcels shall have direct access to an improved public street as defined in the Zoning Ordinance for purposes of vehicular traffic, off-street parking, utilities and other services such as mail delivery, garbage collection, fire and emergency units. The width of such frontage shall be uniform and be no less than the established minimum building line width. Other residential access provisions shall be allowed as established by the Commission's rules.



Direct Access To Public Streets

(c) Exceptions to Lot Area and Width Standards

(i) Lots established by legally recorded plat or otherwise legally established as of March 1, 1955 which do not meet the minimum size requirements established by this section may still be used for any use permitted within the district in which the lot is located. However, all proposed structures shall meet the minimum setback and yard requirements.

(ii) As part of its review and approval of a primary development plan, the Plan Commission or Plat Committee may modify the minimum lot width and size requirements, at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(6) Lot Coverage

The ground floor area of residential buildings or structures, including accessory buildings or structures, shall not be erected, altered, enlarged or reconstructed to exceed maximum lot coverage of 30% of the lot area. The area of open porches, decks, swimming pools, patios, satellite dishes, or similar structures and construction shall not be included in the calculation of lot coverage.

(7) Yard Requirements

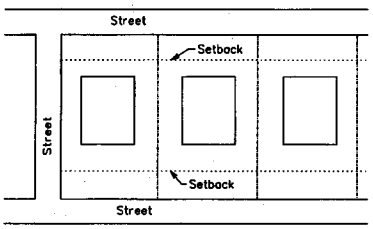
No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located (including maximum yard requirements where applicable), except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be a front yard for each lot, tract, or development parcel; the minimum depth shall be 8 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located. One of those required front yards may serve as a required rear yard for the purposes of locating residential accessory structures and fencing, provided that the lot complies with the restrictions in §157.212(D)(3)(c) and §157.212(b)(iii).



Through Lot Front Setback Requirement

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;
(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Platted Front Yard Building Lines

In the event of existing platted front building lines which impose a residential front yard setback requirement which is greater than the minimum setback established by this chapter, a Zoning Enforcement Officer shall require that the larger setback requirement be met, except in nonconforming situations as set forth in division (2) above.

(iv) Plat and Development Plan Front Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

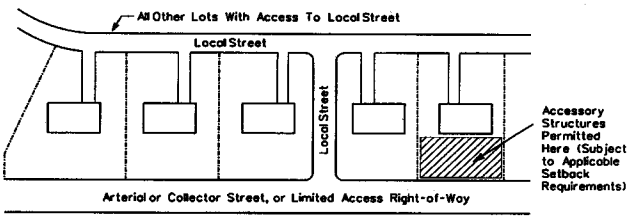
(v) Residential accessory uses

Residential accessory uses shall be located between the rear of the primary structure and the rear lot line. However, slab on grade patios may be permitted in a required front or side yard, subject to the limitations in division (d) below.

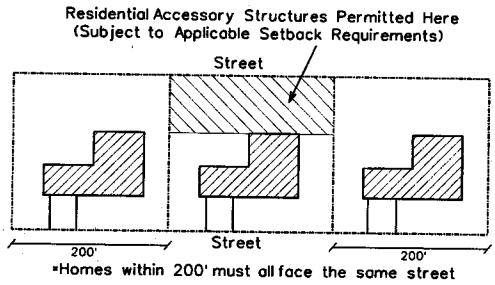
(vi) Residential accessory structures on through lots. Accessory structures shall be permitted in the required front yard which functions as the rear yard for the lot, subject to the location restrictions listed in (b)(iii) below, in the following circumstances:

(1) If the through lot has a frontage on a street which is classified as an arterial or collector street, and none of the other through lots in that area has access to the arterial or collector street such that those front yards abutting the arterial or collector functions as the rear yard for those lots; or

(2) If the through lot has frontage on a street which has been declared or purchased as "limited access" right-of-way by the State of Indiana, such that those front yards abutting the limited access right-of-way functions as the rear yard for those lots; or



Residential Accessory Structures On Through Lots



Permitted Through Lot Residential Accessory Structure Locations

(3) If the through lot is adjacent to other through lots and all of the homes on the adjacent through lots for a distance of 200 feet from the property lines of the through lot face the same street, such that the front yards abutting that street functions at the rear yard for those lots.

(vii) Residential outdoor storage.

In any residential district, outdoor storage shall be prohibited in the required front yard.

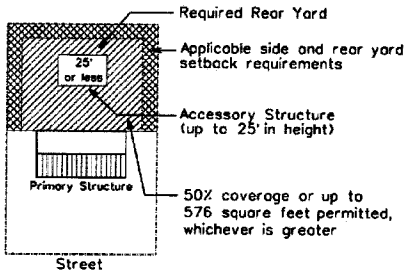
(b) Rear Yard Requirements

(i) Required Rear Yard

There shall be a rear yard for each lot, tract or development parcel; for residential uses, the minimum rear yard shall be 8 feet, (subject to the provisions and exceptions noted in this division)

(ii) Residential accessory structures in the required rear yard.

Residential accessory structures not exceeding 25 feet in height are permitted in a required rear yard. The structure(s) may occupy up to 50% of the area of the required rear yard or be up to 576 square feet in size, whichever is greater.

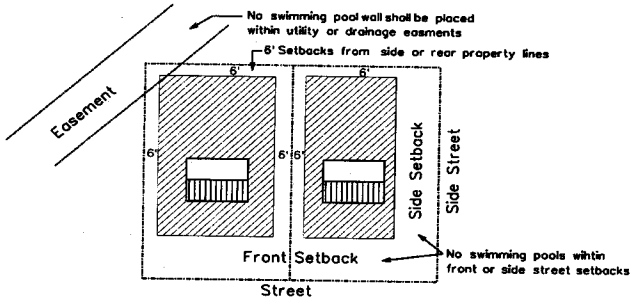


Residential Accessory Structure Rear Yard Coverage Limitation

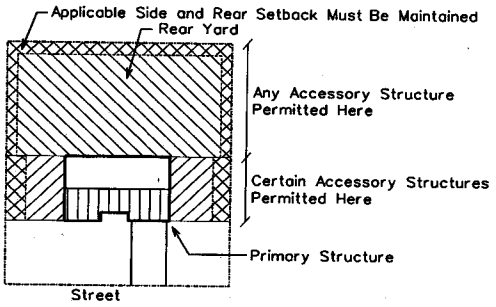
(iii) Yard requirements for accessory structures and uses.

Yard requirements for accessory structures and uses are located in the following table. Except for fencing, no new accessory structures shall be located within a utility or surface drainage easement. For additional information regarding residential and nonresidential accessory structures and uses see §157.212(D)(2). See §157.212(D)(3) for yard requirements for fences and walls, and for swimming pool fencing requirements.

YARD REQUIREMENTS FOR RESIDENTIAL ACCESSORY STRUCTURES AND USES.		
	Side yard	**Rear yard**
All accessory structures (except for swimming pools) located entirely between the rear of the primary structure and the rear lot line	3'	3'
Detached garages, storage sheds, decks, arbors, residential satellite dishes over one (1) meter in diameter, or other similar structures entirely or partially located beside the primary structure (between the front of the primary structure and the rear lot line).	Same setback as the primary structure	3'
Swimming pools (above or below ground)	6'	6'



Swimming Pool Setback Requirements



Residential Accessory Structure Permitted Locations

(iv) Exception to accessory structure yard requirements

A satellite dish is permitted as a residential accessory structure subject to the location restrictions noted in division (b)(iii) below. However, a residential

satellite dish, which is less than one (1) meter in diameter, may be located as necessary to allow unimpaired reception. A Zoning Enforcement Officer may require adequate documentation in conjunction with a request to locate a residential satellite dish, to show that alternative locations would not allow for unimpaired reception. This exclusion shall not apply in cases involving historic structures, or properties located in local historic districts. The intent of this provision is to allow reasonable accommodation for unimpaired residential satellite dish reception, while at the same time protecting the health, safety, aesthetic quality, and historic character of the City.

(v) Plat and development plan rear yard waiver

As part of its review and approval of a primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(c) Side Yard Requirements

(i) Required Side Yard

There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be 6 feet (subject to the provisions and exceptions noted in this division).

(ii) Waiver of side yard requirements for additions to nonconforming nonresidential structures

The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of the the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

(iii) Development plan side yard waiver

As part of its review and approval of a primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

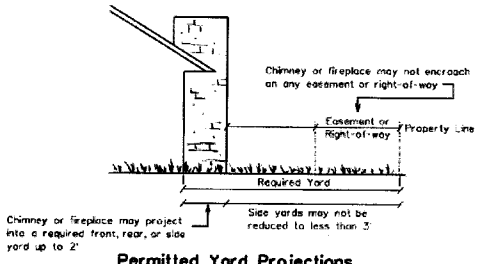
(iv) Previously approved nonconforming plats

Any lot established by a legally recorded plat between the dates of March 1, 1955 and March 2, 1998 with a side yard requirement established by the City of Fort Wayne Plan Commission or the Allen County Plan Commission which is less than these requirements, shall be permitted to be developed for single family residential use. Also, any existing single family residential structure may be enlarged in accordance with the previously established side yard requirements. A Zoning Enforcement Officer may require the applicant or owner to submit adequate documentation verifying the status of the plat and/or involved structure.

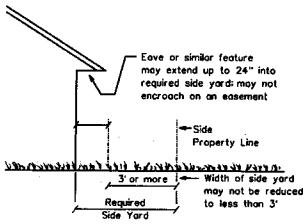
(d) Yard Projections

The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

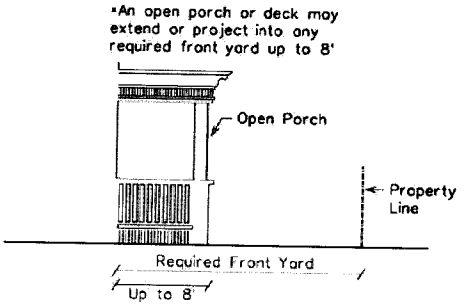
YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections (Chimneys and Fireplaces)



Permitted Yard Projections (Eave in Side Yard)



Permitted Yard Projections
(Porch or Deck into Front Yard)

(e) Exceptions to Yard Requirements

(i) Residential Fences

Except as provided below, a fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard. The fence or wall shall not be located any closer to the public right-of-way than the leading edge of the foundation of a legally established primary structure or t he required front yard setback, whichever is less. This shall include the closest point on an open or enclosed porch, if the porch is constructed on a foundation similar to the foundation of the house.

(ii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

§ 157.213 Reserved

§ 157.214 Reserved

§ 157.215 CM1, Professional Office and Personal Services

(A) Purpose

The Professional Offices and Personal Services District is intended to provide areas for professional offices, personal services, and similar low intensity nonresidential uses. This district can serve as a buffer between residential uses and higher intensity commercial uses. New single family residential uses are not permitted in the CM zoning districts.

(B) Permitted Uses

The following uses are permitted in a CM1 District:

(1) accessory building, structure, or use;

(2) adoption agency;

(3) advertising office;

(4) animal grooming (with indoor animal runs only);

(5) architect, engineer, land surveyor, or similar office (with no outdoor equipment storage);

(6) artist studio or school;

(7) bank, credit union, or savings and loan association;

(8) barber shop;

(9) beauty salon;

(10) bed and breakfast establishment;

(11) blood donor, or similar facility;

(12) broadcast studio;

(13) child and/or adult care center;

(14) chiropractor office;

(15) churches, synagogues, and other religious buildings and facilities used for religious assembly;

(16) community facilities such as a botanical garden/conservatory, library, planetarium, public transportation or similar public facility, museum, zoo, or similar use;

(17) computer data processing /data storage facility;

(18) consulting service;

(19) correctional services facility;

(20) counseling service;

(21) credit agency or service;

(22) dance studio or school;

(23) dating service;

(24) day care (adult or child), class I and class II child care home, and adult care home (in conjunction with a legally established existing residential use);

(25) dentist office;

(26) doctor office;

(27) finance company;

(28) funeral home (excluding crematorium);

(29) group residential facilities;

(30) health care facilities such as a public health center, diagnostic or treatment center or similar facility;

(31) home occupation (in conjunction with a legally established existing residential use);

(32) insurance office;

(33) interior designer office;

(34) law office;

(35) loan office (excluding check cashing business);

(36) martial arts studio;

(37) massage therapy establishment;

(38) medical center or clinic;

(39) medical related services, including laboratories;

(40) music studio or school;

(41) nail salon;

(42) neighborhood facilities or uses;

(43) nonprofit private club;

(44) nursing home, which may include assisted living units and services as an accessory use;

(45) optician or optometrist office;

(46) parking area (public or employee);

(47) photography studio;

(48) police station, fire station, or similar public use;

(49) professional or commercial office not otherwise listed;

(50) public park or recreation area, including accessory uses and structures;

(51) public, parochial, or private elementary, junior, and/or senior high schools;

(52) radio station;

(53) real estate, broker, or appraiser office;

(54) residential facility for the developmentally disabled;

(55) residential facility for the mentally ill;

(56) stockbroker office;

(57) tanning salon;

(58) travel agency; and

(59) tutoring facility.

(C) Special Uses

(1) Commercial communication towers, provided the Board finds the request to be in conformance with the following standards and requirements:

(a) In addition to meeting the requirements set forth in §157.404(C)(1)(b) the Board shall also find the following as a part of its approval:

(i) The proposed communications tower is reasonably necessary to serve the adjacent or nearby area; and

(ii) The applicant is unable to locate or co-locate on an existing structure.

(b) New communication towers approved by the Board of Zoning Appeals shall conform to the following development standards:

(i) The tower structure shall not exceed 150 feet in height,

(ii) The tower color shall be galvanized metal or similarly gray tone;

(iii) Guyed and self supporting lattice towers shall not be permitted;

(iv) The use of stealth technology shall be encouraged; and

(v) The setback requirement for towers shall be as follows. Setbacks shall be measured from the base of the town to the applicable property lines.

SETBACK REQUIREMENTS FOR TOWERS	
Front yard (including through lots)	75% of tower structure height
Side yard – interior lot line	50% of tower structure height
Side yard – street frontage side of corner lot	75% of tower structure height
Rear yard	50% of tower structure height

(c) A special use shall not be required for the location or co-location of antennas in any district on existing structures including but not limited to the following:

(i) rooftops of existing commercial, industrial, and institutional structures;

(ii) water towers;

(iii) church steeples;

(iv) electrical towers;

(v) communication towers;

(vi) other established utility structures; and

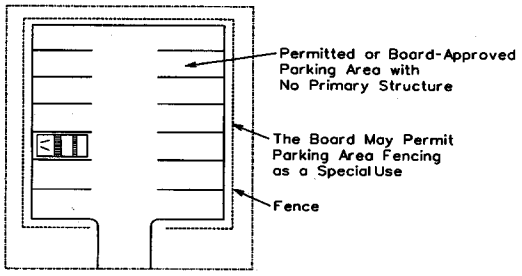
(vi) cabinets and shelters.

Antennae shall be permitted to extend up to 20 feet above the existing structure or up to a total height of 200 feet whichever is less. A Certificate of Compliance shall be obtained for all antennae locations and co-locations.

(2) Off-site campus housing.

(3) Outdoor recreational uses such as softball/baseball diamonds and/or soccer fields, golf driving range, or similar private outdoor recreational uses, as a principal use of the property.

(4) Parking area fencing may be permitted by the Board, as an accessory use to any permitted or Board approved public, customer, or employee parking area where there is no primary structure on the lot, tract, or development parcel. As part of its approval, the Board shall determine the location, height, and materials of the proposed fencing, subject to the visibility limitations herein.



Parking Area Fencing

(5) Private recreation facility such as a tennis/racquet club, indoor ice skating facility, swim club or fitness center; this use does not include recreational uses such as athletic fields, baseball/softball diamonds, batting cages, miniature golf courses, golf driving ranges and similar uses.

(6) Residential uses and primary residential structures, excluding Type III manufactured homes; it is intended that the Board only consider residential uses or primary residential structures on individual lots/tracts or the reuse of a portion of an existing structure under this division. As part of its approval of a proposal, the Board may also permit residential accessory structures and uses.

(7) Telephone switching buildings or other similar structures.

(D) Accessory Structures and Uses

(1) Purpose

The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar residential and nonresidential facilities.

(2) Permitted Accessory Structures

The following non-residential accessory structures as defined in §157.410, shall be permitted provided the structures comply with the applicable setback, height, location, and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools;
(b) Arbors, trellises, or similar construction;
(c) Attached and detached decks or similar construction;
(d) Fences and walls;
(e) Freestanding satellite dishes and television aerials;
(f) Garbage dumpsters;
(g) Gazebos;
(h) Storage sheds; and
(i) Any other accessory structure which is placed on a permanent foundation.

(3) Permitted Accessory Uses

Non-residential accessory uses as defined in §157.410 shall be permitted provided the uses comply with the applicable setback, height, and other standards set forth in this subchapter with the following exceptions.

(a) Outdoor Display

(i) Nonresidential outdoor display shall only be permitted if the display complies with the applicable setback, location, and other standards and limitations set forth in this chapter.

(ii) Items, retail goods, or similar materials offered for sale (such as vehicles, equipment, or supplies) must be displayed on a paved or similar surface in accordance with the provisions of the Off-Street Parking subchapter of this chapter.

(iii) Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use, in accordance with the provisions herein.

(b) Outdoor Storage

(i) In any commercial or industrial district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, screening, buffering, and other standards and limitations set forth herein.

(ii) In any commercial or industrial district, the outdoor storage of wrecked, abandoned, dismantled, or inoperable vehicles shall be prohibited, except as an accessory use to a permitted primary use.

(E) Temporary Structures and Uses

(1) Temporary Accessory Structures

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use, subject to the following requirements:

(a) The temporary use shall only be permitted for a period of up to two years;

(b) The temporary use must meet the requirements outlined in §157.215(D)(2) for accessory structures;

(c) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit; and

(d) This subsection shall not apply mobile food service units, tents or similar structures.

(2) Temporary Primary Structures and Uses

Temporary or seasonal primary retail structures and/or uses shall be permitted as set forth in §157.104 (Permitted Uses). Such structures or uses shall be permitted on a vacant lot or development parcel, or on a lot or development parcel which has existing primary structure(s) or use(s) for up to four (4) months total in a twelve (12) month period. Any proposed

temporary or seasonal primary retail structure shall conform to the following requirements:

(a) The structure shall conform with all of the applicable standards and requirements of this chapter, including minimum setback and parking requirements;

(b) Unless the proposed structure qualifies for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit;

(c) Tents or similar structures or facilities shall be permitted under this subsection; and

(d) This subsection shall not apply to mobile food service units.

(3) Temporary Special Events

Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(4) Mobile Food Service Units

(a) A mobile food service unit shall be permitted as a temporary accessory use to an existing permitted commercial (excluding professional office uses), industrial, or other nonresidential use or structure. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. In the event of a festival or similar use in a public park there shall be no limit on the number of times the unit shall be allowed on the site, however, the unit is limited to 14 days per event and the use must first be approved by the Fort Wayne - Allen County Department of Health.

(b) A mobile food service unit shall be permitted as a temporary primary use in any zoning district which permits a restaurant. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(c) A mobile food service unit shall be permitted as a temporary seasonal primary or accessory use in any zoning district which permits a restaurant. The unit shall be allowed on a site for a period of up to four (4) months, provided the use is first approved by the Fort Wayne - Allen County Department of Health and the applicant obtains an Improvement Location Permit. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(d) A mobile food service unit shall be permitted as a temporary primary or accessory use in any zoning district which permits a restaurant. The unit shall be allowed on a given site for a period of four (4) to twelve (12) months provided the use is first approved through the City's Site Plan Review process, and the applicant obtains an Improvement Location Permit.

(5) Temporary structures and uses in conjunction with approved construction and other development projects.

(a) Construction trailers shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall not be required; however, trailers shall be located in conformance with visibility standards set forth in 157.(F).

(b) Temporary sales/leasing trailer shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall be required. If the trailer contains water and/or sewer, it shall be required to be reviewed and approved through the Site Plan Review process.

(c) A model home within an approved residential subdivision may be used as a temporary sales office for that subdivision for a period of up to 2 years unless otherwise extended by the Plan Commission.

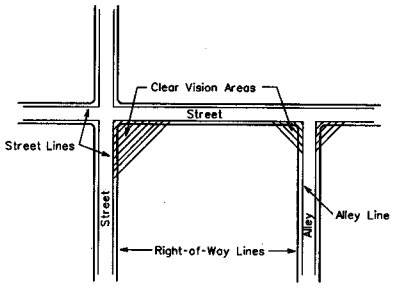
(F) Development Standards

(1) Corner Visibility

(a) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of

the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less than three (3) feet from the side property line which abuts a public right-of-way.

(2) Height

(a) Height Limitations

No building or structure, including accessory structures, shall be erected, altered, enlarged or reconstructed to exceed 35 feet; except that the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section.

(i) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols;

(ii) Parapet or fire walls;

(iii) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and

(iv) Roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

(3) Lot Area and Width

(a) Residential Lot Area Standards

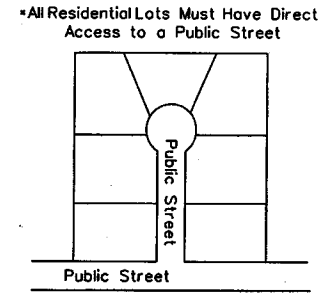
All new residential lots shall be a minimum of 6,000 square feet.

(b) Nonresidential Lot Area Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(c) Residential Lot Width Standards

All new residential lots shall be a minimum of 50 feet in width at the front building line. All residential lots, tracts, or development parcels shall have direct access to an improved public street as defined in the Zoning Ordinance for purposes of vehicular traffic, off-street parking, utilities and other services such as mail delivery, garbage collection, fire and emergency units. The width of such frontage shall be uniform and be no less than the established minimum building line width. Other residential access provisions shall be allowed as established by the Commission's rules.



Direct Access To Public Streets

(d) Nonresidential Lot Width Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(e) Exceptions to Lot Area and Width Standards

Lots established by legally recorded plat or otherwise legally established as of March 1, 1955 which do not meet the minimum size requirements established by this section may still be used for any use

permitted within the district in which the lot is located. However, all proposed structures shall meet the minimum setback and yard requirements.

(f) Waiver of Lot Area Standards

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may modify the minimum lot width and size requirements, at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(4) Yard Requirements

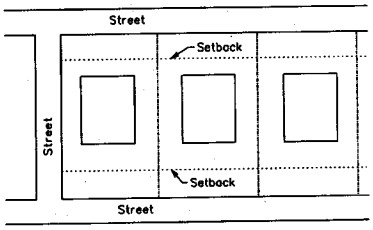
No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located (including maximum yard requirements where applicable), except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be a front yard for each lot, tract, or development parcel; the minimum depth shall be 25 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located.



Through Lot Front Setback Requirement

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;

(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Plat and Development Plan Front Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(b) Rear Yard Requirements

(i) Required Rear Yard

There shall be a rear yard for each lot, tract or development parcel; for residential uses, the minimum rear yard shall be 20% of the lot depth or 25 feet, whichever is less; for nonresidential uses, the minimum rear yard shall be 30 feet if the rear yard abuts a residential district, and 10 feet of the rear yard does not abut a residential district (subject to the provisions and exceptions noted in this division).

(ii) Plat and Development Plan Rear Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(iii) Nonresidential accessory structures

Nonresidential accessory structures may be located between the rear of the primary structure and the rear lot line, provided the accessory structure is located a minimum of five (5) feet from a side or rear property line, and provided the structure complies with any applicable screening or buffering provisions as set forth in §157.306 of this chapter.

(c) Side Yard Requirements

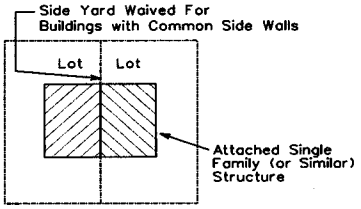
(i) Required Side Yard

There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be as listed in the following table (subject to the provisions and exceptions noted in this division).

SIDE YARD REQUIREMENTS		
Lot Type	**Lot Width**	**Required Side Yard**
Corner	Up to and including 55′ Over 55′	10′ 10′ 15′ internal (if adjacent to a residential district) 15′ side street
Interior	All lots	10′ 15′ internal (if adjacent to a residential district)

(ii) Side Yards Waived for Dwellings with Common Walls

Dwellings with common walls on a lot line(including single family attached residences, duplexes, and triplexes) shall be considered as one building occupying one lot for the purpose of determining side yard setback requirements.



Side Yard Waived

(iii) Waiver of Side Yard Requirements for Additions to Nonconforming Nonresidential Structures

The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

(iv) Plat and Development Plan Side Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

(v) Nonresidential accessory structures

Nonresidential accessory structures may be located beside a primary structure, provided the accessory structure meets the side and rear yard setback requirement, except that nonresidential dumpsters may be located a minimum of five (5) feet from a side property line, and is located no closer to the front lot line than the primary structure or the required front yard setback, whichever is less.

(vi) Nonresidential outdoor display

The following standards apply to uses permitted to have outdoor display unless further limited herein.

(1) Outdoor display shall not be permitted within the required front yard, or between the leading edge of any existing primary structure and the front property line, whichever distance is less; except in conjunction with the following uses when permitted in that district. However, outdoor display shall be permitted in the required side and rear yards as an accessory use that is clearly incidental to a permitted primary use.

(2) On a corner lot, outdoor display shall not be permitted within the required side yard which abuts the side street.

(vii) Nonresidential outdoor storage

The following standards apply to uses permitted to have outdoor storage.

(1) In any commercial or industrial district, outdoor storage shall be not be permitted in any required front yard, or between the leading edge of any existing primary structure and the front property line.

(2) On an interior lot outdoor storage may be permitted in a required side or rear yard if contained within an approved screen meeting the requirements of §157.306.

(3) On a corner lot, outdoor storage shall not be permitted within the required side yard that abuts the side street. Permitted outdoor storage shall be contained within an approved screen meeting the requirements of §157.306.

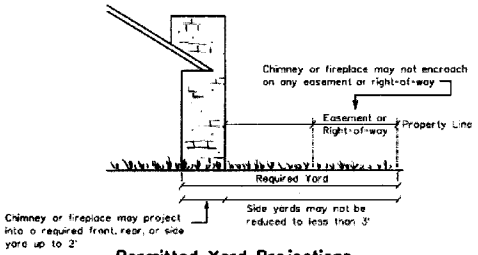
(4) In any commercial or industrial district, any automobile repair shop, body shop, or similar use which stores over ten (10) vehicles overnight shall screen the vehicle storage area as set forth in §157.306. The vehicle storage area may only be located within a side or rear yard.

(5) The outdoor storage of wrecked, dismantled, or inoperable vehicles shall only be permitted as a short-term (up to 30 days) accessory use to a permitted automobile repair shop, body shop, or similar use

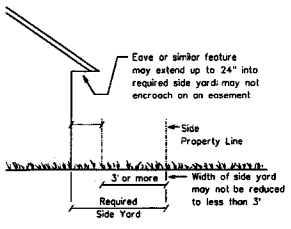
(d) Yard Projections

The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

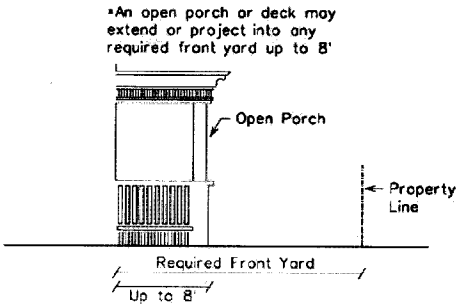
YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections (Chimneys and Fireplaces)



Permitted Yard Projections (Eave in Side Yard)



Permitted Yard Projections
(Porch or Deck into Front Yard)

(e) Exceptions to Yard Projections

(i) Commercial, Industrial, and Other Nonresidential Fences

A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard on a property with an existing primary structure. If there is no required front yard or if the building is considered to be legal nonconforming with regard to required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

(ii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

§ 157.216 Reserved for future use

§ 157.217 CM2, Limited Commercial

(A) Purpose

The Limited Retail and Commercial District is intended to provide areas for moderate intensity retail, shopping, business, and service uses. Neighborhood-oriented commercial uses are encouraged. An individual use or tenant space over 30,000 square feet of gross floor area shall not be permitted. Any use which serves alcohol must obtain all required state alcoholic beverage permits and any proposed new facility shall conform with minimum separation requirement from a church or school, as set forth in IC 7.1-3-21-11 (as may be amended).

(B) Permitted Uses

The following uses are permitted in a CM2 District:

(1) all uses permitted in CM1 district;

(2) animal hospital (indoor animal runs, exercise areas, and training areas only);

(3) animal kennel (indoor animal runs, exercise areas, and training areas only);

(4) animal obedience school (indoor animal runs, exercise areas, and training areas only);

(5) apparel and accessory store;

(6) antique shop;

(7) art gallery;

(8) artist supply and material store;

(9) automobile washing facility (full or self service);

(10) automotive accessory store (new and used, but excluding the sale of used automobile tires as a primary use and any outdoor storage);

(11) bakery goods, including "outlet" store;

(12) bar or tavern;

(13) bicycle sales and repair shop;

(14) billiard or pool hall;

(15) bingo establishment;

(16) book store;

(17) bowling alley;

(18) business or trade school (with indoor education/training only);

(19) card and stationary store;

(20) catalog showroom (for retail sales);

(21) caterer;

(22) cigarette/tobacco/cigar store;

(23) clock, watch, and jewelry sales and repair;

(24) clothing store (new or resale);
(25) coin shop;
(26) collection service;
(27) computer and computer software store;
(28) computer service or repair;
(29) confectionery, ice cream; or candy store;
(30) consignment shop;
(31) convenience store;
(32) copy and printing service;
(33) cosmetic store;
(34) costume and clothing rental;
(35) country club;
(36) craft supply store;
(37) delicatessen;
(38) department store;
(39) diaper service facility;
(40) dinner theater;
(41) drugstore;
(42) dry cleaning store;
(43) electrical appliance store (new or used);
(44) fabric shop;
(45) fireworks sales (indoor only);
(46) floor covering store;
(47) florist;
(48) fruit and/or vegetable store (indoor only);
(49) furniture store (new and used);
(50) funeral home (including crematorium);
(51) garden equipment supply (excluding outdoor storage);
(52) gas/service station;
(53) gift shop;
(54) gun and retail firearms sales, as an accessory use to a permitted primary use;
(55) grocery store or supermarket;
(56) hardware store;
(57) haunted house (indoor only);
(58) health and fitness club;

(59) hobby shop;

(60) home accessory/improvement store;

(61) hotel;

(62) household appliance store (new or used, with no outdoor storage permitted);

(63) ice skating rink (indoor);

(64) interior decorating store;

(65) laundromat/coin operated laundry;

(66) leather goods or luggage store;

(67) live bait business;

(68) meat or fish market;

(69) micro or mini-brewery, brewpub, or similar use;

(70) motel;

(71) music store;

(72) musical instrument store (new or used);

(73) night club;

(74) nonprofit private club;

(75) package liquor store;

(76) paint store;

(77) parking structure;

(78) pet store (including pet supplies);

(79) photographic supply store;

(80) picture framing facility;

(81) private recreation facility such as a tennis/racquet club, indoor ice skating facility, swim club or fitness center;

(82) public utility customer office;

(83) recycling collection point;

(84) rental and/or leasing store (i.e. furniture, office equipment, party supplies, or computers with indoor storage or display);

(85) restaurant, including drive-through facilities;

(86) shoe store;

(87) shoe repair shop;

(88) sign sales store;

(89) sporting goods sales and rentals;

(90) tailor/alterations shop;

(91) tattoo establishment;

(92) telephone switching building or other similar structure;

(93) tennis club (indoor);
(94) theater (indoor);
(95) toy store;
(96) variety store;
(97) veterinary clinic;
(98) video arcade; and
(99) video rental store.

(C) Special Uses

(1) Animal raising or breeding for laboratory uses, fur or scent production, or other similar non-food production purposes (as distinguished from general livestock raising).

(2) Automobile sales and services, provided the Board finds the proposed use will be compatible with the existing surrounding land uses.

(a) The Board may consider granting a special use for the following:

(i) automobile detailing shop;
(ii) automobile maintenance facility (quick service);
(iii) automobile repair shop;
(iv) automobile sales;
(v) automobile rental facility; and
(vi) similar automobile service uses.

(b) The following uses shall not be permitted as a special use under this division:

(i) automobile restoration;
(ii) automobile undercoating and rust proofing service; and
(iii) automobile body shop.

(3) Commercial communication towers, provided the Board finds the request to be in conformance with the following standards and requirements:

(a) In addition to meeting the requirements set forth in §157.404(C)(1)(b) the Board shall also find the following as a part of its approval:

(i) The proposed communications tower is reasonably necessary to serve the adjacent or nearby area; and

(ii) The applicant is unable to locate or co-locate on an existing structure.

(b) New communication towers approved by the Board of Zoning Appeals shall conform to the following development standards:

(i) The tower structure shall not exceed 150 feet in height,

(ii) The tower color shall be galvanized metal or similarly gray tone;

(iii) Guyed and self supporting lattice towers shall not be permitted;

(iv) The use of stealth technology shall be encouraged; and

(v) The setback requirement for towers shall be as follows. Setbacks shall be measured from the base of the town to the applicable property lines.

SETBACK REQUIREMENTS FOR TOWERS	
Front yard (including through lots)	75% of tower structure height
Side yard – interior lot line	50% of tower structure height
Side yard – street frontage side of corner lot	75% of tower structure height
Rear yard	50% of tower structure height

(c) A special use shall not be required for the location or co-location of antennas in any district on existing structures including but not limited to the following:

(i) rooftops of existing commercial, industrial, and institutional structures;
(ii) water towers;
(iii) church steeples;
(iv) electrical towers;
(v) communication towers;
(vi) other established utility structures; and
(vi) cabinets and shelters.

Antennae shall be permitted to extend up to 20 feet above the existing structure or up to a total height of 200 feet whichever is less. A Certificate of Compliance shall be obtained for all antennae locations and co-locations.

(4) Fairgrounds.

(5) Indoor shooting ranges, provided the range shall be constructed so as to prevent any danger from firearms to persons or property outside the facility. Noise from the facility shall not adversely affect adjacent properties.

(6) Off-premise signs, except for properties within areas where design guidelines have been adopted by the Plan Commission, to be between a 125 foot radius and a 350 foot radius from any city or county residential district, church, school, health care facility, historic district, designated historic structure, or property eligible for historic designation consistent with the following chart.

(a) In considering such a request, the Board will evaluate the height, location, and sightlines of the proposed sign and consider whether the sign would adversely affect the character of residential districts, churches, schools, health care facilities, designated historic structures, historic district, or property eligible for historic designation. The Board may impose reasonable conditions on the size, location, height and lighting of such a sign, to address any negative impact on the areas or uses noted above. Off-premise signs adjacent to historic districts, designated historic structures, or properties eligible for historic designation shall be located to ensure that all sightlines and vistas of historic features are maintained, and that such signs shall not negatively affect the historic integrity of such properties or structures.

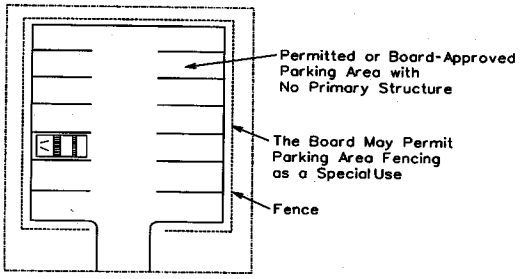
(b) Concurrent with filing the petition with the Board of Zoning Appeals, the petitioner shall send a notice describing the proposal along with the date and time of the hearing to all property owners within a 350 foot radius of the petitioned location and any registered neighborhood associations having boundaries on the site or within a 350 foot radius of the site. A copy of the mailing list shall be submitted with the application.

OFF-PREMISE SIGNS AUTHORIZED FOR SPECIAL USES				
Zoning	**Maximum Sign Size (sq. ft.)**	**Maximum Height (feet)**	**Minimum Setback (feet)**	**Distances from Residential/Historic District, School, etc. (feet)**
CM2	100	35	15	125 - 350
CM3	100	35	15	125 - 350
CM4	300	35	20	125 - 350
IN1	100	35	15	125 - 350
IN2	300	35	20	125 - 350
IN3	675	35	30	125 - 350

(7) Off-site campus housing.

(8) Outdoor recreational uses such as softball/baseball diamonds and/or soccer fields, golf driving range, or similar private outdoor recreational uses, as a principal use of the property.

(9) Parking area fencing may be permitted by the Board, as an accessory use to any permitted or Board approved public, customer, or employee parking area where there is no primary structure on the lot, tract, or development parcel. As part of its approval, the Board shall determine the location, height, and materials of the proposed fencing, subject to the visibility limitations herein.



Parking Area Fencing

(10) Residential uses and primary residential structures, excluding Type III manufactured homes; it is intended that the Board only consider residential uses or primary residential structures on individual lots/tracts or the reuse of a portion of an existing structure under this division. As part of its approval of a proposal, the Board may also permit residential accessory structures and uses.

(11) Temporary structures and uses such as mobile office units or similar temporary facilities and uses permitted herein may be granted an extension of time by the Board for continuation of use.

(D) Accessory Structures and Uses

(1) Purpose

The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar residential and nonresidential facilities.

(2) Permitted Accessory Structures

The following non-residential accessory structures as defined in §157.410, shall be permitted provided the structures comply with the applicable setback, height, location, and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools;
(b) Arbors, trellises, or similar construction;
(c) Attached and detached decks or similar construction;
(d) Fences and walls;
(e) Freestanding satellite dishes and television aerials;
(f) Garbage dumpsters;
(g) Gazebos;
(h) Storage sheds; and
(i) Any other accessory structure which is placed on a permanent foundation.

(3) Permitted Accessory Uses

Non-residential accessory uses as defined in §157.410 shall be permitted provided the uses comply with the applicable setback, height, and other standards set forth in this subchapter with the following exceptions.

(a) Outdoor Display

(i) Nonresidential outdoor display shall only be permitted if the display complies with the applicable setback, location, and other standards and limitations set forth in this chapter.

(ii) Items, retail goods, or similar materials offered for sale (such as vehicles, equipment, or supplies) must be displayed on a paved or similar surface in accordance with the provisions of the Off-Street Parking subchapter of this chapter.

(iii) Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use, in accordance with the provisions herein.

(b) Outdoor Storage

(i) In any commercial or industrial district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, screening, buffering, and other standards and limitations set forth herein.

(ii) In any commercial or industrial district, the outdoor storage of wrecked, abandoned, dismantled, or inoperable vehicles shall be prohibited, except as an accessory use to a permitted primary use.

(E) Temporary Structures and Uses

(1) Temporary Accessory Structures

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use, subject to the following requirements:

(a) The temporary use shall only be permitted for a period of up to two years;

(b) The temporary use must meet the requirements outlined in §157.217(D)(2) for accessory structures;

(c) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit; and

(d) This subsection shall not apply mobile food service units, tents or similar structures.

(2) Temporary Primary Structures and Uses

Temporary or seasonal primary retail structures and/or uses shall be permitted as set forth in §157.104 (Permitted Uses). Such structures or uses shall be permitted on a vacant lot or development parcel, or on a lot or development parcel which has existing primary structure(s) or use(s) for up to four (4) months total in a twelve (12) month period. Any proposed temporary or seasonal primary retail structure shall conform to the following requirements:

(a) The structure shall conform with all of the applicable standards and requirements of this chapter, including minimum setback and parking requirements;

(b) Unless the proposed structure qualifies for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit;

(c) Tents or similar structures or facilities shall be permitted under this subsection; and

(d) This subsection shall not apply to mobile food service units.

(3) Temporary Special Events

Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(4) Mobile Food Service Units

(a) A mobile food service unit shall be permitted as a temporary accessory use to an existing permitted commercial (excluding professional office uses), industrial, or other nonresidential use or structure. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. In the event of a festival or similar use in a public park there shall be no limit on the number of times the unit shall be allowed on the site, however, the unit is limited to 14 days per event and the use must first be approved by the Fort Wayne - Allen County Department of Health.

(b) A mobile food service unit shall be permitted as a temporary primary use in any zoning district which permits a restaurant. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(c) A mobile food service unit shall be permitted as a temporary seasonal primary or accessory use in any zoning district which permits a restaurant. The unit shall be allowed on a site for a period of up to four (4) months, provided the use is first approved by the Fort Wayne - Allen County Department of Health and the applicant obtains an Improvement Location Permit. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(d) A mobile food service unit shall be permitted as a temporary primary or accessory use in any zoning district which permits a restaurant. The unit shall be allowed on a given site for a period of four (4) to twelve (12) months provided the use is first approved through the City's Site Plan Review process, and the applicant obtains an Improvement Location Permit.

(5) Temporary structures and uses in conjunction with approved construction and other development projects.

(a) Construction trailers shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall not be required; however, trailers shall be located in conformance with visibility standards set forth in 157.217(F)(1).

(b) Temporary sales/leasing trailer shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall be required. If the trailer contains water and/or sewer, it shall be required to be reviewed and approved through the Site Plan Review process.

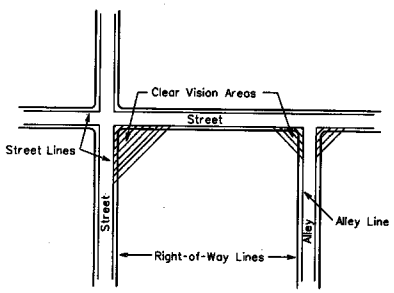
(c) A model home within an approved residential subdivision may be used as a temporary sales office for that subdivision for a period of up to 2 years unless otherwise extended by the Plan Commission.

(F) Development Standards

(1) Corner Visibility

(a) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less than three (3) feet from the side property line which abuts a public right-of-way.

(2) Height

(a) Height Limitations

No building or structure, including accessory structures, shall be erected, altered, enlarged or reconstructed to exceed 35 feet; except that the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section.

(i) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols;

(ii) Parapet or fire walls;

(iii) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and

(iv) Roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

(3) Lot Area and Width

(a) Residential Lot Area Standards

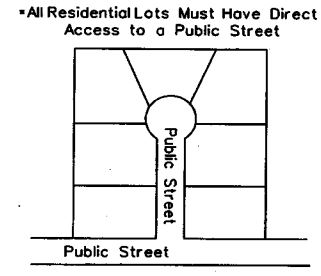
All new residential lots shall be a minimum of 6,000 square feet.

(b) Nonresidential Lot Area Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(c) Residential Lot Width Standards

All new residential lots shall be a minimum of 50 feet in width at the front building line. All residential lots, tracts, or development parcels shall have direct access to an improved public street as defined in the Zoning Ordinance for purposes of vehicular traffic, off-street parking, utilities and other services such as mail delivery, garbage collection, fire and emergency units. The width of such frontage shall be uniform and be no less than the established minimum building line width. Other residential access provisions shall be allowed as established by the Commission's rules.



Direct Access To Public Streets

(d) Nonresidential Lot Width Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(e) Exceptions to Lot Area and Width Standards

Lots established by legally recorded plat or otherwise legally established as of March 1, 1955 which do not meet the minimum size requirements established by this section may still be used for any use permitted within the district in which the lot is located. However, all proposed structures shall meet the minimum setback and yard requirements.

(f) Waiver of Lot Area Standards

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may modify the minimum lot width and size requirements, at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(4) Yard Requirements

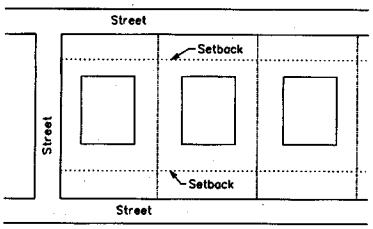
No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located (including maximum yard requirements where applicable), except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be a front yard for each lot, tract, or development parcel; the minimum depth shall be 25 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located.



Through Lot Front Setback Requirement

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;
(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Plat and Development Plan Front Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(b) Rear Yard Requirements

(i) There shall be a rear yard for each lot, tract or development parcel; for residential uses, the minimum rear yard shall be 20% of the lot depth or 25 feet, whichever is less; for nonresidential uses, the minimum rear yard shall be 30 feet if the rear yard abuts a residential district, and 10 feet of the rear yard does not abut a residential district (subject to the provisions and exceptions noted in this division).

(ii) Plat and Development Plan Rear Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(iii) Nonresidential accessory structures

Nonresidential accessory structures may be located between the rear of the primary structure and the rear lot line, provided the accessory structure is located a minimum of five (5) feet from a side or rear property line, and provided the structure complies with any applicable screening or buffering provisions as set forth in §157.306 of this chapter.

(c) Side Yard Requirements

(i) Required Side Yard

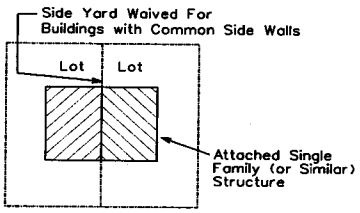
There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be as listed in the following table (subject to the provisions and exceptions noted in this division).

SIDE YARD REQUIREMENTS		
Lot Type	**Lot Width**	**Required Side Yard**
Corner	Up to and including 55′ Over 55′	10′ 10′ 15′ internal (if adjacent to a residential district) 15′ side street
Interior	All lots	10′ 15′ internal (if adjacent to a residential district)

(ii) Side Yards Waived for Dwellings with Common Walls

Dwellings with common walls on a lot line(including single family attached residences, duplexes, and triplexes) shall be considered as one building

occupying one lot for the purpose of determining side yard setback requirements.



Side Yard Waived

(iii) Waiver of Side Yard Requirements for Additions to Nonconforming Nonresidential Structures

The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

(iv) Plat and Development Plan Side Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

(v) Nonresidential accessory structures

Nonresidential accessory structures may be located beside a primary structure, provided the accessory structure meets the side and rear yard setback requirement, except that nonresidential dumpsters may be located a minimum of five (5) feet from a side property line, and is located no closer to the front lot line than the primary structure or the required front yard setback, whichever is less.

(vi) Nonresidential outdoor display

The following standards apply to uses permitted to have outdoor display unless further limited herein. Outdoor display shall not be permitted within the required front yard, or between the leading edge of any existing primary structure and the front property line, whichever distance is less; except in conjunction with the following uses when permitted in that district. However, outdoor display shall be permitted in the required side and rear yards as an accessory use that is clearly incidental to a permitted primary use. On a corner lot, outdoor display shall not be permitted within the required side yard which abuts the side street.

(1) Department store with seasonal outdoor retail sales;
(2) Hardware store;

(3) Open lot Christmas tree sales, or other similar seasonal outdoor retail sales;

(4) Service stations, including automobile accessory stores, and similar automotive uses; and

(5) Similar retail uses.

(vii) Nonresidential outdoor storage

The following standards apply to uses permitted to have outdoor storage.

(1) In any commercial or industrial district, outdoor storage shall be not be permitted in any required front yard, or between the leading edge of any existing primary structure and the front property line.

(2) On an interior lot outdoor storage may be permitted in a required side or rear yard if contained within an approved screen meeting the requirements of §157.306.

(3) On a corner lot, outdoor storage shall not be permitted within the required side yard that abuts the side street. Permitted outdoor storage shall be contained within an approved screen meeting the requirements of §157.306.

(4) In any commercial or industrial district, any automobile repair shop, body shop, or similar use which stores over ten (10) vehicles overnight shall screen the vehicle storage area as set forth in §157.306. The vehicle storage area may only be located within a side or rear yard.

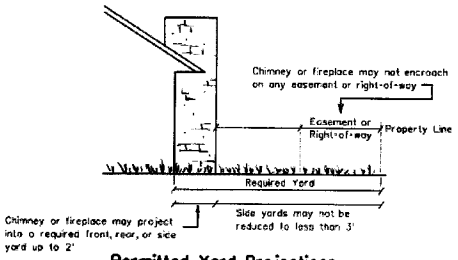
(5) The outdoor storage of wrecked, dismantled, or inoperable vehicles shall only be permitted as a short-term (up to 30 days) accessory use to a permitted automobile repair shop, body shop, or similar use.

(d) Yard Projections

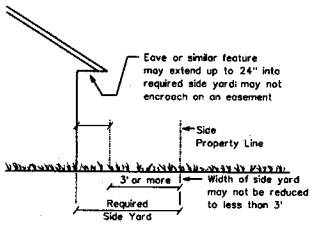
The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot	Up to 4′ (however, a 3′	4′

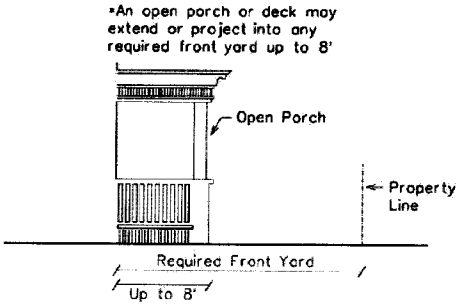
	line	minimum side yard must be maintained)	
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections
(Chimneys and Fireplaces)



Permitted Yard Projections
(Eave in Side Yard)



Permitted Yard Projections
(Porch or Deck into Front Yard)

(e) Exceptions to Yard Projections

(i) Commercial, Industrial, and Other Nonresidential Fences

A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard on a property with an existing primary structure. If there is no required front yard or if the building is considered to be legal nonconforming with regard to required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

(ii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

(3) Automatic teller machines, canopies, gas pumps, pay telephones, tire air pumps and similar structures shall be permitted in a required front or side yard as a permitted primary or accessory structure in any district where the use is permitted. A ten (10) foot minimum setback from any property or right of way line shall be maintained for automatic teller machines, canopies, and gas pumps. A five (5) foot minimum setback from any property or right of way line shall be maintained for pay telephones and tire air pumps.

§ 157.218 CM3, General Commercial

(A) Purpose

The General Commercial District is intended to provide areas for a variety of commercial uses including certain high intensity uses not permitted in CM1 and CM2 Districts. Commercial uses in this district often serve the general public and therefore are usually located along major arterial and/or collector roadways.

(B) Permitted Uses

The following uses are permitted in a CM3 District:

(1) all uses permitted in the CM1 and CM2 Districts;
(2) animal grooming (with outdoor animal runs);
(3) animal kennel or obedience school (with outdoor animal runs);
(4) auction hall (indoor auctions only);
(5) automobile detailing and trim shop;
(6) automobile limousine, rental, and/or taxi service;
(7) automobile maintenance facility (quick service);
(8) automobile repair shop;
(9) automobile restoration;
(10) automobile sales facility (new or used);
(11) automobile undercoating and rust proofing service;
(12) batting cages;
(13) banquet/reception hall;
(14) boat and watercraft sales showroom;
(15) business or trade school;
(16) check cashing establishment;
(17) commercial greenhouse;
(18) dance hall;
(19) exterminating or pest control business;
(20) exhibit hall/trade show facility;
(21) fireworks sales (outdoor);
(22) flea market (indoor sales only);
(23) furniture repair or refinishing shop;
(24) garage/storage shed display and sales lot;
(25) glass cutting or glazing shop;
(26) golf driving range;

(27) gun shop or retail firearms dealer, as a primary use or accessory use;

(28) haunted house (including outdoor uses);

(29) heating and air conditioning sales and service;

(30) home improvement business;

(31) indoor arena;

(32) lawn mower/small engine repair;

(33) light equipment rental/service;

(34) miniature golf course;

(35) outdoor recreational uses such as softball/baseball diamonds, soccer fields or similar uses;

(36) plumbing, retail sales and repair service;

(37) rescue or revival mission or similar use;

(38) retail feed store;

(39) retail plant nursery;

(40) riding academy;

(41) roller skating rink (indoor);

(42) seasonal outdoor retail sales;

(43) shooting range (indoor);

(44) stadium;

(45) swim club (indoor or outdoor);

(46) taxidermist;

(47) tennis club (indoor or outdoor);

(48) tire sales facility; and

(49) window and screen sales or repair shop.

(C) Special Uses

(1) Animal raising or breeding for laboratory uses, fur or scent production, or other similar non-food production purposes (as distinguished from general livestock raising).

(2) Business storage facilities, the facility shall be used as an accessory use to a conforming commercial or industrial use located on the same or detached lot or tract within 500 feet of the primary use, provided that all material storage at the facility shall be located within an enclosed structure.

(3) Commercial communication towers, provided the Board finds the request to be in conformance with the following standards and requirements:

(a) In addition to meeting the requirements set forth in §157.404(C)(1)(b) the Board shall also find the following as a part of its approval:

(i) The proposed communications tower is reasonably necessary to serve the adjacent or nearby area; and

(ii) The applicant is unable to locate or co-locate on an existing structure.

(b) New communication towers approved by the Board of Zoning Appeals shall conform to the following development standards:

(i) The tower structure shall not exceed 150 feet in height,

(ii) The tower color shall be galvanized metal or similarly gray tone;

(iii) Guyed and self supporting lattice towers shall not be permitted;

(iv) The use of stealth technology shall be encouraged; and

(v) The setback requirement for towers shall be as follows. Setbacks shall be measured from the base of the town to the applicable property lines.

SETBACK REQUIREMENTS FOR TOWERS	
Front yard (including through lots)	75% of tower structure height
Side yard – interior lot line	50% of tower structure height
Side yard – street frontage side of corner lot	75% of tower structure height
Rear yard	50% of tower structure height

(c) A special use shall not be required for the location or co-location of antennas in any district on existing structures including but not limited to the following:

(i) rooftops of existing commercial, industrial, and institutional structures;

(ii) water towers;

(iii) church steeples;

(iv) electrical towers;

(v) communication towers;

(vi) other established utility structures; and

(vi) cabinets and shelters.

Antennae shall be permitted to extend up to 20 feet above the existing structure or up to a total height of 200 feet whichever is less. A Certificate of Compliance shall be obtained for all antennae locations and co-locations.

(4) Fairgrounds.

(5) Off-premise signs, except for properties within areas where design guidelines have been adopted by the Plan Commission, to be between a 125 foot radius and a 350 foot radius from any city or county residential district, church, school, health care facility, historic district, designated historic structure, or property eligible for historic designation consistent with the following chart.

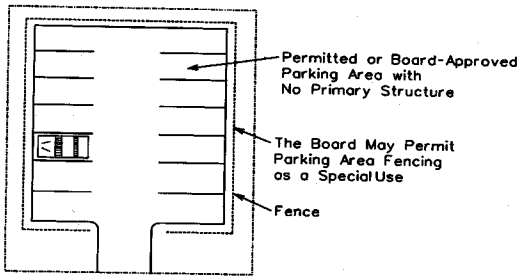
(a) In considering such a request, the Board will evaluate the height, location, and sightlines of the proposed sign and consider whether the sign would adversely affect the character of residential districts, churches, schools, health care facilities, designated historic structures, historic district, or property eligible for historic designation. The Board may impose reasonable conditions on the size, location, height and lighting of such a sign, to address any negative impact on the areas or uses noted above. Off-premise signs adjacent to historic districts, designated historic structures, or properties eligible for historic designation shall be located to ensure that all sightlines and vistas of historic features are maintained, and that such signs shall not negatively affect the historic integrity of such properties or structures.

(b) Concurrent with filing the petition with the Board of Zoning Appeals, the petitioner shall send a notice describing the proposal along with the date and time of the hearing to all property owners within a 350 foot radius of the petitioned location and any registered neighborhood associations having boundaries on the site or within a 350 foot radius of the site. A copy of the mailing list shall be submitted with the application.

OFF-PREMISE SIGNS AUTHORIZED FOR SPECIAL USES				
Zoning	**Maximum Sign Size (sq. ft.)**	**Maximum Height (feet)**	**Minimum Setback (feet)**	**Distances from Residential/Historic District, School, etc. (feet)**
CM2	100	35	15	125 - 350
CM3	100	35	15	125 - 350
CM4	300	35	20	125 - 350
IN1	100	35	15	125 - 350
IN2	300	35	20	125 - 350
IN3	675	35	30	125 - 350

(6) Off-site campus housing.

(7) Parking area fencing may be permitted by the Board, as an accessory use to any permitted or Board approved public, customer, or employee parking area where there is no primary structure on the lot, tract, or development parcel. As part of its approval, the Board shall determine the location, height, and materials of the proposed fencing, subject to the visibility limitations herein.



Parking Area Fencing

(8) Residential uses and primary residential structures, excluding Type III manufactured homes; it is intended that the Board only consider residential uses or primary residential structures on individual lots/tracts or the reuse of a portion of an existing structure under this division. As part of its approval of a proposal, the Board may also permit residential accessory structures and uses.

(9) Temporary structures and uses such as mobile office units or similar temporary facilities and uses permitted herein may be granted an extension of time by the Board for continuation of use.

(D) Accessory Structures and Uses

(1) Purpose

The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar residential and nonresidential facilities.

(2) Permitted Accessory Structures

The following non-residential accessory structures as defined in §157.410, shall be permitted provided the structures comply with the applicable setback, height, location, and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools;
(b) Arbors, trellises, or similar construction;
(c) Attached and detached decks or similar construction;
(d) Fences and walls;
(e) Freestanding satellite dishes and television aerials;
(f) Garbage dumpsters;
(g) Gazebos;
(h) Storage sheds; and
(i) Any other accessory structure which is placed on a permanent foundation.

(3) Permitted Accessory Uses

Non-residential accessory uses as defined in §157.410 shall be permitted provided the uses comply with the applicable setback, height, and other standards set forth in this subchapter with the following exceptions.

(a) Outdoor Display

(i) Nonresidential outdoor display shall only be permitted if the display complies with the applicable setback, location, and other standards and limitations set forth in this chapter.

(ii) Items, retail goods, or similar materials offered for sale (such as vehicles, equipment, or supplies) must be displayed on a paved or similar surface in accordance with the provisions of the Off-Street Parking subchapter of this chapter.

(iii) Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use, in accordance with the provisions herein.

(b) Outdoor Storage

(i) In any commercial or industrial district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, screening, buffering, and other standards and limitations set forth herein.

(ii) In any commercial or industrial district, the outdoor storage of wrecked, abandoned, dismantled, or inoperable vehicles shall be prohibited, except as an accessory use to a permitted primary use.

(E) Temporary Structures and Uses

(1) Temporary Accessory Structures

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use, subject to the following requirements:

(a) The temporary use shall only be permitted for a period of up to two years;

(b) The temporary use must meet the requirements outlined in §157.218(D)(2) for accessory structures;

(c) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit; and

(d) This subsection shall not apply mobile food service units, tents or similar structures.

(2) Temporary Primary Structures and Uses

Temporary or seasonal primary retail structures and/or uses shall be permitted as set forth in §157.104 (Permitted Uses). Such structures or uses shall be permitted on a vacant lot or development parcel, or on a lot or development parcel which has existing primary structure(s) or use(s) for up to four (4) months total in a twelve (12) month period. Any proposed temporary or seasonal primary retail structure shall conform to the following requirements:

(a) The structure shall conform with all of the applicable standards and requirements of this chapter, including minimum setback and parking requirements;

(b) Unless the proposed structure qualifies for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit;

(c) Tents or similar structures or facilities shall be permitted under this subsection; and

(d) This subsection shall not apply to mobile food service units.

(3) Temporary Special Events

Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(4) Mobile Food Service Units

(a) A mobile food service unit shall be permitted as a temporary accessory use to an existing permitted commercial (excluding professional office uses), industrial, or other nonresidential use or structure. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. In the event of a festival or similar use in a public park there shall be no limit on the number of times the unit shall be allowed on the site, however, the unit is limited to 14 days per event and the use must first be approved by the Fort Wayne - Allen County Department of Health.

(b) A mobile food service unit shall be permitted as a temporary primary use in any zoning district which permits a restaurant. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(c) A mobile food service unit shall be permitted as a temporary seasonal primary or accessory use in any zoning district which permits a restaurant. The unit shall be allowed on a site for a period of up to four (4) months, provided the use is first approved by the Fort Wayne - Allen County Department of Health and the applicant obtains an Improvement Location Permit. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(d) A mobile food service unit shall be permitted as a temporary primary or accessory use in any zoning district which permits a restaurant. The unit shall be allowed on a given site for a period of four (4) to twelve (12) months provided the use is first approved through the City's Site Plan Review process, and the applicant obtains an Improvement Location Permit.

(5) Temporary structures and uses in conjunction with approved construction and other development projects.

(a) Construction trailers shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall not be required; however, trailers shall be located in conformance with visibility standards set forth in 157.218(F)(1).

(b) Temporary sales/leasing trailer shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall be required. If the trailer contains water and/or sewer, it shall be required to be reviewed and approved through the Site Plan Review process.

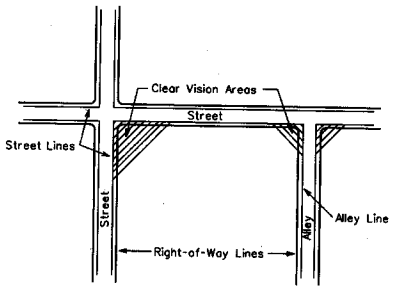
(c) A model home within an approved residential subdivision may be used as a temporary sales office for that subdivision for a period of up to 2 years unless otherwise extended by the Plan Commission.

(F) Development Standards

(1) Corner Visibility

(a) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less than three (3) feet from the side property line which abuts a public right-of-way.

(2) Height

(a) Height Limitations

No building or structure, including accessory structures, shall be erected, altered, enlarged or reconstructed to exceed 35 feet; except that the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section.

(i) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols;

(ii) Parapet or fire walls;

(iii) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and

(iv) Roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

(3) Lot Area and Width

(a) Residential Lot Area Standards

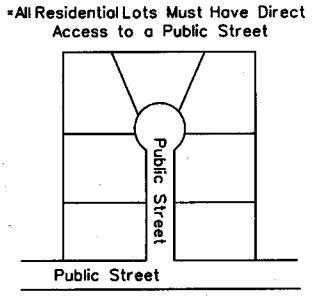
All new residential lots shall be a minimum of 6,000 square feet.

(b) Nonresidential Lot Area Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(c) Residential Lot Width Standards

All new residential lots shall be a minimum of 50 feet in width at the front building line. All residential lots, tracts, or development parcels shall have direct access to an improved public street as defined in the Zoning Ordinance for purposes of vehicular traffic, off-street parking, utilities and other services such as mail delivery, garbage collection, fire and emergency units. The width of such frontage shall be uniform and be no less than the established minimum building line width. Other residential access provisions shall be allowed as established by the Commission's rules.



Direct Access To Public Streets

(d) Nonresidential Lot Width Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(e) Exceptions to Lot Area and Width Standards

Lots established by legally recorded plat or otherwise legally established as of March 1, 1955 which do not meet the minimum size requirements established by this section may still be used for any use permitted within the district in which the lot is located. However, all proposed structures shall meet the minimum setback and yard requirements.

(f) Waiver of Lot Area Standards

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may modify the minimum lot width and size requirements, at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(4) Yard Requirements

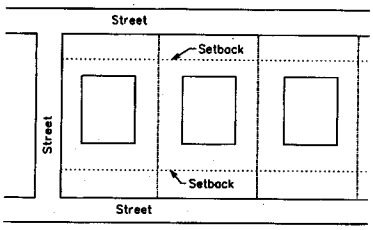
No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located (including maximum yard requirements where applicable), except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be a front yard for each lot, tract, or development parcel; the minimum depth shall be 25 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located.



Through Lot Front Setback Requirement

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;
(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Plat and Development Plan Front Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(b) Rear Yard Requirements

(i) Rear Yard Requirement

There shall be a rear yard for each lot, tract or development parcel; for residential uses, the minimum rear yard shall be 20% of the lot depth or 25 feet, whichever is less; for nonresidential uses, the minimum rear yard shall be 30 feet if the rear yard abuts a residential district, and 10 feet of the rear yard does not abut a residential district (subject to the provisions and exceptions noted in this division).

(ii) Plat and Development Plan Rear Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(iii) Nonresidential Accessory Structures

Nonresidential accessory structures may be located between the rear of the primary structure and the rear lot line, provided the accessory structure is located a minimum of five (5) feet from a side or rear property line, and provided the structure complies with any applicable screening or buffering provisions as set forth in §157.306 of this chapter.

(c) Side Yard Requirements

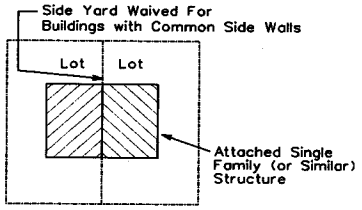
(i) Required Side Yard

There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be as listed in the following table (subject to the provisions and exceptions noted in this division).

SIDE YARD REQUIREMENTS		
Lot Type	**Lot Width**	**Required Side Yard**
Corner	Up to and including 55′ Over 55′	10′ 10′ 15′ internal (if adjacent to a residential district) 15′ side street
Interior	All lots	10′ 15′ internal (if adjacent to a residential district)

(ii) Side Yards Waived for Dwellings with Common Walls

Dwellings with common walls on a lot line(including single family attached residences, duplexes, and triplexes) shall be considered as one building occupying one lot for the purpose of determining side yard setback requirements.



Side Yard Waived

(iii) Waiver of Side Yard Requirements for Additions to Nonconforming Nonresidential Structures

The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

(iv) Plat and Development Plan Side Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

(v) Nonresidential accessory structures

Nonresidential accessory structures may be located beside a primary structure, provided the accessory structure meets the side and rear yard setback requirement, except that nonresidential dumpsters may be located a minimum of five (5) feet from a side property line, and is located no closer to the front lot line than the primary structure or the required front yard setback, whichever is less.

(vi) Nonresidential outdoor display

The following standards apply to uses permitted to have outdoor display unless further limited herein. Outdoor display shall not be permitted within the required front yard, or between the leading edge of any existing primary structure and the front property line, whichever distance is less; except in conjunction with the following uses when permitted in that district. However, outdoor display shall be permitted in the required side and rear yards as an accessory use that is clearly incidental to a permitted primary use. On a corner lot, outdoor display shall not be permitted within the required side yard which abuts the side street.

(1) Department store with seasonal outdoor retail sales;

(2) Hardware store;
(3) Motorized vehicle sales, including boats;
(4) Open lot Christmas tree sales, or other similar seasonal outdoor retail sales;
(5) Retail feed store;
(6) Service stations, including automobile accessory stores, and similar automotive uses; and
(7) Similar retail uses.

(vii) Nonresidential outdoor storage

The following standards apply to uses permitted to have outdoor storage.

(1) In any commercial or industrial district, outdoor storage shall be not be permitted in any required front yard, or between the leading edge of any existing primary structure and the front property line.

(2) On an interior lot outdoor storage may be permitted in a required side or rear yard if contained within an approved screen meeting the requirements of §157.306.

(3) On a corner lot, outdoor storage shall not be permitted within the required side yard that abuts the side street. Permitted outdoor storage shall be contained within an approved screen meeting the requirements of §157.306.

(4) In any commercial or industrial district, any automobile repair shop, body shop, or similar use which stores over ten (10) vehicles overnight shall screen the vehicle storage area as set forth in §157.306. The vehicle storage area may only be located within a side or rear yard.

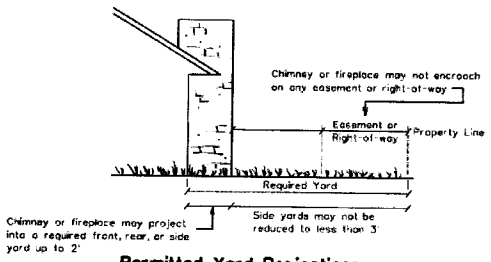
(5) The outdoor storage of wrecked, dismantled, or inoperable vehicles shall only be permitted as a short-term (up to 30 days) accessory use to a permitted automobile repair shop, body shop, or similar use

(d) Yard Projections

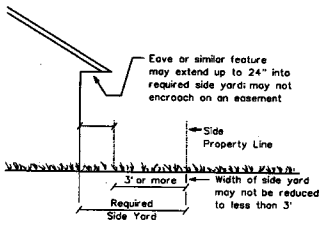
The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″

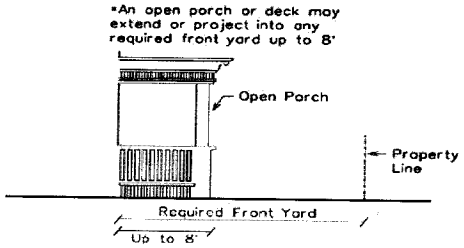
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections
(Chimneys and Fireplaces)



Permitted Yard Projections
(Eave in Side Yard)



Permitted Yard Projections
(Porch or Deck into Front Yard)

(e) Exceptions to Yard Projections

(i) Commercial, Industrial, and Other Nonresidential Fences

A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard on a property with an existing primary structure. If there is no required front yard or if the building is considered to be legal nonconforming with regard to required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

(ii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

(3) Automatic teller machines, canopies, gas pumps, pay telephones, tire air pumps and similar structures shall be permitted in a required front or side yard as a permitted primary or accessory structure in any district where the use is permitted. A ten (10) foot minimum setback from any property or right of way line shall be maintained for automatic teller machines, canopies, and gas pumps. A five (5) foot minimum setback from any property or right of way line shall be maintained for pay telephones and tire air pumps.

§ 157.219 CM4, Intensive Commercial

(A) Purpose

The Intensive Commercial District is intended to provide areas for high intensity uses not permitted in CM1, CM2 or CM3 Districts. Commercial uses in this district often serve the general public and therefore are usually located along major arterial and/or collector roadways. New CM4 zoning districts shall not be created adjacent to existing residential zoning districts.

(B) Permitted Uses

The following uses are permitted in a CM4 District:

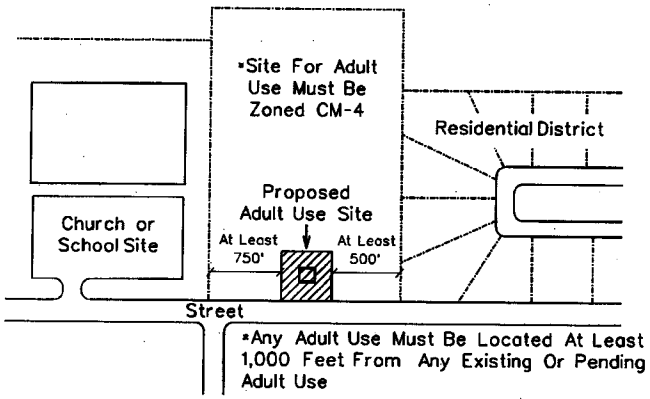
(1) all uses permitted in a CM3 District;
(2) agricultural equipment sales or service facility;
(3) agricultural supply store;
(4) amusement park;
(5) auction hall (including outdoor auctions);
(6) automobile body shop;
(7) betting parlor;
(8) bottled gas service;
(9) building materials sales yard, including lumber yard;
(10) camp ground;
(11) drive in theater;
(12) flea market (including outdoor sales);
(13) fruit and vegetable store (including outdoor sales);
(14) ice skating rink (outdoor);
(15) landscape contracting service;
(16) light construction equipment or tool rental and/or service (outdoor or indoor storage and display);
(17) manufactured home sales lot;
(18) motor vehicle sales facility not otherwise permitted;
(19) pawnshop;
(20) printing services, including but not limited to: printing press operations, publishing, engraving, and lithographing;
(21) race track, including go-cart/motocross facility;
(22) self-service storage (mini-warehouse) facilities;
(23) sexually oriented business, provided the use conforms with the following:

(a) the property where the use is proposed shall be located at least 500 feet from any existing City AR, MR1, MR2, R1, R2, R3, or RP zoning district or corresponding agricultural or residential zoning district outside of the jurisdiction of the City of Fort Wayne;

(b) the property where the use is proposed shall be located at least 1,000 feet from any existing or pending sexually oriented business;

(c) the property where the use is proposed shall be located at least 750 feet from any existing or pending church or educational institution; and

(d) the owner/operator of any sexually oriented business that sells alcoholic beverages shall first obtain all required state alcoholic beverage permits prior to the issuance of the Improvement Location Permit and/or Certificate of Compliance for the proposed use;



Adult Use Separation Requirements

(24) shooting range (outdoor);

(25) sign fabrication shop;

(26) tree service;

(27) motor vehicle undercoating and rust proofing facility not otherwise permitted;

(28) warehousing, storage and wholesale establishment, including cold storage, provided that all storage is indoors, and the gross floor area of the storage portion of the use is 15,000 square feet or less; and

(29) woodworking or carpentry shop (retail).

(C) Special Uses

(1) Business storage facilities, the facility shall be used as an accessory use to a conforming commercial or industrial use located on the same or detached lot or tract within 500 feet of the primary use, provided that all material storage at the facility shall be located within an enclosed structure.

(2) Commercial communication towers, provided the Board finds the request to be in conformance with the following standards and requirements:

(a) In addition to meeting the requirements set forth in §157.404(C)(1)(b) the Board shall also find the following as a part of its approval:

(i) The proposed communications tower is reasonably necessary to serve the adjacent or nearby area; and

(ii) The applicant is unable to locate or co-locate on an existing structure.

(b) New communication towers approved by the Board of Zoning Appeals shall conform to the following development standards:

(i) The tower structure shall not exceed 150 feet in height,

(ii) The tower color shall be galvanized metal or similarly gray tone;

(iii) Guyed and self supporting lattice towers shall not be permitted;

(iv) The use of stealth technology shall be encouraged; and

(v) The setback requirement for towers shall be as follows. Setbacks shall be measured from the base of the town to the applicable property lines.

SETBACK REQUIREMENTS FOR TOWERS	
Front yard (including through lots)	75% of tower structure height
Side yard – interior lot line	50% of tower structure height
Side yard – street frontage side of corner lot	75% of tower structure height
Rear yard	50% of tower structure height

(c) A special use shall not be required for the location or co-location of antennas in any district on existing structures including but not limited to the following:

(i) rooftops of existing commercial, industrial, and institutional structures;

(ii) water towers;

(iii) church steeples;

(iv) electrical towers;

(v) communication towers;

(vi) other established utility structures; and

(vi) cabinets and shelters.

Antennae shall be permitted to extend up to 20 feet above the existing structure or up to a total height of 200 feet whichever is less. A Certificate of Compliance shall be obtained for all antennae locations and co-locations.

(3) Fairgrounds.

(4) Off-premise signs, except for properties within areas where design guidelines have been adopted by the Plan Commission, to be between a 125 foot radius and a 350 foot radius from any city or county residential district, church, school, health care facility, historic district, designated historic structure, or property eligible for historic designation consistent with the following chart.

(a) In considering such a request, the Board will evaluate the height, location, and sightlines of the proposed sign and consider whether the sign would adversely affect the character of residential districts, churches, schools, health care facilities, designated historic structures, historic district, or property eligible for historic designation. The Board may impose reasonable conditions on the size, location, height and lighting of such a sign, to address any negative impact on the areas or uses noted above. Off-premise signs adjacent to historic districts, designated historic structures, or properties eligible for historic designation shall be located to ensure that all sightlines and vistas of historic features are maintained, and that such signs shall not negatively affect the historic integrity of such properties or structures.

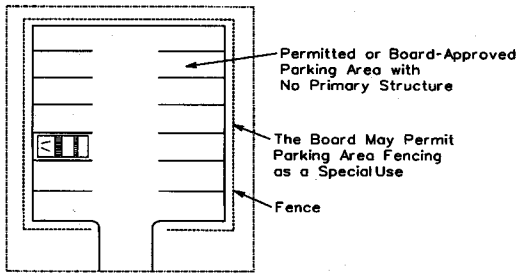
(b) Concurrent with filing the petition with the Board of Zoning Appeals, the petitioner shall send a notice describing the proposal along with the date and time of the hearing to all property owners within a 350 foot radius of the petitioned location and any registered neighborhood associations having boundaries on the site or within a 350 foot radius of the site. A copy of the mailing list shall be submitted with the application.

OFF-PREMISE SIGNS AUTHORIZED FOR SPECIAL USES				
Zoning	**Maximum Sign Size (sq. ft.)**	**Maximum Height (feet)**	**Minimum Setback (feet)**	**Distances from Residential/Historic District, School, etc. (feet)**
CM2	100	35	15	125 - 350
CM3	100	35	15	125 - 350
CM4	300	35	20	125 - 350
IN1	100	35	15	125 - 350
IN2	300	35	20	125 - 350
IN3	675	35	30	125 - 350

(5) Off-site campus housing.

(6) Parking area fencing may be permitted by the Board, as an accessory use to any permitted or Board approved public, customer, or employee parking area where

there is no primary structure on the lot, tract, or development parcel. As part of its approval, the Board shall determine the location, height, and materials of the proposed fencing, subject to the corner visibility limitations herein.



Parking Area Fencing

(7) Residential uses and primary residential structures, excluding Type III manufactured homes; it is intended that the Board only consider residential uses or primary residential structures on individual lots/tracts or the reuse of a portion of an existing structure under this division. As part of its approval of a proposal, the Board may also permit residential accessory structures and uses.

(8) Temporary structures and uses such as mobile office units or similar temporary facilities and uses permitted herein may be granted an extension of time by the Board for continuation of use.

(D) Accessory Structures and Uses

(1) Purpose

The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar residential and nonresidential facilities.

(2) Permitted Accessory Structures

The following non-residential accessory structures as defined in §157.410, shall be permitted provided the structures comply with the applicable setback, height, location, and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools;
(b) Arbors, trellises, or similar construction;
(c) Attached and detached decks or similar construction;
(d) Fences and walls;
(e) Freestanding satellite dishes and television aerials;
(f) Garbage dumpsters;
(g) Gazebos;
(h) Storage sheds; and
(i) Any other accessory structure which is placed on a permanent foundation.

(3) Permitted Accessory Uses

Non-residential accessory uses as defined in §157.410 shall be permitted provided the uses comply with the applicable setback, height, and other standards set forth in this subchapter with the following exceptions.

(a) Outdoor Display

(i) Nonresidential outdoor display shall only be permitted if the display complies with the applicable setback, location, and other standards and limitations set forth in this chapter.

(ii) Items, retail goods, or similar materials offered for sale (such as vehicles, equipment, or supplies) must be displayed on a paved or similar surface in accordance with the provisions of the Off-Street Parking subchapter of this chapter.

(iii) Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use, in accordance with the provisions herein.

(b) Outdoor Storage

(i) In any commercial or industrial district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, screening, buffering, and other standards and limitations set forth herein.

(ii) In any commercial or industrial district, the outdoor storage of wrecked, abandoned, dismantled, or inoperable vehicles shall be prohibited, except as an accessory use to a permitted primary use.

(E) Temporary Structures and Uses

(1) Temporary Accessory Structures

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use, subject to the following requirements:

(a) The temporary use shall only be permitted for a period of up to two years;

(b) The temporary use must meet the requirements outlined in §157.219(D)(2) for accessory structures;

(c) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit; and

(d) This subsection shall not apply mobile food service units, tents or similar structures.

(2) Temporary Primary Structures and Uses

Temporary or seasonal primary retail structures and/or uses shall be permitted as set forth in §157.104 (Permitted Uses). Such structures or uses shall be permitted on a vacant lot or development parcel, or on a lot or development parcel which has existing primary structure(s) or use(s) for up to four (4) months total in a twelve (12) month period. Any proposed temporary or seasonal primary retail structure shall conform to the following requirements:

(a) The structure shall conform with all of the applicable standards and requirements of this chapter, including minimum setback and parking requirements;

(b) Unless the proposed structure qualifies for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit;

(c) Tents or similar structures or facilities shall be permitted under this subsection; and

(d) This subsection shall not apply to mobile food service units.

(3) Temporary Special Events

Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(4) Mobile Food Service Units

(a) A mobile food service unit shall be permitted as a temporary accessory use to an existing permitted commercial (excluding professional office uses), industrial, or other nonresidential use or structure. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. In the event of a festival or similar use in a public park there shall be no limit on the number of times the unit shall be allowed on the site, however, the unit is limited to 14 days per event and the use must first be approved by the Fort Wayne - Allen County Department of Health.

(b) A mobile food service unit shall be permitted as a temporary primary use in any zoning district which permits a restaurant. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. As part of its review of the Improvement Location Permit

application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(c) A mobile food service unit shall be permitted as a temporary seasonal primary or accessory use in any zoning district which permits a restaurant. The unit shall be allowed on a site for a period of up to four (4) months, provided the use is first approved by the Fort Wayne - Allen County Department of Health and the applicant obtains an Improvement Location Permit. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(d) A mobile food service unit shall be permitted as a temporary primary or accessory use in any zoning district which permits a restaurant. The unit shall be allowed on a given site for a period of four (4) to twelve (12) months provided the use is first approved through the City's Site Plan Review process, and the applicant obtains an Improvement Location Permit.

(5) Temporary structures and uses in conjunction with approved construction and other development projects.

(a) Construction trailers shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall not be required; however, trailers shall be located in conformance with visibility standards set forth in 157.219(F)(1).

(b) Temporary sales/leasing trailer shall be permitted, provided the project is proceeding with due diligence, until the project is complete. An Improvement Location Permit shall be required. If the trailer contains water and/or sewer, it shall be required to be reviewed and approved through the Site Plan Review process.

(c) A model home within an approved residential subdivision may be used as a temporary sales office for that subdivision for a period of up to 2 years unless otherwise extended by the Plan Commission.

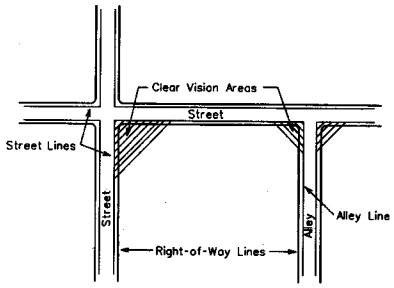
(F) Development Standards

(1) Corner Visibility

(a) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may

also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less than three (3) feet from the side property line which abuts a public right-of-way.

(2) Height

(a) Height Limitations

No building or structure, including accessory structures, shall be erected, altered, enlarged or reconstructed to exceed 35 feet; except that the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section.

(i) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols;

(ii) Parapet or fire walls;

(iii) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and

(iv) Roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

(3) Lot Area and Width

(a) Residential Lot Area Standards

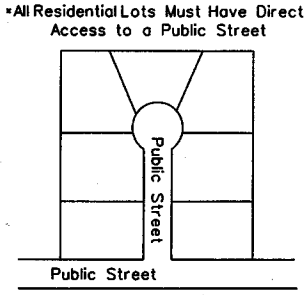
All new residential lots shall be a minimum of 6,000 square feet.

(b) Nonresidential Lot Area Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(c) Residential Lot Width Standards

All new residential lots shall be a minimum of 50 feet in width at the front building line. All residential lots, tracts, or development parcels shall have direct access to an improved public street as defined in the Zoning Ordinance for purposes of vehicular traffic, off-street parking, utilities and other services such as mail delivery, garbage collection, fire and emergency units. The width of such frontage shall be uniform and be no less than the established minimum building line width. Other residential access provisions shall be allowed as established by the Commission's rules.



Direct Access To Public Streets

(d) Nonresidential Lot Width Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(e) Exceptions to Lot Area and Width Standards

Lots established by legally recorded plat or otherwise legally established as of March 1, 1955 which do not meet the minimum size requirements established by this section may still be used for any use permitted within the district in which the lot is located. However, all proposed structures shall meet the minimum setback and yard requirements.

(f) Waiver of Lot Area Standards

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may modify the minimum lot width and size requirements, at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(4) Yard Requirements

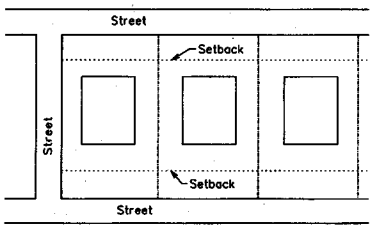
No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located (including maximum yard requirements where applicable), except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be a front yard for each lot, tract, or development parcel; the minimum depth shall be 25 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located.



Through Lot Front Setback Requirement

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;
(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Plat and Development Plan Front Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(b) Rear Yard Requirements

(i) Required Rear Yard

There shall be a rear yard for each lot, tract or development parcel; for residential uses, the minimum rear yard shall be 20% of the lot depth or 25 feet, whichever is less; for nonresidential uses, the minimum rear yard shall be 30 feet if the rear yard abuts a residential district, and 10 feet of the rear yard does not abut a residential district (subject to the provisions and exceptions noted in this division).

(ii) Plat and Development Plan Rear Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(iii) Nonresidential accessory structures

Nonresidential accessory structures may be located between the rear of the primary structure and the rear lot line, provided the accessory structure is located a minimum of five (5) feet from a side or rear property line, and provided the structure complies with any applicable screening or buffering provisions as set forth in §157.306 of this chapter.

(c) Side Yard Requirements

(i) Required Side Yard

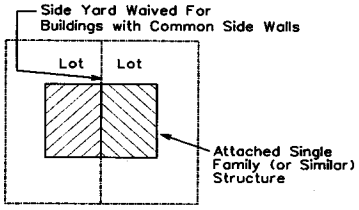
There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be as listed in the following table (subject to the provisions and exceptions noted in this division).

SIDE YARD REQUIREMENTS		
Lot Type	**Lot Width**	**Required Side Yard**
Corner	Up to and including 55′	10′
	Over 55′	10′
		15′ internal (if adjacent to a residential district)
		15′ side street

Interior	All lots	10′ 15′ internal (if adjacent to a residential district)

(ii) Side Yards Waived for Dwellings with Common Walls

Dwellings with common walls on a lot line(including single family attached residences, duplexes, and triplexes) shall be considered as one building occupying one lot for the purpose of determining side yard setback requirements.



Side Yard Waived

(iii) Waiver of Side Yard Requirements for Additions to Nonconforming Nonresidential Structures

The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

(iv) Plat and Development Plan Side Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

(v) Nonresidential accessory structures

Nonresidential accessory structures may be located beside a primary structure, provided the accessory structure meets the side and rear yard setback requirement, except that nonresidential dumpsters may be located a minimum of five (5) feet from a side property line, and is located no closer to the front lot line than the primary structure or the required front yard setback, whichever is less.

(vi) Nonresidential outdoor display

The following standards apply to uses permitted to have outdoor display unless further limited herein. Outdoor display shall not be permitted within

the required front yard, or between the leading edge of any existing primary structure and the front property line, whichever distance is less; except in conjunction with the following uses when permitted in that district. However, outdoor display shall be permitted in the required side and rear yards as an accessory use that is clearly incidental to a permitted primary use. On a corner lot, outdoor display shall not be permitted within the required side yard which abuts the side street.

(1) Agricultural implement sales;
(2) Building material sales yard;
(3) Cemetery monument sales;
(4) Department store with seasonal outdoor retail sales;
(5) Hardware store;
(6) Lawn and garden store;
(7) Light equipment rental/service;
(8) Motorized vehicle sales;
(9) Open lot Christmas tree sales, or other similar seasonal outdoor retail sales;
(10) Plant nurseries, or greenhouses;
(11) Recreational vehicle sales, including boats, trailers and mobile home sales;
(12) Retail feed store;
(13) Service stations, including automobile accessory stores, and similar automotive uses; and
(14) Similar retail uses.

(vii) Nonresidential outdoor storage

The following standards apply to uses permitted to have outdoor storage.

(1) In any commercial or industrial district, outdoor storage shall be not be permitted in any required front yard, or between the leading edge of any existing primary structure and the front property line.

(2) On an interior lot outdoor storage may be permitted in a required side or rear yard if contained within an approved screen meeting the requirements of §157.306.

(3) On a corner lot, outdoor storage shall not be permitted within the required side yard that abuts the side street. Permitted outdoor storage shall be contained within an approved screen meeting the requirements of §157.306.

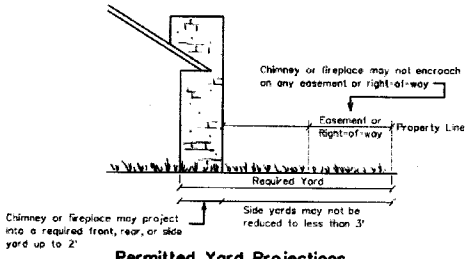
(4) In any commercial or industrial district, any automobile repair shop, body shop, or similar use which stores over ten (10) vehicles overnight shall screen the vehicle storage area as set forth in §157.306. The vehicle storage area may only be located within a side or rear yard.

(5) The outdoor storage of wrecked, dismantled, or inoperable vehicles shall only be permitted as a short-term (up to 30 days) accessory use to a permitted automobile repair shop, body shop, or similar use

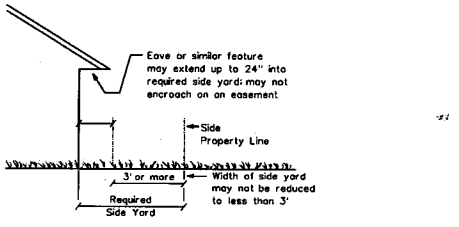
(d) Yard Projections

The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

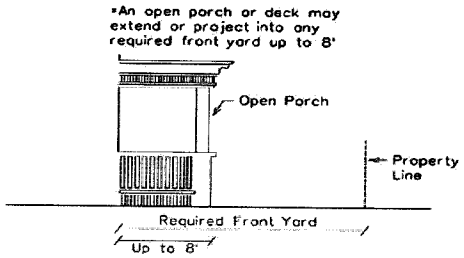
YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections (Chimneys and Fireplaces)



Permitted Yard Projections (Eave in Side Yard)



Permitted Yard Projections
(Porch or Deck into Front Yard)

(e) Exceptions to Yard Projections

(i) Commercial, Industrial, and Other Nonresidential Fences

A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard on a property with an existing primary structure. If there is no required front yard or if the building is considered to be legal nonconforming with regard to required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

(ii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

(3) Automatic teller machines, canopies, gas pumps, pay telephones, tire air pumps and similar structures shall be permitted in a required front or side yard as a permitted primary or accessory structure in any district where the use is permitted. A ten (10) foot minimum setback from any property or right of way line shall be maintained for automatic teller machines, canopies, and gas pumps. A five (5) foot minimum setback from any property or right of way line shall be maintained for pay telephones and tire air pumps.

Section 157.220 Reserved for future use

§ 157.221 CM5A, Central Downtown

(A) Purpose

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

(B) Permitted Uses

The uses listed below are permitted in the CM5A District:

(1) accessory building, structure, or use;
(2) adoption agency;
(3) advertising office;
(4) antique shop;
(5) apparel and accessory store;
(6) architect, engineer, land surveyor, or similar office (with no outdoor equipment storage);
(7) art gallery;
(8) artist studio or school;
(9) artist supply and material store;
(10) assisted living facility;
(11) bakery goods, including "outlet" store;
(12) bank, credit union, or savings and loan association;
(13) banquet/reception hall;
(14) bar or tavern;
(15) barber shop;
(16) beauty salon;
(17) bed and breakfast establishment;

(18) betting parlor or other gambling facility
(19) bicycle sales and repair shop;
(20) billiard or pool hall;
(21) bingo establishment;
(22) book store;
(23) bowling alley;
(24) broadcast studio;
(25) business or trade school (indoor education/ training only);
(26) card and stationary store;
(27) catalog showroom (for retail sales);
(28) caterer;
(29) child and/or adult care center;
(30) chiropractor office;
(31) churches, synagogues, and other religious buildings and facilities used for religious assembly;
(32) cigarette/tobacco/cigar store;
(33) clock, watch, and jewelry sales and repair;
(34) clothing store (new or resale);
(35) coin shop;
(36) collection service (excluding outdoor storage);
(37) community facilities such as a botanical garden/conservatory, library, planetarium, public transportation or similar public facility, museum, zoo, or similar use;
(38) computer and computer software store;
(39) computer data processing /data storage facility;
(40) computer service or repair;
(41) confectionery, ice cream, or candy store;
(42) consignment shop;
(43) consulting service;
(44) convenience store (excluding gas pumps/canopies);
(45) convention facility;
(46) copy and printing services including digital printing operations and publishing;
(47) cosmetic store;
(48) costume and clothing rental;
(49) counseling service;
(50) craft supply store;
(51) credit agency or service;

(52) dance hall;

(53) dance studio or school;

(54) dating service;

(55) day care (adult or child), class I child care home, and adult care home (in conjunction with a legally established existing residential use);

(56) delicatessen;

(57) dentist office;

(58) department store;

(59) dinner theater;

(60) doctor office;

(61) drugstore;

(62) exhibit hall/trade show facility;

(63) fabric shop;

(64) finance company;

(65) floor covering store;

(66) florist;

(67) fruit and/or vegetable store or farmers market;

(68) furniture store (new and used);

(69) gift shop;

(70) grocery store or supermarket;

(71) hardware store;

(72) health and fitness club;

(73) health care facilities such as a public health center, diagnostic or treatment center or similar facility;

(74) hobby shop;

(75) home occupation (in conjunction with a legally established existing residential use);

(76) hotel;

(77) indoor concert arena;

(78) insurance office;

(79) interior decorating store;

(80) interior designer office;

(81) law office;

(82) leather goods or luggage store;

(83) loan office (excluding check cashing business);

(84) martial arts studio;

(85) massage therapy establishment;

(86) meat or fish market;

(87) medical center or clinic;

(88) medical related services, including laboratories;

(89) micro or mini-brewery, brewpub, or similar use;

(90) multiple family complex, high rise (including condominiums);

(91) multiple family dwelling (including condominiums);

(92) music store;

(93) music studio or school;

(94) musical instrument store (new or used);

(95) nail salon;

(96) neighborhood facilities or uses;

(97) night club;

(98) optician or optometrist office;

(99) package liquor store;

(100) pharmacy;

(101) photographic supply store;

(102) photography studio;

(103) picture framing facility;

(104) police station, fire station, or similar public use;

(105) private club (nonprofit or for profit);

(106) professional or commercial office not otherwise listed (including condominiums);

(107) public park or recreation area, including accessory uses and structures;

(108) public utility customer office;

(109) public, parochial, or private elementary, junior, and/or senior high school;

(110) radio station;

(111) real estate, broker, or appraiser office;

(112) recreation facility (public or private) such as a tennis/racquet club, indoor ice skating facility, swim club or fitness center;

(113) rental and/or leasing store (i.e. furniture, office equipment, party supplies, or computers with indoor storage or display only);

(114) residential dwelling unit(s) located above, to the rear of, or attached to a permitted commercial or office use;

(115) residential facility for the developmentally disabled;

(116) residential facility for the mentally ill;

(117) restaurant;

(118) roller skating rink;

(119) shoe repair shop;

(120) shoe store;

(121) sign sales store (no outdoor storage);

(122) sporting goods sales and rentals;

(123) stadium;

(124) stockbroker office;

(125) tailor/alterations shop;

(126) tanning salon;

(127) tattoo, body piercing, body art, or similar facility;

(128) theater (indoor);

(129) toy store;

(130) travel agency;

(131) tutoring facility;

(132) variety store;

(133) veterinary clinic;

(134) video arcade;

(135) video rental store; and

(136) water park (indoor).

(C) Special Uses

(1) Class II child care homes.

(2) Correctional services facilities.

(3) Home-based businesses, subject to the following additional requirements (unless waived or modified by the Board):

(a) The business shall only be operated by residents of the dwelling; no outside employees shall be permitted.

(b) The business shall not change the residential character of the structure or immediate area;

(c) The business must be incidental and secondary to the principal use of the dwelling as a residence, and must be conducted entirely within the dwelling or attached garage. No home-based business shall be operated from a detached accessory structure;

(d) The business shall use only normal office equipment, including but not limited to a typewriter, computer, calculator, fax machine, or copier. Equipment noise shall not be permitted to adversely affect adjacent properties;

(e) The business shall not occupy more than 25% of the gross floor area of the dwelling unit, including any space used for storage for the business. All storage related to the business use shall be contained within the dwelling or attached garage;

(f) The business shall not display or create any external evidence of the business, except that a single vehicle, used in conjunction with the business, may be parked outside and may display advertising or a logo. The vehicle shall comply with the restrictions listed in §72.23 of the City Code;

(g) No structural alterations shall be made to the dwelling unit to accommodate the business. No separate entrances or building additions shall be added for the use of the business;

(h) A home-based business shall not be permitted in a multiple family dwelling with three or more dwelling units;

(i) Only one (1) business shall be permitted per dwelling unit, and the Board may approve the business for use by the current resident/applicant only;

(j) There may be a limited number of clients or customers who come to the home; the number may be established by the Board;

(k) Retail sales shall not be permitted on the property; except that as part of its consideration of the request, the Board may permit limited retail sales as an accessory use;

(l) Wall and freestanding signage shall not be permitted in association with the home-based business, and the address of the home may not be used to advertise the business except for advertising such as printed literature or business cards; and

(m) As part of its review of a request for a home based business, the Board may consider any existing plat or deed restrictions limiting the uses of the property included in the request.

(n) Permitted home-based businesses shall include but not be limited to:

(i) Accounting or bookkeeping office;
(ii) Animal grooming;
(iii) Architect, engineer, land surveyor, or other similar office;
(iv) Massage therapy;
(v) One-chair beauty salon, barber shop, nail salon, or similar use;
(vi) Photography studio;
(vii) Psychic reading business;
(viii) Real estate, insurance, law, or similar office;
(ix) Seamstress or tailor; and
(x) Teaching/tutoring, including music lessons.

(o) Prohibited home-based businesses shall include but not be limited to:

(i) Amusement enterprises of any public nature;
(ii) Animal kennel, or pet shop; and
(iii) Production, manufacturing, assembly, or repair of products or components of products.

(4) Home workshops, in addition to meeting the criteria established in §157.404(C)(1)(b), the workshop shall meet the following requirements unless otherwise waived or modified by the Board.

(a) The person operating the home workshop shall be a resident of the premises; no outside employees shall be permitted;

(b) In no case shall a home workshop be allowed in an accessory structure prior to the occupancy of the principal dwelling on the lot, parcel, or tract of land;

(c) The workshop shall not change the residential character of the structure or immediate area;

(d) The workshop must be incidental and secondary to the principal use of the dwelling as a residence, and must be conducted entirely within the dwelling, attached garage, or accessory structure located on the same lot or tract;

(e) The workshop shall use only that equipment appropriate for small scale enterprises. Equipment noise shall not be permitted to adversely affect adjacent properties. As part of the application the applicant shall include a list of any equipment proposed to be used as part of the operation of the home workshop for review and approval by the Board;

(f) The workshop shall not occupy more than 25% of the gross floor area of a single family residence, or 50% of the gross floor area of an accessory structure, including any space used for storage for the workshop. All storage related to the use of the workshop shall be contained within the dwelling or accessory structure;

(g) The business shall not display or create any external evidence of the business, except that a single vehicle, used in conjunction with the business, may be parked outside, and may display advertising or a logo. The vehicle shall comply with the restrictions listed in §72.23 of the City Code;

(h) No separate entrances or building additions shall be added to the dwelling unit or attached garage for the use of the workshop;

(i) A home workshop shall not be permitted in a two family or multiple family dwelling unit, or in an accessory structure on the same lot or tract as a two family or multiple family dwelling;

(j) Only one (1) home workshop shall be permitted per lot or tract, and the Board may approve the workshop for use by the current resident/applicant only;

(k) There may be a limited number of clients or customers who come to the home; the number may be established by the Board;

(l) Retail sales shall not be permitted on the property; except that as part of its consideration of the request, the Board may permit limited retail sales as an accessory use;

(m) Wall and freestanding signage shall not be permitted in association with the home workshop, and the address of the home may not be used to advertise the workshop except for advertising such as printed literature or business cards; and

(n) As part of its consideration of a request for a home workshop, the Board may consider any existing plat or deed restrictions limiting the uses of the property included in the request.

(o) Permitted home workshops. Permitted home workshops shall include but not be limited to:

(i) Ceramics/pottery making or similar crafts;
(ii) Copy and duplicating service;
(iii) Small electronic equipment repair such as televisions and video cassette recorders; and
(iv) Woodworking.

(p) Prohibited home workshops. Prohibited home workshops shall include but not be limited to:

(i) Amusement enterprises of any public nature;
(ii) Animal grooming, animal kennel, or pet shop;
(iii) Cabinet or furniture making;
(iv) Mechanical or body repair of automotive vehicles, other than routine maintenance and minor repair of personal motor vehicles titled to the occupants of the property; and
(v) Small engine repair.

(5) Nursing homes, which may include assisted living units and services as an accessory use.

(6) Parking structures (public or private). Parking structures integrated within the footprint of a new building for a permitted primary use shall not require a special use approval under this provision. In addition to meeting the requirements set forth in §157.404(C)(1)(b), the Board shall evaluate the request based on the following standards and guidelines:

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

(b) If a new parking structure is connected to an existing or proposed building than the parking structure shall be compatible with that building.

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

(7) Pawnshops.

(8) Rescue/revival missions, homeless shelters, group residential facilities or similar uses.

(D) Accessory Structures and Uses

(1) Purpose

The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar residential and nonresidential facilities.

(2) Permitted Accessory Structures

The following non-residential accessory structures as defined in §157.410, shall be permitted provided the structures comply with the applicable setback, height, location, and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools;
(b) Arbors, trellises, or similar construction;
(c) Attached and detached decks or similar construction;
(d) Fences and walls;
(e) Freestanding satellite dishes and television aerials;
(f) Garbage dumpsters;
(g) Gazebos;
(h) Storage sheds; and
(i) Any other accessory structure which is placed on a permanent foundation.

(3) Permitted Accessory Uses

Non-residential accessory uses as defined in §157.410 shall be permitted provided the uses comply with the applicable setback, height, and other standards set forth in this subchapter with the following exceptions.

(a) Outdoor Display

(i) Nonresidential outdoor display shall only be permitted if the display complies with the applicable setback, location, and other standards and limitations set forth in this chapter.

(ii) Items, retail goods, or similar materials offered for sale (such as vehicles, equipment, or supplies) must be displayed on a paved or similar surface in accordance with the provisions of the Off-Street Parking subchapter of this chapter.

(iii) Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use, in accordance with the provisions herein.

(b) Outdoor Storage

(i) In any commercial or industrial district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, screening, buffering, and other standards and limitations set forth herein.

(ii) In any commercial or industrial district, the outdoor storage of wrecked, abandoned, dismantled, or inoperable vehicles shall be prohibited, except as an accessory use to a permitted primary use.

(E) Temporary Structures and Uses

(1) Temporary Accessory Structures

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use, subject to the following requirements:

(a) The temporary use shall only be permitted for a period of up to two years;

(b) The temporary use must meet the requirements outlined in §157.221(D)(2) for accessory structures;

(c) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit; and

(d) This subsection shall not apply mobile food service units, tents or similar structures.

(2) Temporary Primary Structures and Uses

Temporary or seasonal primary retail structures and/or uses shall be permitted as set forth in §157.104 (Permitted Uses). Such structures or uses shall be permitted on a vacant lot or development parcel, or on a lot or development parcel which has existing primary structure(s) or use(s) for up to four (4) months total in a twelve (12) month period. Any proposed temporary or seasonal primary retail structure shall conform to the following requirements:

(a) The structure shall conform with all of the applicable standards and requirements of this chapter, including minimum setback and parking requirements;

(b) Unless the proposed structure qualifies for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit;

(c) Tents or similar structures or facilities shall be permitted under this subsection; and

(d) This subsection shall not apply to mobile food service units.

(3) Temporary Special Events

Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(4) Mobile Food Service Units

(a) A mobile food service unit shall be permitted as a temporary accessory use to an existing permitted commercial (excluding professional office uses), industrial, or other nonresidential use or structure. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. In the event of a festival or similar use in a public park there shall be no limit on the number of times the unit shall be allowed on the site, however, the unit is limited to 14 days per event and the use must first be approved by the Fort Wayne - Allen County Department of Health.

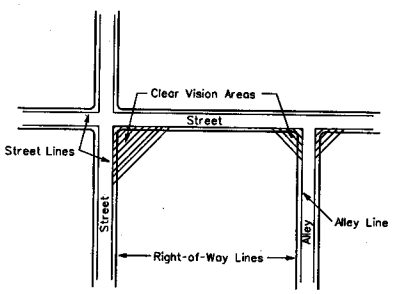
(b) A mobile food service unit shall be permitted as a temporary primary use in any zoning district which permits a restaurant. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(F) Development Standards

(1) Corner Visibility

(a) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less than three (3) feet from the side property line which abuts a public right-of-way.

(2) Height

(a) Height Limitations

No building or structure, including accessory structures, shall be erected, altered, enlarged or reconstructed to exceed 200 feet, and all new freestanding structures shall have a minimum height of 20 feet, and shall contain two occupiable stories; except that the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section.

(i) New or additions to existing churches, synagogues, and other religious buildings and facilities used for religious assembly located in CM5A or C Districts shall conform to minimum and maximum height limitations but are not required to be a minimum of two occupiable stories.

(ii) Buildings located in the area bounded by Superior Street to the north, Jefferson Boulevard to the south, Ewing Street to the west and Lafayette Street to the east shall be allowed a maximum height of 500 feet.

(iii) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols;

(iv) Parapet or fire walls;

(v) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and

(vi) Roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

(3) Lot Area and Width

(a) Residential Lot Area Standards

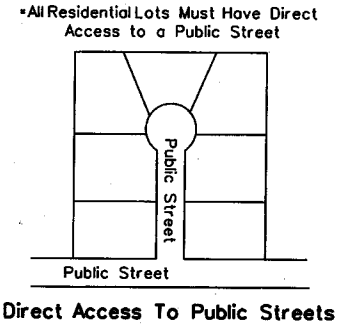
All new residential lots shall be a minimum of 6,000 square feet.

(b) Nonresidential Lot Area Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(c) Residential Lot Width Standards

All new residential lots shall be a minimum of 50 feet in width at the front building line. All residential lots, tracts, or development parcels shall have direct access to an improved public street as defined in the Zoning Ordinance for purposes of vehicular traffic, off-street parking, utilities and other services such as mail delivery, garbage collection, fire and emergency units. The width of such frontage shall be uniform and be no less than the established minimum building line width. Other residential access provisions shall be allowed as established by the Commission's rules.



Direct Access To Public Streets

(d) Nonresidential Lot Width Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(e) Exceptions to Lot Area and Width Standards

Lots established by legally recorded plat or otherwise legally established as of March 1, 1955 which do not meet the minimum size requirements established by this section may still be used for any use permitted within the district in which the lot is located. However, all proposed structures shall meet the minimum setback and yard requirements.

(f) Waiver of Lot Area Standards

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may modify the minimum lot width and size requirements, at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(4) Yard Requirements

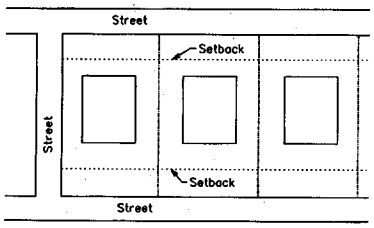
No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located (including maximum yard requirements where applicable), except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be no minimum front yard for each lot, tract, or development parcel; the maximum front yard depth shall be 10 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

(1) At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located.



Through Lot Front Setback Requirement

(2) Front yard determination on through lots in CM5 Districts. In CM5 Districts, the Planning staff may determine one of the yards on a through lot to be the rear yard for determinations of required setbacks

for new structures or additions to existing structures based on the following considerations:

(a) The location of existing or proposed vehicular access;
(b) The orientation of the existing or proposed primary structure(s); and
(c) The location of primary building entrances.

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

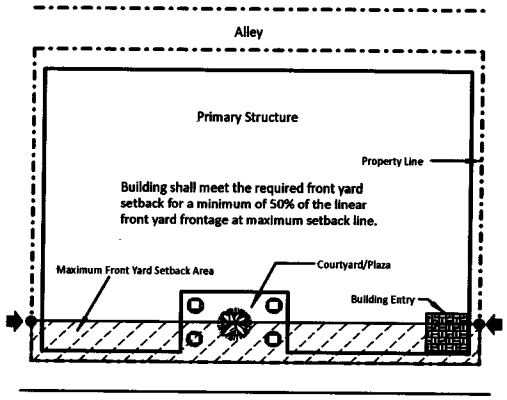
(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;
(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Plat and Development Plan Front Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(iv) Plan Commission exceptions for front yard requirements.

As part of its approval of a primary development plan, the Plan Commission may determine a greater front yard setback in consideration of the provision of public open space, private courtyards or similar spaces provided that at least 50% of the building meets the front yard setback requirement.



Example of Front Yard Setback Exception in CM5A District

(iv) Accessory Structures

(1) Accessory structures shall have the same minimum setbacks as primary structures.

(2) Accessory structures shall be located to the side or rear of the primary structure and shall be constructed and/or placed to minimize visibility from the public right-of-way.

(3) Accessory structures shall not exceed twenty-five percent (25%) of the ground floor area of the primary structure.

(b) Rear Yard Requirements

(i) There shall be no minimum rear yard for each lot, tract or development parcel (subject to the provisions and exceptions noted in this division).

(ii) Plat and Development Plan Rear Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(iii) Accessory structures

(1) Accessory structures shall have the same minimum setbacks as primary structures.

(2) Accessory structures shall be located to the side or rear of the primary structure and shall be constructed and/or placed to minimize visibility from the public right-of-way.

(3) Accessory structures shall not exceed twenty-five percent (25%) of the ground floor area of the primary structure.

(c) Side Yard Requirements

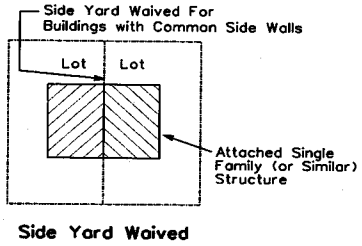
(i) There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be as listed in the following table (subject to the provisions and exceptions noted in this division).

Lot Type	**Required Side Yard**
All lots	0′ minimum 10′ maximum

(ii) Side Yards Waived for Dwellings with Common Walls

Dwellings with common walls on a lot line(including single family attached residences, duplexes, and triplexes) shall be considered as one building

occupying one lot for the purpose of determining side yard setback requirements.



Side Yard Waived

(iii) Waiver of Side Yard Requirements for Additions to Nonconforming Nonresidential Structures

The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

(iv) Plat and Development Plan Side Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

(iv) Plan Commission Exception of Side Yard Requirements

As part of its approval of a primary development plan, the Plan Commission may determine a side yard setback greater or less than the established standard in consideration of the existence and placement of windows or doors on the proposed or adjacent structure(s). In infill situations in the CM5A District, if an adjacent building has no side yard setback and no existing windows or doors, it is intended that a new structure connect to the existing adjacent structure.

(v) Accessory structures

(1) Accessory structures shall have the same minimum setbacks as primary structures.

(2) Accessory structures shall be located to the side or rear of the primary structure and shall be constructed and/or placed to minimize visibility from the public right-of-way.

(3) Accessory structures shall not exceed twenty-five percent (25%) of the ground floor area of the primary structure.

(vi) Nonresidential outdoor display

The following standards apply to uses permitted to have outdoor display unless further limited herein. Outdoor display shall not be permitted within the required front yard, or between the leading edge of any existing primary structure and the front property line, whichever distance is less; except in conjunction with the following uses when permitted in that district. However, outdoor display shall be permitted in the required side and rear yards as an accessory use that is clearly incidental to a permitted primary use. On a corner lot, outdoor display shall not be permitted within the required side yard which abuts the side street.

(1) Department store with seasonal outdoor retail sales;
(2) Hardware store;
(3) Open lot Christmas tree sales, or other similar seasonal outdoor retail sales;
(4) Similar retail uses.

(vii) Nonresidential outdoor storage

The following standards apply to uses permitted to have outdoor storage.

(1) In any commercial or industrial district, outdoor storage shall be not be permitted in any required front yard, or between the leading edge of any existing primary structure and the front property line.

(2) On an interior lot outdoor storage may be permitted in a required side or rear yard if contained within an approved screen meeting the requirements of §157.306.

(3) On a corner lot, outdoor storage shall not be permitted within the required side yard that abuts the side street. Permitted outdoor storage shall be contained within an approved screen meeting the requirements of §157.306.

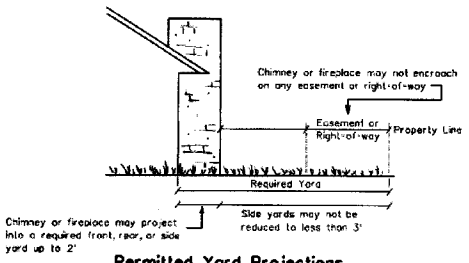
(4) In any commercial or industrial district, any automobile repair shop, body shop, or similar use which stores over ten (10) vehicles overnight shall screen the vehicle storage area as set forth in §157.306. The vehicle storage area may only be located within a side or rear yard.

(5) The outdoor storage of wrecked, dismantled, or inoperable vehicles shall only be permitted as a short-term (up to 30 days) accessory use to a permitted automobile repair shop, body shop, or similar use.

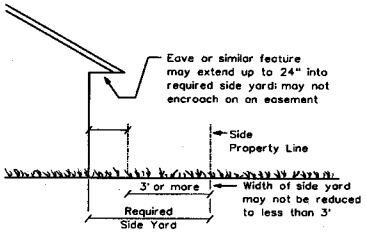
(d) Yard Projections

The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

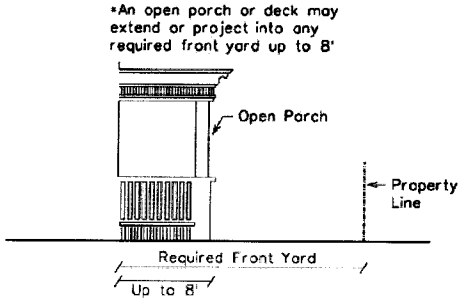
YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections
(Chimneys and Fireplaces)



Permitted Yard Projections
(Eave in Side Yard)



Permitted Yard Projections
(Porch or Deck into Front Yard)

(e) Exceptions to Yard Projections

(i) Commercial, Industrial, and Other Nonresidential Fences

A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard on a property with an existing primary structure. If there is no required front yard or if the building is considered to be legal nonconforming with regard to required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

(ii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

(3) Automatic teller machines, pay telephones, and similar structures shall be permitted in a required front or side yard as a permitted primary or accessory structure in any district where the use is permitted. A ten (10) foot minimum setback from any property or right of way line shall be maintained for automatic teller machines. A five (5) foot minimum setback from any property or right of way line shall be maintained for pay telephones and tire air pumps.

§ 157.222 CM5B, Downtown Edge

(A) Purpose

The Downtown Edge District is intended to recognize a transition from the high density mixed use development within the core downtown to the traditional urban residential neighborhoods that surround the downtown. The district is intended for a lower density development pattern than the CM5A District, but is still meant for predominately multiple story structures (typically between 2 and 6 stories). Like the CM5A District, this district is intended to provide for a pedestrian oriented mixture of cultural, entertainment, governmental, institutional, office, personal service, recreational, retail (including specialty retail), residential, restaurant, and similar uses along with the provision of public squares and other gathering spaces. This district is also uniquely intended to provide opportunities for small offices, artist studios, live/work space and other creative industries. Special attention should be paid to the primary corridors in this district as they serve as the gateways to the central downtown. Development following the recommendations of the Fort Wayne Downtown Design Guidelines and any completed plans for the downtown area should be encouraged.

(B) Permitted Uses

The uses listed below are permitted in the CM5B District:

(1) accessory building, structure, or use;

(2) adoption agency;

(3) advertising office;

(4) animal grooming (with indoor animal runs only);

(5) animal hospital (indoor animal runs, exercise areas, and training areas only);

(6) animal kennel (indoor animal runs, exercise areas, and training areas only);

(7) animal obedience school (indoor animal runs, exercise areas, and training areas only);

(8) antique shop;

(9) apparel and accessory store;

(10) architect, engineer, land surveyor, or similar office (with no outdoor equipment storage);

(11) art gallery;

(12) artist studio or school;

(13) artist supply and material store;

(14) assisted living facility;

(15) auction hall (indoor);

(16) automotive accessory store (new and used, but excluding the sale of used automobile tires as a primary use and any outdoor storage);

(17) automobile showroom, including scooters, all terrain vehicles and personal watercraft (new vehicles only with no outdoor storage or display);

(18) bakery goods, including "outlet" store;

(19) bank, credit union, or savings and loan association;

(20) banquet/reception hall;

(21) bar or tavern;

(22) barber shop;

(23) batting cages (indoor);

(24) beauty salon;

(25) bed and breakfast establishment;

(26) betting parlor or other gambling facility;

(27) bicycle sales and repair shop;

(28) billiard or pool hall;

(29) bingo establishment;

(30) blood donor, or similar facility;

(31) book store;

(32) bowling alley;

(33) broadcast studio;

(34) business or trade school (indoor education/training only);

(35) card and stationary store;

(36) catalog showroom (for retail sales);

(37) caterer;

(38) child and/or adult care center;

(39) chiropractor office;

(40) churches, synagogues, and other religious buildings and facilities used for religious assembly;

(41) cigarette/tobacco/cigar store;

(42) clock, watch, and jewelry sales and repair;

(43) clothing store (new or resale);

(44) coin shop;

(45) collection service (excluding outdoor storage);

(46) community facilities such as a botanical garden/conservatory, library, planetarium, public transportation or similar public facility, museum, zoo, or similar use;

(47) computer and computer software store;

(48) computer data processing /data storage facility;

(49) computer service or repair;

(50) confectionery, ice cream; or candy store;

(51) consignment shop;

(52) consulting service;

(53) convenience store (excluding gas pumps/canopies);

(54) convention facility;

(55) copy and printing services, including digital printing operations and publishing;

(56) cosmetic store;

(57) costume and clothing rental;

(58) counseling service;

(59) craft supply store;

(60) credit agency or service;

(61) dance hall;

(62) dance studio or school;

(63) dating service;

(64) day care (adult or child), class I child care home, and adult care home (in conjunction with a legally established existing residential use);

(65) delicatessen;

(66) dentist office;

(67) department store;

(68) diaper service facility;

(69) dinner theater;

(70) doctor office;

(71) drugstore;

(72) dry cleaning store;

(73) electrical appliance store (new or used);

(74) exhibit hall/trade show facility;

(75) fabric shop;

(76) finance company;

(77) floor covering store;

(78) florist;

(79) fruit and/or vegetable store or farmers market;

(80) funeral home (excluding crematorium);

(81) furniture repair or refinishing shop (indoor);

(82) furniture store (new and used);

(83) garden equipment supply (excluding outdoor storage);

(84) gift shop;

(85) glass cutting or glazing shop/showroom;

(86) grocery store or supermarket;

(87) hardware store;

(88) health and fitness club;

(89) health care facilities such as a public health center, diagnostic or treatment center or similar facility;

(90) hobby shop;

(91) home accessory/ small appliance store (excluding outdoor storage or display);

(92) home occupation (in conjunction with a legally established existing residential use);

(93) hotel;

(94) ice skating rink (outdoor or indoor);

(95) indoor concert arena;

(96) insurance office;

(97) interior decorating store;

(98) interior designer office;

(99) landscape contracting service (no outdoor storage);

(100) laundromat/coin operated laundry;

(101) law office;

(102) leather goods or luggage store;

(103) loan office (excluding check cashing business);

(104) martial arts studio;

(105) massage therapy establishment;

(106) meat or fish market;

(107) medical center or clinic;

(108) medical related services, including laboratories;

(109) micro or mini-brewery, brewpub, or similar use;

(110) miniature golf course;

(111) multiple family dwelling including condominiums and attached single family with three (3) or more units;

(112) music store;

(113) music studio or school;

(114) musical instrument store (new or used);

(115) nail salon;

(116) neighborhood facilities or uses;

(117) newspaper or magazine publishing facility;

(118) night club;

(119) nursing home;

(120) optician or optometrist office;

(121) outdoor recreational uses such as softball/baseball fields, soccer fields or similar uses;

(122) package liquor store;

(123) paint store;

(124) pet store (including pet supplies);

(125) pharmacy;

(126) photographic supply store;

(127) photography studio;

(128) picture framing facility;

(129) plumbing retail sales and repair service (no outdoor storage);

(130) police station, fire station, or similar public use;

(131) private club (nonprofit or for profit);

(132) professional or commercial office not otherwise listed (including condominiums);

(133) public park or recreation area, including accessory uses and structures;

(134) public utility customer office;

(135) public, parochial, or private elementary, junior, and/or senior high school;

(136) radio station;

(137) real estate, broker, or appraiser office;

(138) recreation facility (public or private) such as a tennis/racquet club, indoor ice skating facility, swim club or fitness center;

(139) rental and/or leasing store (i.e. furniture, office equipment, party supplies, or computers with indoor storage or display);

(140) residential dwelling unit(s) located above, to the rear of, or attached to a permitted commercial or office use;

(141) residential facility for the developmentally disabled;

(142) residential facility for the mentally ill;

(143) restaurant;

(144) roller skating rink;

(145) shoe repair shop;

(146) shoe store;

(147) sign sales store (excluding outdoor storage or display);

(148) sporting goods sales and rentals;

(149) stadium;

(150) stockbroker office;

(151) tailor/alterations shop;

(152) tanning salon;

(153) tattoo, body piercing, body art, or similar facility;

(154) tennis club (indoor);

(155) theater (indoor);

(156) townhouse complex;

(157) toy store;

(158) travel agency;

(159) tutoring facility;

(160) variety store;

(161) veterinary clinic;

(162) video arcade;

(163) video rental store;

(164) water park (indoor or outdoor);

(165) window and screen sales or repair shop (no outdoor storage); and

(166) woodworking or carpentry shop (retail, indoor only).

(C) Special Uses

(1) Accessory dwelling units (ADU) may be permitted. An ADU may be constructed as a new detached structure or created as part of the renovation of a detached garage. An ADU shall not be subdivided or otherwise separated in ownership from the primary residential structure. In addition to meeting the requirements set forth in §157.404(C)(1)(b), the Board shall evaluate the request based on the following standards and guidelines:

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

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

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

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

(e) There shall be only one ADU per property.

(f) As part of its review of a request for an ADU, the Board may also consider the following:

(i) The size, bulk, scale and compatibility of the ADU, relative to the primary residence and other structures in the immediate area; and

(ii) The size of the lot.

(2) Class II child care homes.

(3) Correctional services facilities.

(4) Flea markets, with indoor sales only.

(5) Gas stations/convenience stores, as a primary or accessory use. In addition to meeting the requirements set forth in §157.404(C)(1)(b), the Board shall evaluate the request based on the following standards and guidelines:

(a) Location and size requirements.
The proposed gas station/convenience store shall meet the following requirements.

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

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

(b) Building/canopy orientation.

The preferred building/canopy orientation for a gas station/convenience store is for the primary building to be located near the street and the canopy and service pumps to be located behind the primary building, however alternate layouts may be approved provided they comply with the appropriate design requirements (see Section 4, 5, and 6 below).

(c) General design standards.

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

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

(iii) There shall be at least one unobstructed pedestrian walkway at least four (4) feet wide connecting the primary building to an adjacent public sidewalk.

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

(v) A minimum of one bicycle rack shall be provided adjacent to the primary building;

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

(i) Primary Building and Canopy Attachment

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

(ii) Canopy Location and Design

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

(iii) Front and side wall design

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

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

(i) Primary building and canopy attachment

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

(ii) Canopy location and design

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

(iii) Front and side wall design

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

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

(i) Primary building and canopy attachment

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

(ii) Canopy location and design

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

(iii) Front and side wall design

The front and any side wall of the primary building that faces a street shall have windows or the appearance of windows. For the purposes of this subsection the determination of a rear yard for a lot having frontages on two streets shall be determined as that part of the property that is parallel to the street having the highest traffic volume.

(6) Home-based businesses, subject to the following additional requirements (unless waived or modified by the Board):

(a) The business shall only be operated by residents of the dwelling; no outside employees shall be permitted.

(b) The business shall not change the residential character of the structure or immediate area;

(c) The business must be incidental and secondary to the principal use of the dwelling as a residence, and must be conducted entirely within the dwelling or attached garage. No home-based business shall be operated from a detached accessory structure;

(d) The business shall use only normal office equipment, including but not limited to a typewriter, computer, calculator, fax machine, or copier. Equipment noise shall not be permitted to adversely affect adjacent properties;

(e) The business shall not occupy more than 25% of the gross floor area of the dwelling unit, including any space used for storage for the business. All storage related to the business use shall be contained within the dwelling or attached garage;

(f) The business shall not display or create any external evidence of the business, except that a single vehicle, used in conjunction with the business, may be parked outside and may display advertising or a logo. The vehicle shall comply with the restrictions listed in §72.23 of the City Code;

(g) No structural alterations shall be made to the dwelling unit to accommodate the business. No separate entrances or building additions shall be added for the use of the business;

(h) A home-based business shall not be permitted in a multiple family dwelling with three or more dwelling units;

(i) Only one (1) business shall be permitted per dwelling unit, and the Board may approve the business for use by the current resident/applicant only;

(j) There may be a limited number of clients or customers who come to the home; the number may be established by the Board;

(k) Retail sales shall not be permitted on the property; except that as part of its consideration of the request, the Board may permit limited retail sales as an accessory use;

(l) Wall and freestanding signage shall not be permitted in association with the home-based business, and the address of the home may not be used to advertise the business except for advertising such as printed literature or business cards; and

(m) As part of its review of a request for a home based business, the Board may consider any existing plat or deed restrictions limiting the uses of the property included in the request.

(n) Permitted home-based businesses shall include but not be limited to:

(i) Accounting or bookkeeping office;
(ii) Animal grooming;
(iii) Architect, engineer, land surveyor, or other similar office;
(iv) Massage therapy;
(v) One-chair beauty salon, barber shop, nail salon, or similar use;
(vi) Photography studio;
(vii) Psychic reading business;
(viii) Real estate, insurance, law, or similar office;
(ix) Seamstress or tailor; and
(x) Teaching/tutoring, including music lessons.

(o) Prohibited home-based businesses shall include but not be limited to:

(i) Amusement enterprises of any public nature;
(ii) Animal kennel, or pet shop; and
(iii) Production, manufacturing, assembly, or repair of products or components of products.

(7) Home workshops, in addition to meeting the criteria established in §157.404(C)(1)(b), the workshop shall meet the following requirements unless otherwise waived or modified by the Board.

(a) The person operating the home workshop shall be a resident of the premises; no outside employees shall be permitted;

(b) In no case shall a home workshop be allowed in an accessory structure prior to the occupancy of the principal dwelling on the lot, parcel, or tract of land;

(c) The workshop shall not change the residential character of the structure or immediate area;

(d) The workshop must be incidental and secondary to the principal use of the dwelling as a residence, and must be conducted entirely within the dwelling, attached garage, or accessory structure located on the same lot or tract;

(e) The workshop shall use only that equipment appropriate for small scale enterprises. Equipment noise shall not be permitted to adversely affect adjacent properties. As part of the application the applicant shall include a list of any equipment proposed to be used as part of the operation of the home workshop for review and approval by the Board;

(f) The workshop shall not occupy more than 25% of the gross floor area of a single family residence, or 50% of the gross floor area of an accessory structure, including any space used for storage for the workshop. All storage related to the use of the workshop shall be contained within the dwelling or accessory structure;

(g) The business shall not display or create any external evidence of the business, except that a single vehicle, used in conjunction with the business, may be parked outside, and may display advertising or a logo. The vehicle shall comply with the restrictions listed in §72.23 of the City Code;

(h) No separate entrances or building additions shall be added to the dwelling unit or attached garage for the use of the workshop;

(i) A home workshop shall not be permitted in a two family or multiple family dwelling unit, or in an accessory structure on the same lot or tract as a two family or multiple family dwelling;

(j) Only one (1) home workshop shall be permitted per lot or tract, and the Board may approve the workshop for use by the current resident/applicant only;

(k) There may be a limited number of clients or customers who come to the home; the number may be established by the Board;

(l) Retail sales shall not be permitted on the property; except that as part of its consideration of the request, the Board may permit limited retail sales as an accessory use;

(m) Wall and freestanding signage shall not be permitted in association with the home workshop, and the address of the home may not be used to advertise the workshop except for advertising such as printed literature or business cards; and

(n) As part of its consideration of a request for a home workshop, the Board may consider any existing plat or deed restrictions limiting the uses of the property included in the request.

(o) Permitted home workshops. Permitted home workshops shall include but not be limited to:

(i) Ceramics/pottery making or similar crafts;
(ii) Copy and duplicating service;
(iii) Small electronic equipment repair such as televisions and video cassette recorders; and
(iv) Woodworking.

(p) Prohibited home workshops. Prohibited home workshops shall include but not be limited to:

(i) Amusement enterprises of any public nature;
(ii) Animal grooming, animal kennel, or pet shop;
(iii) Cabinet or furniture making;
(iv) Mechanical or body repair of automotive vehicles, other than routine maintenance and minor repair of personal motor vehicles titled to the occupants of the property; and
(v) Small engine repair.

(8) Parking structures (public or private). Parking structures integrated within the footprint of a new building for a permitted primary use shall not require a special use approval under this provision. In addition to meeting the requirements set forth in §157.404(C)(1)(b), the Board shall evaluate the request based on the following standards and guidelines:

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

(b) If a new parking structure is connected to an existing or proposed building than the parking structure shall be compatible with that building.

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

(9) Pawnshops.

(10) Rescue/revival missions, homeless shelters, group residential facilities or similar uses.

(11) Single family residential structures, including Type I or II manufactured homes, may be permitted. In addition to meeting the requirements set forth in §157.404(C)(1)(b), the Board shall evaluate the request based on the following standards and guidelines:

(a) The surrounding area contains primarily residential structures;

(b) The home is constructed with roofing and siding materials which are similar to the existing homes in the immediate area; and

(c) The home is comparable with the existing housing pattern in the immediate area with regard to density and setbacks, and in compliance with the applicable minimum standards and requirements of this chapter.

(D) Accessory Structures and Uses

(1) Purpose

The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar residential and nonresidential facilities.

(2) Permitted Accessory Structures

The following non-residential accessory structures as defined in §157.410, shall be permitted provided the structures comply with the applicable setback, height, location, and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools;
(b) Arbors, trellises, or similar construction;
(c) Attached and detached decks or similar construction;
(d) Fences and walls;
(e) Freestanding satellite dishes and television aerials;
(f) Garbage dumpsters;
(g) Gazebos;
(h) Storage sheds; and
(i) Any other accessory structure which is placed on a permanent foundation.

(3) Permitted Accessory Uses

Non-residential accessory uses as defined in §157.410 shall be permitted provided the uses comply with the applicable setback, height, and other standards set forth in this subchapter with the following exceptions.

(a) Outdoor Display

(i) Nonresidential outdoor display shall only be permitted if the display complies with the applicable setback, location, and other standards and limitations set forth in this chapter.

(ii) Items, retail goods, or similar materials offered for sale (such as vehicles, equipment, or supplies) must be displayed on a paved or similar surface in accordance with the provisions of the Off-Street Parking subchapter of this chapter.

(iii) Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use, in accordance with the provisions herein.

(b) Outdoor Storage

(i) In any commercial or industrial district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, screening, buffering, and other standards and limitations set forth herein.

(ii) In any commercial or industrial district, the outdoor storage of wrecked, abandoned, dismantled, or inoperable vehicles shall be prohibited, except as an accessory use to a permitted primary use.

(E) Temporary Structures and Uses

(1) Temporary Accessory Structures

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use, subject to the following requirements:

(a) The temporary use shall only be permitted for a period of up to two years;

(b) The temporary use must meet the requirements outlined in §157.222(D)(2) for accessory structures;

(c) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit; and

(d) This subsection shall not apply mobile food service units, tents or similar structures.

(2) Temporary Primary Structures and Uses

Temporary or seasonal primary retail structures and/or uses shall be permitted as set forth in §157.104 (Permitted Uses). Such structures or uses shall be permitted on a vacant lot or development parcel, or on a lot or development parcel which has existing primary structure(s) or use(s) for up to four (4) months total in a twelve (12) month period. Any proposed temporary or seasonal primary retail structure shall conform to the following requirements:

(a) The structure shall conform with all of the applicable standards and requirements of this chapter, including minimum setback and parking requirements;

(b) Unless the proposed structure qualifies for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit;

(c) Tents or similar structures or facilities shall be permitted under this subsection; and

(d) This subsection shall not apply to mobile food service units.

(3) Temporary Special Events

Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(4) Mobile Food Service Units

(a) A mobile food service unit shall be permitted as a temporary accessory use to an existing permitted commercial (excluding professional office uses), industrial, or other nonresidential use or structure. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. In the event of a festival or similar use in a public park there shall be no limit on the number of times the unit shall be allowed on the site, however, the unit is limited to 14 days per event and the use must first be approved by the Fort Wayne - Allen County Department of Health.

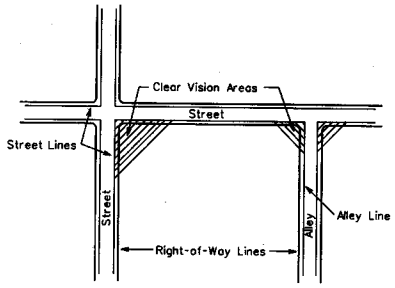
(b) A mobile food service unit shall be permitted as a temporary primary use in any zoning district which permits a restaurant. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(F) Development Standards

(1) Corner Visibility

(a) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less than three (3) feet from the side property line which abuts a public right-of-way.

(2) Height

(a) Height Limitations

No building or structure, including accessory structures, shall be erected, altered, enlarged or reconstructed to exceed 60 feet, and all structures shall be a minimum of 20 feet; except that the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section.

(i) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols;

(ii) Parapet or fire walls;

(iii) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and

(iv) Roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

(3) Lot Area and Width

(a) Residential Lot Area Standards

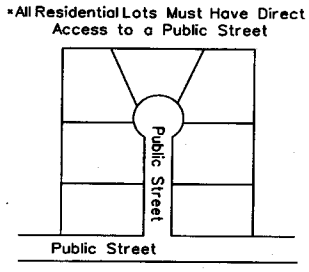
All new residential lots shall be a minimum of 6,000 square feet.

(b) Nonresidential Lot Area Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(c) Residential Lot Width Standards

All new residential lots shall be a minimum of 50 feet in width at the front building line. All residential lots, tracts, or development parcels shall have direct access to an improved public street as defined in the Zoning Ordinance for purposes of vehicular traffic, off-street parking, utilities and other services such as mail delivery, garbage collection, fire and emergency units. The width of such frontage shall be uniform and be no less than the established minimum building line width. Other residential access provisions shall be allowed as established by the Commission's rules.



Direct Access To Public Streets

(d) Nonresidential Lot Width Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(e) Exceptions to Lot Area and Width Standards

Lots established by legally recorded plat or otherwise legally established as of March 1, 1955 which do not meet the minimum size requirements established by this section may still be used for any use permitted within the district in which the lot is located. However, all proposed structures shall meet the minimum setback and yard requirements.

(f) Waiver of Lot Area Standards

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may modify the minimum lot width and size requirements, at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(4) Yard Requirements

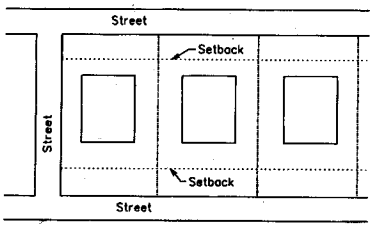
No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located (including maximum yard requirements where applicable), except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be a minimum and maximum front yard for each lot, tract, or development parcel; the minimum front yard depth shall be 0 feet, and the maximum front yard depth shall be 10 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

(1) At each end of a through lot there shall be a minimum and maximum front yard as established by the requirements of this section for the district in which each street frontage is located, except as provided for below.



Through Lot Front Setback Requirement

(2) Front yard determination on through lots in CM5 Districts. In CM5 Districts, the Planning staff may determine one of the yards on a through lot to be the rear yard for determinations of required setbacks for new structures or additions to existing structures based on the following considerations:

(a) The location of existing or proposed vehicular access;

(b) The orientation of the existing or proposed primary structure(s); and

(c) The location of primary building entrances.

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

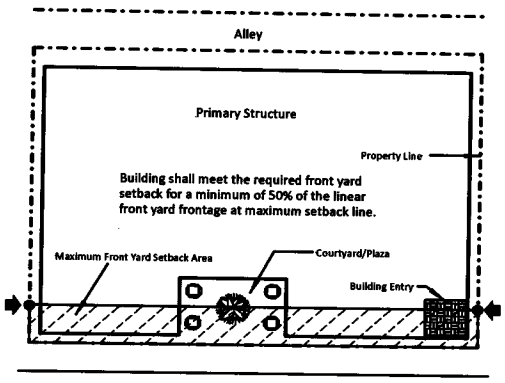
(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;
(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Plat and Development Plan Front Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(iv) Plan Commission exceptions for front yard requirements.

As part of its approval of a primary development plan, the Plan Commission may determine a greater front yard setback in consideration of the provision of public open space, private courtyards or similar spaces provided that at least 50% of the building meets the front yard setback requirement.



Example of Front Yard Setback Exception in CM5A District

(v) Accessory Structures

(1) Accessory structures shall have the same minimum setbacks as primary structures.
(2) Accessory structures shall be located to the side or rear of the primary structure and shall be constructed and/or placed to minimize visibility from the public right-of-way.
(3) Accessory structures shall not exceed twenty-five percent (25%) of the ground floor area of the primary structure.

(b) Rear Yard Requirements

(i) Required Rear Yard

There shall be a rear yard for each lot, tract or development parcel; the minimum depth shall be 25 feet (subject to the provisions and exceptions noted in this division).

(ii) Plat and Development Plan Rear Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(iii) Nonresidential accessory structures

(1) Accessory structures shall have the same minimum setbacks as primary structures.
(2) Accessory structures shall be located to the side or rear of the primary structure and shall be constructed and/or placed to minimize visibility from the public right-of-way.
(3) Accessory structures shall not exceed twenty-five percent (25%) of the ground floor area of the primary structure.

(c) Side Yard Requirements

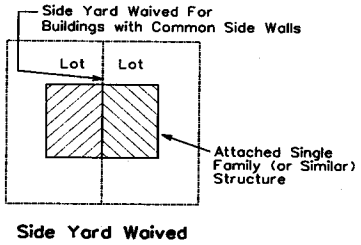
(i) Required Side Yard

There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be as listed in the following table (subject to the provisions and exceptions noted in this division).

SIDE YARD REQUIREMENTS		
Lot Type	**Lot Width**	**Required Side Yard**
Corner	All lots	5′ interior 0′ minimum, 20′ maximum (side street)
Interior	All lots	5′

(ii) Side Yards Waived for Dwellings with Common Walls

Dwellings with common walls on a lot line(including single family attached residences, duplexes, and triplexes) shall be considered as one building occupying one lot for the purpose of determining side yard setback requirements.



Side Yard Waived

(iii) Waiver of Side Yard Requirements for Additions to Nonconforming Nonresidential Structures

The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

(iv) Plat and Development Plan Side Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

(v) Plan Commission Exception of Side Yard Requirements

As part of its approval of a primary development plan, the Plan Commission may determine a side yard setback greater or less than the

established standard in consideration of the existence and placement of windows or doors on the proposed or adjacent structure(s). In infill situations in the CM5A District, if an adjacent building has no side yard setback and no existing windows or doors, it is intended that a new structure connect to the existing adjacent structure.

(vi) Nonresidential accessory structures

(1) Accessory structures shall have the same minimum setbacks as primary structures.
(2) Accessory structures shall be located to the side or rear of the primary structure and shall be constructed and/or placed to minimize visibility from the public right-of-way.
(3) Accessory structures shall not exceed twenty-five percent (25%) of the ground floor area of the primary structure.

(vii) Nonresidential outdoor display

The following standards apply to uses permitted to have outdoor display unless further limited herein. Outdoor display shall not be permitted within the required front yard, or between the leading edge of any existing primary structure and the front property line, whichever distance is less; except in conjunction with the following uses when permitted in that district. However, outdoor display shall be permitted in the required side and rear yards as an accessory use that is clearly incidental to a permitted primary use. On a corner lot, outdoor display shall not be permitted within the required side yard which abuts the side street.

(1) Department store with seasonal outdoor retail sales;
(2) Hardware store;
(3) Open lot Christmas tree sales, or other similar seasonal outdoor retail sales; and
(4) Similar retail uses.

(vii) Nonresidential outdoor storage

The following standards apply to uses permitted to have outdoor storage.

(1) In any commercial or industrial district, outdoor storage shall be not be permitted in any required front yard, or between the leading edge of any existing primary structure and the front property line.

(2) On an interior lot outdoor storage may be permitted in a required side or rear yard if contained within an approved screen meeting the requirements of §157.306.

(3) On a corner lot, outdoor storage shall not be permitted within the required side yard that abuts the side street. Permitted outdoor storage shall be contained within an approved screen meeting the requirements of §157.306.

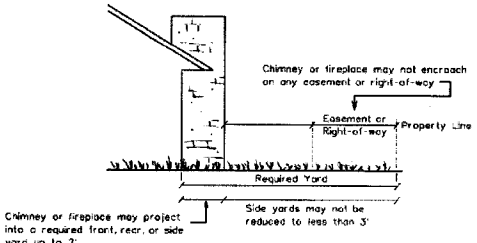
(4) In any commercial or industrial district, any automobile repair shop, body shop, or similar use which stores over ten (10) vehicles overnight shall screen the vehicle storage area as set forth in §157.306. The vehicle storage area may only be located within a side or rear yard.

(5) The outdoor storage of wrecked, dismantled, or inoperable vehicles shall only be permitted as a short-term (up to 30 days) accessory use to a permitted automobile repair shop, body shop, or similar use.

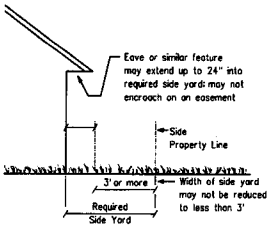
(d) Yard Projections

The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

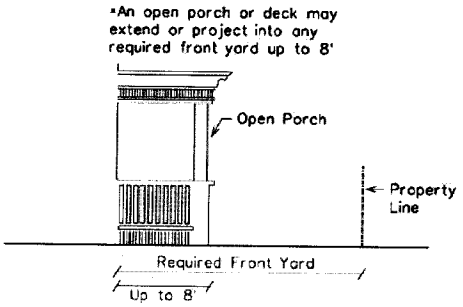
YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections (Chimneys and Fireplaces)



Permitted Yard Projections (Eave in Side Yard)



Permitted Yard Projections
(Porch or Deck into Front Yard)

(e) Exceptions to Yard Projections

(i) Commercial, Industrial, and Other Nonresidential Fences

A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard on a property with an existing primary structure. If there is no required front yard or if the building is considered to be legal nonconforming with regard to required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

(ii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

§ 157.223 CM5C, Neighborhood Commercial Corridor

(A) Purpose

The neighborhood commercial corridor district is intended to recognize that certain urban commercial corridors have special importance to the community because of their collective, cohesive identity, historic character, urban development patterns, relationship to the surrounding neighborhood, pedestrian oriented streetscapes, and distinct urban architecture and form. In keeping with this intent, the CM5C District should allow for and encourage mixed uses with a focus on neighborhood oriented commercial and personal service uses at the street level. New development is encouraged to be compatible with the existing historic development patterns by locating buildings close to the street in order to enhance pedestrian activity along the corridor. New residential development is encouraged to locate on the upper floors of new and existing commercial structures. Parking standards in these areas should accommodate historic development patterns which typically allow for on-street parking, the use of alleys to access parking areas behind buildings as well as access to public transit routes and alternative transportation modes. The Neighborhood Commercial Corridor Districts are generally located along arterial streets in older urban neighborhoods surrounding the core of the city. Examples of these streets would include, but not be limited to, portions of Broadway, Calhoun Street, West Main Street, Pontiac Street, East State Street, and Wells Street.

(B) Permitted and Prohibited Uses

Drive-through facilities, gas/service stations, gas station/convenience stores and/or gas pumps/canopies shall not be permitted as either a primary or an accessory use in this district.

The uses listed below are permitted in the CM5C District:

(1) accessory building, structure, or use;

(2) adoption agency;

(3) advertising office;

(4) animal grooming (with indoor animal runs only);

(5) animal hospital (indoor animal runs, exercise areas, and training areas only);

(6) animal kennel (indoor animal runs, exercise areas, and training areas only);

(7) animal obedience school (indoor animal runs, exercise areas, and training areas only);

(8) antique shop;

(9) apparel and accessory store;

(10) architect, engineer, land surveyor, or similar office (with no outdoor equipment storage);

(11) art gallery;

(12) art supply and material store;

(13) artist studio or school;

(14) attached single family dwelling;

(15) automobile detailing shop;

(16) bakery, including "outlet" store;

(17) banquet/reception hall;

(18) barber shop;

(19) bar or tavern;

(20) beauty salon;

(21) bed and breakfast establishment;

(22) bicycle sales and repair shop;

(23) boat/watercraft sales showroom (excluding outdoor storage);

(24) book store;

(25) business or trade school (with indoor education/training only);

(26) card and stationary store;

(27) caterer;

(28) child and/or adult care center;

(29) chiropractor office;

(30) cigarette/tobacco/cigar store;

(31) churches, synagogues, and other religious buildings and facilities used for religious assembly;

(32) clock, watch, and jewelry sales and repair;

(33) clothing store (new or resale);

(34) coin shop;

(35) community facilities such as a botanical garden/conservatory, library, planetarium, public transportation or similar public facility, museum, zoo, or similar use;

(36) computer and computer software store;

(37) computer service or repair;

(38) confectionary, ice cream, or candy store;

(39) consignment shop;

(40) copy and printing service;

(41) cosmetic store;

(42) costume and clothing rental;

(43) counseling service;

(44) craft supply store;

(45) dance studio or school;

(46) day care (adult or child), class I child care home, and adult care home (in conjunction with a legally established existing residential use);

(47) delicatessen (excluding drive-through facilities);
(48) dentist office;
(49) department store;
(50) diaper service facility;
(51) dinner theater;
(52) doctor office;
(53) drugstore;
(54) dry cleaning store;
(55) electrical appliance store (new or used);
(56) fabric shop;
(57) finance company;
(58) floor covering store;
(59) florist;
(60) funeral home (excluding crematorium);
(61) furniture repair or refinishing shop;
(62) fruit and/or vegetable store (indoor only);
(63) garden equipment supply (excluding outdoor storage);
(64) gift shop;
(65) glass cutting or glazing shop;
(66) grocery store or supermarket;
(67) group residential facilities;
(68) hardware store;
(69) health and fitness club;
(70) hobby shop;
(71) home occupation (in conjunction with a legally established existing residential use);
(72) household appliance store (new or used) with no outdoor storage;
(73) ice skating rink (indoor);
(74) insurance office;
(75) interior decorating store;
(76) interior designer office;
(77) laundromat/coin operated laundry;
(78) law office;
(79) leather goods or luggage store;
(80) live bait business;
(81) martial arts studio;

(82) medical related services, including child-birth education facility;

(83) meat or fish market;

(84) micro or mini-brewery, brewpub, or similar use;

(85) multiple family dwelling;

(86) multiple family complex;

(87) music store;

(88) music studio or school;

(89) musical instrument store (new or used);

(90) nail salon;

(91) neighborhood facilities or uses;

(92) night club;

(93) nonprofit private club;

(94) optician or optometrist office;

(95) package liquor store;

(96) paint store;

(97) pet store (including pet supplies);

(98) photographic supply store;

(99) photography studio;

(100) picture framing facility;

(101) plumbing shop (retail sales and/or service);

(102) police station, fire station, or similar public use;

(103) private recreation facility such as a tennis/racquet club, indoor ice skating facility, swim club or fitness center;

(104) public park or recreation area, including accessory uses and structures;

(105) public, parochial, or private elementary, junior, and/or senior high schools;

(106) public utility customer service office;

(107) real estate, broker, or appraiser office;

(108) residential condominium development;

(109) residential dwelling units located above, to the rear of, or attached to a permitted commercial or office use;

(110) residential facility for the developmentally disabled;

(111) residential facility for the mentally ill, provided that the facility shall not be located within 1000 feet of another residential facility for the mentally ill, as measured between lot lines;

(112) restaurant, excluding drive-through facilities;

(113) shoe repair shop;

(114) shoe store;

(115) sign sales store;

(116) single family detached dwelling, including Type I manufactured home;

(117) sporting goods sales and rentals;

(118) stockbroker office;

(119) swim club (indoor or outdoor);

(120) tailor/alterations shop;

(121) tanning salon;

(122) tennis club (indoor);

(123) tattoo, body piercing, body art, or other similar facility; except that new facilities shall be located a minimum of 500 feet from any existing facility, as measured directly from the nearest property lines;

(124) theater (indoor);

(125) toy store;

(126) travel agency;

(127) tutoring facility;

(128) two family dwelling;

(129) variety store;

(130) veterinary clinic;

(131) video arcade; and

(132) video rental store.

(C) Special Uses

(1) Class II child care homes

(2) Home-based businesses, subject to the following additional requirements (unless waived or modified by the Board):

(a) The business shall only be operated by residents of the dwelling; no outside employees shall be permitted.

(b) The business shall not change the residential character of the structure or immediate area;

(c) The business must be incidental and secondary to the principal use of the dwelling as a residence, and must be conducted entirely within the dwelling or attached garage. No home-based business shall be operated from a detached accessory structure;

(d) The business shall use only normal office equipment, including but not limited to a typewriter, computer, calculator, fax machine, or copier. Equipment noise shall not be permitted to adversely affect adjacent properties;

(e) The business shall not occupy more than 25% of the gross floor area of the dwelling unit, including any space used for storage for the business. All storage related to the business use shall be contained within the dwelling or attached garage;

(f) The business shall not display or create any external evidence of the business, except that a single vehicle, used in conjunction with the business, may be parked outside and may display advertising or a logo. The vehicle shall comply with the restrictions listed in §72.23 of the City Code;

(g) No structural alterations shall be made to the dwelling unit to accommodate the business. No separate entrances or building additions shall be added for the use of the business;

(h) A home-based business shall not be permitted in a multiple family dwelling with three or more dwelling units;

(i) Only one (1) business shall be permitted per dwelling unit, and the Board may approve the business for use by the current resident/applicant only;

(j) There may be a limited number of clients or customers who come to the home; the number may be established by the Board;

(k) Retail sales shall not be permitted on the property; except that as part of its consideration of the request, the Board may permit limited retail sales as an accessory use;

(l) Wall and freestanding signage shall not be permitted in association with the home-based business, and the address of the home may not be used to advertise the business except for advertising such as printed literature or business cards; and

(m) As part of its review of a request for a home based business, the Board may consider any existing plat or deed restrictions limiting the uses of the property included in the request.

(n) Permitted home-based businesses shall include but not be limited to:

(i) Accounting or bookkeeping office;
(ii) Animal grooming;
(iii) Architect, engineer, land surveyor, or other similar office;
(iv) Massage therapy;
(v) One-chair beauty salon, barber shop, nail salon, or similar use;
(vi) Photography studio;
(vii) Psychic reading business;
(viii)Real estate, insurance, law, or similar office;
(ix) Seamstress or tailor; and
(x) Teaching/tutoring, including music lessons.

(o) Prohibited home-based businesses shall include but not be limited to:

(i) Amusement enterprises of any public nature;
(ii) Animal kennel, or pet shop; and
(iii) Production, manufacturing, assembly, or repair of products or components of products.

(3) Home workshops, in addition to meeting the criteria established in §157.404(C)(1)(b), the workshop shall meet the following requirements unless otherwise waived or modified by the Board.

(a) The person operating the home workshop shall be a resident of the premises; no outside employees shall be permitted;

(b) In no case shall a home workshop be allowed in an accessory structure prior to the occupancy of the principal dwelling on the lot, parcel, or tract of land;

(c) The workshop shall not change the residential character of the structure or immediate area;

(d) The workshop must be incidental and secondary to the principal use of the dwelling as a residence, and must be conducted entirely within the dwelling, attached garage, or accessory structure located on the same lot or tract;

(e) The workshop shall use only that equipment appropriate for small scale enterprises. Equipment noise shall not be permitted to adversely affect adjacent properties. As part of the application the applicant shall include a list of any equipment proposed to be used as part of the operation of the home workshop for review and approval by the Board;

(f) The workshop shall not occupy more than 25% of the gross floor area of a single family residence, or 50% of the gross floor area of an accessory structure, including any space used for storage for the workshop. All storage related to the use of the workshop shall be contained within the dwelling or accessory structure;

(g) The business shall not display or create any external evidence of the business, except that a single vehicle, used in conjunction with the business, may be parked outside, and may display advertising or a logo. The vehicle shall comply with the restrictions listed in §72.23 of the City Code;

(h) No separate entrances or building additions shall be added to the dwelling unit or attached garage for the use of the workshop;

(i) A home workshop shall not be permitted in a two family or multiple family dwelling unit, or in an accessory structure on the same lot or tract as a two family or multiple family dwelling;

(j) Only one (1) home workshop shall be permitted per lot or tract, and the Board may approve the workshop for use by the current resident/applicant only;

(k) There may be a limited number of clients or customers who come to the home; the number may be established by the Board;

(l) Retail sales shall not be permitted on the property; except that as part of its consideration of the request, the Board may permit limited retail sales as an accessory use;

(m) Wall and freestanding signage shall not be permitted in association with the home workshop, and the address of the home may not be used to advertise the workshop except for advertising such as printed literature or business cards; and

(n) As part of its consideration of a request for a home workshop, the Board may consider any existing plat or deed restrictions limiting the uses of the property included in the request.

(o) Permitted home workshops. Permitted home workshops shall include but not be limited to:

(i) Ceramics/pottery making or similar crafts;
(ii) Copy and duplicating service;
(iii) Small electronic equipment repair such as televisions and video cassette recorders; and
(iv) Woodworking.

(p) Prohibited home workshops. Prohibited home workshops shall include but not be limited to:

(i) Amusement enterprises of any public nature;
(ii) Animal grooming, animal kennel, or pet shop;
(iii) Cabinet or furniture making;
(iv) Mechanical or body repair of automotive vehicles, other than routine maintenance and minor repair of personal motor vehicles titled to the occupants of the property; and
(v) Small engine repair.

(D) Accessory Structures and Uses

(1) Purpose

The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar residential and nonresidential facilities.

(2) Permitted Accessory Structures

The following non-residential accessory structures as defined in §157.410, shall be permitted provided the structures comply with the applicable setback, height, location, and other standards and limitations set forth in this chapter.
(a) Above-ground and in-ground swimming pools;
(b) Arbors, trellises, or similar construction;

(c) Attached and detached decks or similar construction;
(d) Fences and walls;
(e) Freestanding satellite dishes and television aerials;
(f) Garbage dumpsters;
(g) Gazebos;
(h) Storage sheds; and
(i) Any other accessory structure which is placed on a permanent foundation.

(3) Permitted Accessory Uses

Non-residential accessory uses as defined in §157.410 shall be permitted provided the uses comply with the applicable setback, height, and other standards set forth in this subchapter with the following exceptions.

(a) Outdoor Display

(i) Nonresidential outdoor display shall only be permitted if the display complies with the applicable setback, location, and other standards and limitations set forth in this chapter.

(ii) Items, retail goods, or similar materials offered for sale (such as vehicles, equipment, or supplies) must be displayed on a paved or similar surface in accordance with the provisions of the Off-Street Parking subchapter of this chapter.

(iii) Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use, in accordance with the provisions herein.

(b) Outdoor Storage

(i) In any commercial or industrial district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, screening, buffering, and other standards and limitations set forth herein.

(ii) In any commercial or industrial district, the outdoor storage of wrecked, abandoned, dismantled, or inoperable vehicles shall be prohibited, except as an accessory use to a permitted primary use.

(E) Temporary Structures and Uses

(1) Temporary Accessory Structures

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use, subject to the following requirements:

(a) The temporary use shall only be permitted for a period of up to two years;

(b) The temporary use must meet the requirements outlined in §157.223(D)(2) for accessory structures;

(c) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit; and

(d) This subsection shall not apply mobile food service units, tents or similar structures.

(2) Temporary Primary Structures and Uses

Temporary or seasonal primary retail structures and/or uses shall be permitted as set forth in §157.104 (Permitted Uses). Such structures or uses shall be permitted on a vacant lot or development parcel, or on a lot or development parcel which has existing primary structure(s) or use(s) for up to four (4) months total in a twelve (12) month period. Any proposed temporary or seasonal primary retail structure shall conform to the following requirements:

(a) The structure shall conform with all of the applicable standards and requirements of this chapter, including minimum setback and parking requirements;

(b) Unless the proposed structure qualifies for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit;

(c) Tents or similar structures or facilities shall be permitted under this subsection; and

(d) This subsection shall not apply to mobile food service units.

(3) Temporary Special Events

Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(4) Mobile Food Service Units

(a) A mobile food service unit shall be permitted as a temporary accessory use to an existing permitted commercial (excluding professional office uses), industrial, or other nonresidential use or structure. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. In the event of a festival or similar use in a public park there shall be no limit on the number of times the unit shall be allowed on the

site, however, the unit is limited to 14 days per event and the use must first be approved by the Fort Wayne - Allen County Department of Health.

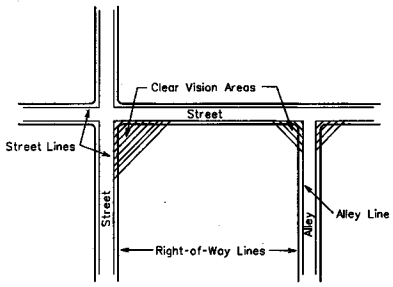
(b) A mobile food service unit shall be permitted as a temporary primary use in any zoning district which permits a restaurant. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(F) Development Standards

(1) Corner Visibility

(a) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less than three (3) feet from the side property line which abuts a public right-of-way.

(2) Height

(a) Height Limitations

No building or structure, including accessory structures, shall be erected, altered, enlarged or reconstructed to exceed 40 feet, and all structures shall have a minimum height of 20 feet, and shall contain two occupiable stories; except that the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section.

(i) New or additions to existing churches, synagogues, and other religious buildings and facilities used for religious assembly located in CM5A or C Districts shall conform to minimum and maximum height limitations but are not required to be a minimum of two occupiable stories.

(ii) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols;

(iii) Parapet or fire walls;

(iv) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and

(v) Roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

(3) Lot Area and Width

(a) Residential Lot Area Standards

All new residential lots shall be a minimum of 6,000 square feet.

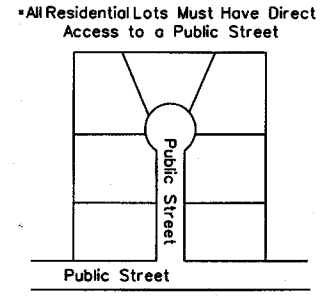
(b) Nonresidential Lot Area Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(c) Residential Lot Width Standards

All new residential lots shall be a minimum of 50 feet in width at the front building line. All residential lots, tracts, or development parcels shall have direct access to an improved public street as defined in the Zoning Ordinance for purposes of vehicular traffic, off-street parking, utilities and other services such as mail delivery, garbage collection, fire and emergency units. The width of such frontage shall be uniform and be no less than the established minimum building

line width. Other residential access provisions shall be allowed as established by the Commission's rules.



Direct Access To Public Streets

(d) Nonresidential Lot Width Standards

For nonresidential uses, there shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(e) Exceptions to Lot Area and Width Standards

Lots established by legally recorded plat or otherwise legally established as of March 1, 1955 which do not meet the minimum size requirements established by this section may still be used for any use permitted within the district in which the lot is located. However, all proposed structures shall meet the minimum setback and yard requirements.

(f) Waiver of Lot Area Standards

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may modify the minimum lot width and size requirements, at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(4) Yard Requirements

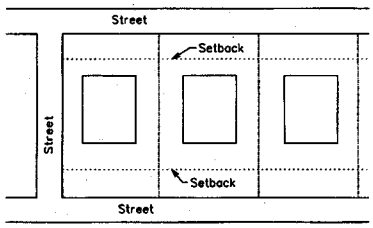
No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located (including maximum yard requirements where applicable), except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be no minimum front yard for each lot, tract, or development parcel; the maximum front yard depth shall be 10 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

(1) At each end of a through lot there shall be a minimum and maximum front yard as established by the requirements of this section for the district in which each street frontage is located, except as provided for below.



Through Lot Front Setback Requirement

(2) Front yard determination on through lots in CM5 Districts. In CM5 Districts, the Planning staff may determine one of the yards on a through lot to be the rear yard for determinations of required setbacks for new structures or additions to existing structures based on the following considerations:

(a) The location of existing or proposed vehicular access;
(b) The orientation of the existing or proposed primary structure(s); and
(c) The location of primary building entrances.

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;
(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Plat and Development Plan Front Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(b) Rear Yard Requirements

(i) There shall be a rear yard for each lot, tract or development parcel; the minimum depth shall be 25 feet (subject to the provisions and exceptions noted in this division).

(ii) Plat and Development Plan Rear Yard Waiver
As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(iii) Nonresidential accessory structures
Nonresidential accessory structures may be located between the rear of the primary structure and the rear lot line, provided the accessory structure is located a minimum of five (5) feet from a side or rear property line, and provided the structure complies with any applicable screening or buffering provisions as set forth in §157.306 of this chapter.

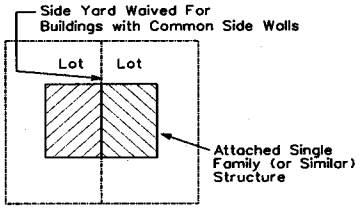
(c) Side Yard Requirements

(i) There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be as listed in the following table (subject to the provisions and exceptions noted in this division).

Lot Type	**Required Side Yard**
All lots	0′ minimum 10′ maximum

(ii) Side Yards Waived for Dwellings with Common Walls

Dwellings with common walls on a lot line(including single family attached residences, duplexes, and triplexes) shall be considered as one building occupying one lot for the purpose of determining side yard setback requirements.



Side Yard Waived

(iii) Waiver of Side Yard Requirements for Additions to Nonconforming Nonresidential Structures

The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of

the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

(iv) Plat and Development Plan Side Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

(v) Nonresidential accessory structures

Nonresidential accessory structures may be located beside a primary structure, provided the accessory structure meets the side and rear yard setback requirement, except that nonresidential dumpsters may be located a minimum of five (5) feet from a side property line, and is located no closer to the front lot line than the primary structure or the required front yard setback, whichever is less.

(vi) Nonresidential outdoor display

The following standards apply to uses permitted to have outdoor display unless further limited herein. Outdoor display shall not be permitted within the required front yard, or between the leading edge of any existing primary structure and the front property line, whichever distance is less; except in conjunction with the following uses. However, outdoor display shall be permitted in the required side and rear yards as an accessory use that is clearly incidental to a permitted primary use. On a corner lot, outdoor display shall not be permitted within the required side yard which abuts the side street. Outdoor display shall be limited to 10% of the building ground floor area or 120 square feet, whichever is less; the display shall only be permitted in conjunction with permitted indoor display area(s). All outdoor display items shall be taken inside each day as part of the closing of the business.

(1) Department store with seasonal outdoor retail sales;
(2) Hardware store;
(3) Open lot Christmas tree sales, or other similar seasonal outdoor retail sales;
(4) Service stations, including automobile accessory stores, and similar automotive uses; and
(5) Similar retail uses.

(vii) Nonresidential outdoor storage

The following standards apply to uses permitted to have outdoor storage.

(1) In any commercial or industrial district, outdoor storage shall be not be permitted in any required front yard, or between the leading edge of any existing primary structure and the front property line.

(2) On an interior lot outdoor storage may be permitted in a required side or rear yard if contained within an approved screen meeting the requirements of §157.306.

(3) On a corner lot, outdoor storage shall not be permitted within the required side yard that abuts the side street. Permitted outdoor storage shall be contained within an approved screen meeting the requirements of §157.306.

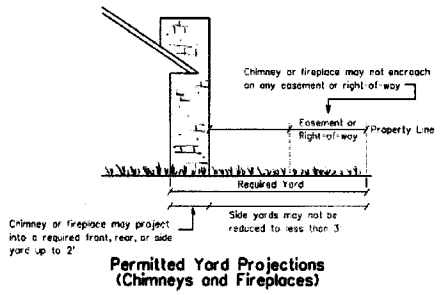
(4) In any commercial or industrial district, any automobile repair shop, body shop, or similar use which stores over ten (10) vehicles overnight shall screen the vehicle storage area as set forth in §157.306. The vehicle storage area may only be located within a side or rear yard.

(5) The outdoor storage of wrecked, dismantled, or inoperable vehicles shall only be permitted as a short-term (up to 30 days) accessory use to a permitted automobile repair shop, body shop, or similar use.

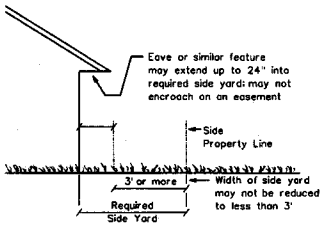
(d) Yard Projections

The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

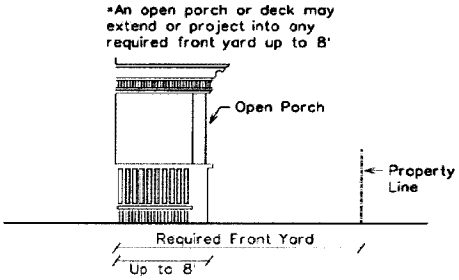
YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections
(Chimneys and Fireplaces)



Permitted Yard Projections
(Eave in Side Yard)



Permitted Yard Projections
(Porch or Deck into Front Yard)

(e) Exceptions to Yard Projections

(i) Commercial, Industrial, and Other Nonresidential Fences

A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard on a property with an existing primary structure. If there is no required front yard or if the building is considered to be legal nonconforming with regard to required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

(ii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

§ 157.224 Reserved for future use

§ 157.225 SC1, Neighborhood Shopping Center

(A) Purpose

The Shopping Center Districts are intended to create areas for the provision of adequate commercial facilities at suitable locations and of appropriate design, scale and intensity which will create a functional and compatible relationship with the immediate surroundings and community. It is intended that SC Districts be composed of different tenants and uses that serve the retail needs of the community. A single tenant or use may also exist if it satisfies the intent of the district. New single family residential uses are not permitted in SC Districts. In reviewing a proposal for a SC District, the Plan Commission shall consider the nature of the proposed use, the total size of the proposed project and the composition of existing development and zoning in the vicinity of the proposed SC District. Traffic generation, both pedestrian and vehicular and its impact on surrounding streets and highways will also be considered as part of the Commission's review process. All proposals in an SC District shall be subject to the provisions and requirements of §157.304 (Development Plans). The Neighborhood Shopping Center District is intended to provide areas for the day-to-day shopping needs of the surrounding residential neighborhoods. Tenants and uses typically found within this type of center include grocery stores, drugstores, restaurants, variety stores, and similar small and medium scale retail uses.

(B) Permitted Uses

Permitted uses shall include all CM1 and CM2 uses with the following exceptions: hotels, motels, nonprofit private clubs, and bowling alleys.

(C) Special Uses

(1) Commercial communication towers, provided the Board finds the request to be in conformance with the following standards and requirements:

(a) In addition to meeting the requirements set forth in §157.404(C)(1)(b) the Board shall also find the following as a part of its approval:

(i) The proposed communications tower is reasonably necessary to serve the adjacent or nearby area; and

(ii) The applicant is unable to locate or co-locate on an existing structure.

(b) New communication towers approved by the Board of Zoning Appeals shall conform to the following development standards:

(i) The tower structure shall not exceed 150 feet in height,

(ii) The tower color shall be galvanized metal or similarly gray tone;

(iii) Guyed and self supporting lattice towers shall not be permitted;

(iv) The use of stealth technology shall be encouraged; and

(v) The setback requirement for towers shall be as follows. Setbacks shall be measured from the base of the town to the applicable property lines.

SETBACK REQUIREMENTS FOR TOWERS	
Front yard (including through lots)	75% of tower structure height
Side yard – interior lot line	50% of tower structure height
Side yard – street frontage side of corner lot	75% of tower structure height
Rear yard	50% of tower structure height

(c) A special use shall not be required for the location or co-location of antennas in any district on existing structures including but not limited to the following:

(i) rooftops of existing commercial, industrial, and institutional structures;
(ii) water towers;
(iii) church steeples;
(iv) electrical towers;
(v) communication towers;
(vi) other established utility structures; and
(vi) cabinets and shelters.

Antennae shall be permitted to extend up to 20 feet above the existing structure or up to a total height of 200 feet whichever is less. A Certificate of Compliance shall be obtained for all antennae locations and co-locations.

(D) Accessory Structures and Uses

(1) Purpose

The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar nonresidential facilities.

(2) Permitted Accessory Structures

The following non-residential accessory structures as defined in §157.410, shall be permitted provided the structures comply with the applicable setback, height, location, and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools;
(b) Arbors, trellises, or similar construction;
(c) Attached and detached decks or similar construction;
(d) Fences and walls;
(e) Freestanding satellite dishes and television aerials;
(f) Garbage dumpsters;

(g) Gazebos;
(h) Storage sheds; and
(i) Any other accessory structure which is placed on a permanent foundation.

(3) Permitted Accessory Uses

Non-residential accessory uses as defined in §157.410 shall be permitted provided the uses comply with the applicable setback, height, and other standards set forth in this subchapter with the following exceptions.

(a) Outdoor Display

(i) Nonresidential outdoor display shall only be permitted if the display complies with the applicable setback, location, and other standards and limitations set forth in this chapter.

(ii) Items, retail goods, or similar materials offered for sale (such as vehicles, equipment, or supplies) must be displayed on a paved or similar surface in accordance with the provisions of the Off-Street Parking subchapter of this chapter.

(iii) Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use, in accordance with the provisions herein.

(b) Outdoor Storage

(i) In any commercial or industrial district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, screening, buffering, and other standards and limitations set forth herein.

(ii) In any commercial or industrial district, the outdoor storage of wrecked, abandoned, dismantled, or inoperable vehicles shall be prohibited, except as an accessory use to a permitted primary use.

(E) Temporary Structures and Uses

(1) Temporary Accessory Structures

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use, subject to the following requirements:

(a) The temporary use shall only be permitted for a period of up to two years;

(b) The temporary use must meet the requirements outlined in §157.203(D)(2) for accessory structures;

(c) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal

through the Site Plan Review process, prior to the issuance of an Improvement Location Permit; and

(d) This subsection shall not apply mobile food service units, tents or similar structures.

(2) Temporary Primary Structures and Uses

Temporary or seasonal primary retail structures and/or uses shall be permitted as set forth herein. Such structures or uses shall be permitted on a vacant lot or development parcel, or on a lot or development parcel which has existing primary structure(s) or use(s) for up to four (4) months total in a twelve (12) month period. Any proposed temporary or seasonal primary retail structure shall conform to the following requirements:

(a) The structure shall conform with all of the applicable standards and requirements of this chapter, including minimum setback and parking requirements;

(b) Unless the proposed structure qualifies for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit;

(c) Tents or similar structures or facilities shall be permitted under this subsection; and

(d) This subsection shall not apply to mobile food service units.

(3) Temporary Special Events

Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(4) Mobile Food Service Units

(a) A mobile food service unit shall be permitted as a temporary accessory use to an existing permitted commercial (excluding professional office uses), industrial, or other nonresidential use or structure. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. In the event of a festival or similar use in a public park there shall be no limit on the number of times the unit shall be allowed on the site, however, the unit is limited to 14 days per event and the use must first be approved by the Fort Wayne - Allen County Department of Health.

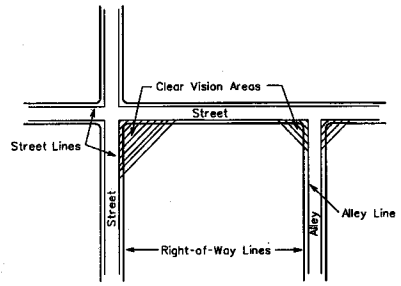
(b) A mobile food service unit shall be permitted as a temporary primary use in any zoning district which permits a restaurant. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(F) Development Standards

(1) Corner Visibility

(a) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less than three (3) feet from the side property line which abuts a public right-of-way.

(2) Height

(a) Height Limitations

No building or structure, including accessory structures, shall be erected, altered, enlarged or reconstructed to exceed 35 feet; except that the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section.

(i) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols;

(ii) Parapet or fire walls;

(iii) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and

(iv) Roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

(3) Lot Area and Width

(a) Lot Area Standards

There shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(b) Lot Width Standards

There shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(4) Yard Requirements

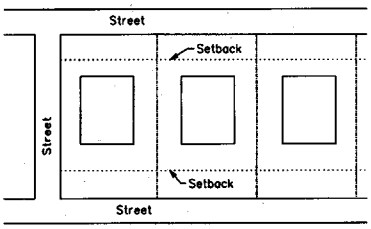
No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located, except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be a front yard for each lot, tract, or development parcel; the minimum depth shall be 50 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located.



Through Lot Front Setback Requirement

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;
(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Plat and Development Plan Front Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(b) Rear Yard Requirements

(i) Required Rear Yard

There shall be a rear yard for each lot, tract or development parcel; the minimum rear yard shall be 40 feet.

(ii) Plat and Development Plan Rear Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

(iii) Nonresidential accessory structures

Nonresidential accessory structures may be located between the rear of the primary structure and the rear lot line, provided the accessory structure is located a minimum of five (5) feet from a side or rear property line, and provided the structure complies with any applicable screening or buffering provisions as set forth in §157.306 of this chapter.

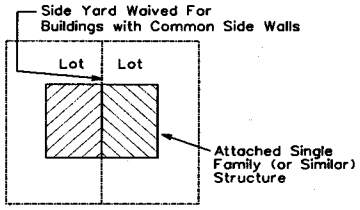
(c) Side Yard Requirements

(i) Required Side Yard

There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be 5 feet (subject to the provisions and exceptions noted in this division).

(ii) Side Yards Waived for Dwellings with Common Walls

Dwellings with common walls on a lot line (including single family attached residences, duplexes, and triplexes) shall be considered as one building occupying one lot for the purpose of determining side yard setback requirements.



Side Yard Waived

(iii) Waiver of Side Yard Requirements for Additions to Nonconforming Nonresidential Structures

The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

(iv) Plat and Development Plan Side Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

(v) Nonresidential accessory structures

Nonresidential accessory structures may be located beside a primary structure, provided the accessory structure meets the side and rear yard setback requirement, except that nonresidential dumpsters may be located a minimum of five (5) feet from a side property line, and is located no closer

to the front lot line than the primary structure or the required front yard setback, whichever is less.

(vi) Nonresidential outdoor display

The following standards apply to uses permitted to have outdoor display unless further limited herein. Outdoor display shall not be permitted within the required front yard, or between the leading edge of any existing primary structure and the front property line, whichever distance is less; except in conjunction with the following uses. However, outdoor display shall be permitted in the required side and rear yards as an accessory use that is clearly incidental to a permitted primary use. On a corner lot, outdoor display shall not be permitted within the required side yard which abuts the side street.

(1) Department store with seasonal outdoor retail sales;
(2) Hardware store;
(3) Open lot Christmas tree sales, or other similar seasonal outdoor retail sales;
(4) Service stations, including automobile accessory stores, and similar automotive uses; and
(5) Similar retail uses.

(vii) Nonresidential outdoor storage

The following standards apply to uses permitted to have outdoor storage.

(1) In any commercial or industrial district, outdoor storage shall be not be permitted in any required front yard, or between the leading edge of any existing primary structure and the front property line.

(2) On an interior lot outdoor storage may be permitted in a required side or rear yard if contained within an approved screen meeting the requirements of §157.306.

(3) On a corner lot, outdoor storage shall not be permitted within the required side yard that abuts the side street. Permitted outdoor storage shall be contained within an approved screen meeting the requirements of §157.306.

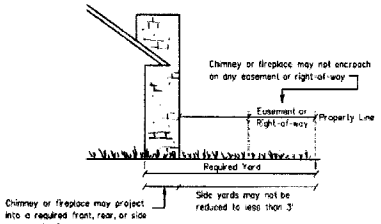
(4) In any commercial or industrial district, any automobile repair shop, body shop, or similar use which stores over ten (10) vehicles overnight shall screen the vehicle storage area as set forth in §157.306. The vehicle storage area may only be located within a side or rear yard.

(5) The outdoor storage of wrecked, dismantled, or inoperable vehicles shall only be permitted as a short-term (up to 30 days) accessory use to a permitted automobile repair shop, body shop, or similar use.

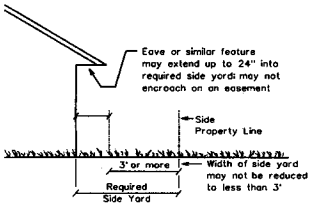
(d) Yard Projections

The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

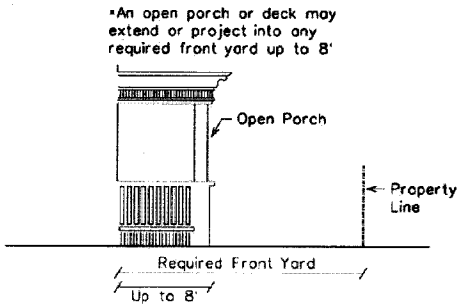
YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections
(Chimneys and Fireplaces)



Permitted Yard Projections
(Eave in Side Yard)



Permitted Yard Projections
(Porch or Deck into Front Yard)

(e) Exceptions to Yard Projections

(i) Commercial, Industrial, and Other Nonresidential Fences

A fence, wall, or retaining wall, not exceeding eight (8) feet in height may be located in any required rear or side yard, but shall not be permitted in any required front yard on a property with an existing primary structure. If there is no required front yard or if the building is considered to be legal nonconforming with regard to required front yard setback, the fence shall not be located any closer to the public right-of-way than the leading edge of the foundation of any existing primary structure.

(ii) Additional Exceptions to Yard Requirements

The following elements or items shall be permitted in any required front, side or rear yard:

(1) Trees, shrubs, flowers, or plants shall be permitted, provided they do not violate the provisions for corner visibility setbacks as required in this section; and

(2) Basketball goals and backboards (including supporting poles), bird baths, curbs, driveways, holiday decorations, lamp posts, mailboxes, name plates, retaining walls, sidewalks, trellises, yard ornaments, and other similar structures, provided they do not violate the provisions for corner visibility setbacks as required in this section.

(5) Miscellaneous Provisions

In order to establish neighborhood centers that are compatible with other neighborhood uses, the following additional restrictions shall apply:

(a) Additional District Requirements

(i) The maximum gross floor area of the shopping center shall not exceed 25% of the net site area, or 100,000 square feet, whichever is less;

(ii) A major tenant space shall not exceed 35,000 square feet of gross floor area;

(iii) A bar/tavern or billiard/pool hall shall not exceed 5,000 square feet of gross floor area;

(iv) Up to two major tenants shall be permitted; and

(v) No single tenant space other than the permitted major tenants shall exceed 20,000 square feet.

(b) Exceptions to Additional District Requirements

To allow flexibility in shopping center development, the Plan Commission may grant requests for exceptions or waivers to the district requirements as set forth in §157.304. However, the Commission may not waive the 25% maximum site coverage by buildings or the maximum gross floor area of enclosed space for the entire center as set forth for each district. Exceptions or waivers may be granted as a part of Commission review and approval of a primary or amendment to a primary development plan, if the Commission finds that:

(i) The waiver or exception is in conformance with the purposes and intent of this chapter along with the goals, objectives, and policies of the City Comprehensive Plan;

(ii) The applicant has submitted adequate evidence in support of the requested waiver or exception; and

(iii) The requested waiver or exception will be compatible with the immediate area, and will not be unduly detrimental to the use and value of the area adjacent to the property included in the request.

§ 157.226 SC2, Community Shopping Center

(A) Purpose

The Shopping Center Districts are intended to create areas for the provision of adequate commercial facilities at suitable locations and of appropriate design, scale and intensity which will create a functional and compatible relationship with the immediate surroundings and community. It is intended that SC Districts be composed of different tenants and uses that serve the retail needs of the community. A single tenant or use may also exist if it satisfies the intent of the district. New single family residential uses are not permitted in SC Districts. In reviewing a proposal for a SC District, the Plan Commission shall consider the nature of the proposed use, the total size of the proposed project and the composition of existing development and zoning in the vicinity of the proposed SC District. Traffic generation, both pedestrian and vehicular and its impact on surrounding streets and highways will also be considered as part of the Commission's review process. All proposals in an SC District shall be subject to the provisions and requirements of §157.304 (Development Plans). The Community Shopping Center District is intended to provide areas which allow access to a greater variety of merchandise and services in addition to serving the function of a neighborhood shopping center. Tenants and uses within this type of center are similar in character to those tenants and uses found within a neighborhood center.

(B) Permitted Uses

Permitted uses shall include all CM1 and CM2 uses.

(C) Special Uses

(1) Commercial communication towers, provided the Board finds the request to be in conformance with the following standards and requirements:

(a) In addition to meeting the requirements set forth in §157.404(C)(1)(b) the Board shall also find the following as a part of its approval:

(i) The proposed communications tower is reasonably necessary to serve the adjacent or nearby area; and

(ii) The applicant is unable to locate or co-locate on an existing structure.

(b) New communication towers approved by the Board of Zoning Appeals shall conform to the following development standards:

(i) The tower structure shall not exceed 150 feet in height,

(ii) The tower color shall be galvanized metal or similarly gray tone;

(iii) Guyed and self supporting lattice towers shall not be permitted;

(iv) The use of stealth technology shall be encouraged; and

(v) The setback requirement for towers shall be as follows. Setbacks shall be measured from the base of the town to the applicable property lines.

SETBACK REQUIREMENTS FOR TOWERS	
Front yard (including through lots)	75% of tower structure height
Side yard – interior lot line	50% of tower structure height
Side yard – street frontage side of corner lot	75% of tower structure height
Rear yard	50% of tower structure height

(c) A special use shall not be required for the location or co-location of antennas in any district on existing structures including but not limited to the following:

(i) rooftops of existing commercial, industrial, and institutional structures;
(ii) water towers;
(iii) church steeples;
(iv) electrical towers;
(v) communication towers;
(vi) other established utility structures; and
(vi) cabinets and shelters.

Antennae shall be permitted to extend up to 20 feet above the existing structure or up to a total height of 200 feet whichever is less. A Certificate of Compliance shall be obtained for all antennae locations and co-locations.

(D) Accessory Structures and Uses

(1) Purpose

The purpose of this section is to establish standards for the construction of accessory structures and other construction, such as garages, storage sheds, outbuildings, and other similar nonresidential facilities.

(2) Permitted Accessory Structures

The following non-residential accessory structures as defined in §157.410, shall be permitted provided the structures comply with the applicable setback, height, location, and other standards and limitations set forth in this chapter.

(a) Above-ground and in-ground swimming pools;
(b) Arbors, trellises, or similar construction;
(c) Attached and detached decks or similar construction;
(d) Fences and walls;
(e) Freestanding satellite dishes and television aerials;
(f) Garbage dumpsters;
(g) Gazebos;
(h) Storage sheds; and
(i) Any other accessory structure which is placed on a permanent foundation.

(3) Permitted Accessory Uses

Non-residential accessory uses as defined in §157.410 shall be permitted provided the uses comply with the applicable setback, height, and other standards set forth in this subchapter with the following exceptions.

(a) Outdoor Display

(i) Nonresidential outdoor display shall only be permitted if the display complies with the applicable setback, location, and other standards and limitations set forth in this chapter.

(ii) Items, retail goods, or similar materials offered for sale (such as vehicles, equipment, or supplies) must be displayed on a paved or similar surface in accordance with the provisions of the Off-Street Parking subchapter of this chapter.

(iii) Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use, in accordance with the provisions herein.

(b) Outdoor Storage

(i) In any commercial or industrial district, outdoor storage shall only be permitted if the storage complies with the applicable setback, location, screening, buffering, and other standards and limitations set forth herein.

(ii) In any commercial or industrial district, the outdoor storage of wrecked, abandoned, dismantled, or inoperable vehicles shall be prohibited, except as an accessory use to a permitted primary use.

(E) Temporary Structures and Uses

(1) Temporary Accessory Structures

A trailer, mobile unit, or other temporary structure shall be permitted as a temporary accessory structure for any existing school, church or permitted industrial, commercial, or other nonresidential use, subject to the following requirements:

(a) The temporary use shall only be permitted for a period of up to two years;

(b) The temporary use must meet the requirements outlined in §157.203(D)(2) for accessory structures;

(c) If the proposed structure does not qualify for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit; and

(d) This subsection shall not apply mobile food service units, tents or similar structures.

(2) Temporary Primary Structures and Uses

Temporary or seasonal primary retail structures and/or uses shall be permitted as set forth in §157.104 (Permitted Uses). Such structures or uses shall be permitted on a vacant lot or development parcel, or on a lot or development parcel which has existing primary structure(s) or use(s) for up to four (4) months total in a twelve (12) month period. Any proposed temporary or seasonal primary retail structure shall conform to the following requirements:

(a) The structure shall conform with all of the applicable standards and requirements of this chapter, including minimum setback and parking requirements;

(b) Unless the proposed structure qualifies for a waiver under §157.305(C) (Site Plan Review), the owner or applicant shall obtain approval of the proposal through the Site Plan Review process, prior to the issuance of an Improvement Location Permit;

(c) Tents or similar structures or facilities shall be permitted under this subsection; and

(d) This subsection shall not apply to mobile food service units.

(3) Temporary Special Events

Temporary special events shall be permitted as an accessory use to an existing permitted commercial, industrial, or other nonresidential use. Temporary special events shall be permitted up to three (3) times per year, for a period not to exceed seven (7) days per event. Tents, or other similar structures or facilities, shall be permitted in conjunction with the special event. An Improvement Location Permit shall not be required for a tent or similar structure used in connection with a permitted temporary special event. Festivals or similar events held in public parks shall not be considered temporary special events.

(4) Mobile Food Service Units

(a) A mobile food service unit shall be permitted as a temporary accessory use to an existing permitted commercial (excluding professional office uses), industrial, or other nonresidential use or structure. The unit shall be allowed on a site up to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. In the event of a festival or similar use in a public park there shall be no limit on the number of times the unit shall be allowed on the site, however, the unit is limited to 14 days per event and the use must first be approved by the Fort Wayne - Allen County Department of Health.

(b) A mobile food service unit shall be permitted as a temporary primary use in any zoning district which permits a restaurant. The unit shall be allowed on a site up

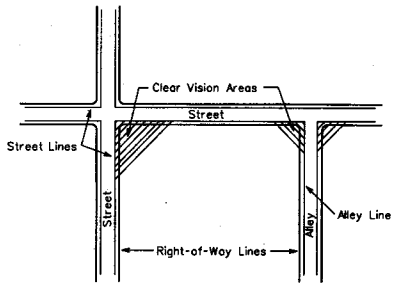
to three (3) times in a twelve (12) month period, for up to fourteen (14) days per event, provided the use is first approved by the Fort Wayne - Allen County Department of Health. As part of its review of the Improvement Location Permit application, the Planning staff may require the applicant to obtain approval through the Site Plan Review process.

(F) Development Standards

(1) Corner Visibility

(a) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted or allowed to grow, on that part of a corner lot bounded by the lines of intersecting streets and a line joining them at a point 40 feet distant from the intersection of the extended street lines, in a manner which would impede vision between a height of three (3) and eight (8) feet.

(b) No fence, wall, retaining wall, hedge, or other planting shall be erected, placed, planted, or allowed to grow, on that triangular part of a lot bounded by the lines of the intersection of a street and an alley, in a manner which would impede vision between a height of three (3) and eight (8) feet. Distances shall be measured back from the intersection of the extended street and alley lines in accordance with the standards of the Board of Public Works. This standard may also be applied to the intersection of a driveway and street, if it is determined that a traffic safety hazard exists or would be created.



Clear Vision Triangle/Area

(c) In addition to meeting the requirements in sections (a) and (b) above, no solid wood or other opaque fence on a corner lot shall be located less than three (3) feet from the side property line which abuts a public right-of-way.

(2) Height

(a) Height Limitations

No building or structure, including accessory structures, shall be erected, altered, enlarged or reconstructed to exceed 35 feet; except that the maximum height for freestanding signs shall be as set forth in §157.316 (Signs).

(b) Exceptions to Height Limitations

The following structures, buildings, or other construction shall be permitted to be erected above the height limits established in this section.

(i) Flagpoles, chimneys, smokestacks, steeples, bell towers, and crosses or other similar religious symbols;

(ii) Parapet or fire walls;

(iii) Residential television aerials, amateur radio antennas, satellite dishes, or similar structures or facilities; and

(iv) Roof structures or similar structures for the housing of mechanical, electrical, ventilating, or similar equipment required to operate or maintain the structure.

(c) Waiver of Height Limitations

As part of its review of a proposed plat or development plan, the Plan Commission may waive or modify the maximum building or structure height limitations.

(3) Lot Area and Width

(a) Lot Area Standards

There shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(b) Lot Width Standards

There shall be no minimum lot requirement other than that necessary to meet the applicable provisions of this chapter and the requirements of the Allen County Building Department.

(4) Yard Requirements

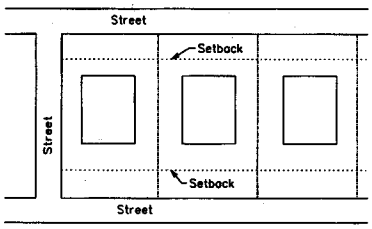
No building or structure shall be erected, altered, enlarged or reconstructed unless the building or structure conforms with the yard requirements of the district in which it is located, except as permitted in §157.312 (Nonconforming Structures and Uses).

(a) Front Yard Requirements

There shall be a front yard for each lot, tract, or development parcel; the minimum depth shall be 50 feet, subject to the provisions and exceptions noted herein.

(i) Front Yards on a Through Lot

At each end of a through lot there shall be a front yard as established by the requirements of this section for the district in which each street frontage is located.



Through Lot Front Setback Requirement

(ii) Planning Staff Determination of Front Yard Setbacks in Areas with Existing Nonconforming Primary Structures or in Infill Situations Where Adjacent Existing Structures Have a Consistent Setback

To encourage infill development compatible with the existing character of an area, the Planning staff may reduce or increase the required front yard based on the following considerations:

(1) The location of adjacent structures;
(2) The location of existing structures in the immediate area;
(3) The location of the proposed driveway in terms of street or alley access; and
(4) The provision of an attached or detached garage.

(iii) Plat and Development Plan Front Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum front yard requirement at the request of the developer/applicant, upon a finding by the Commission pursuant to §157.304(G) of this chapter.

(b) Rear Yard Requirements

(i) There shall be a rear yard for each lot, tract or development parcel; the minimum rear yard shall be 40 feet.

(ii) Plat and Development Plan Rear Yard Waiver
As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum rear yard requirement.

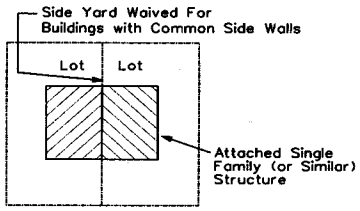
(iii) Nonresidential accessory structures
Nonresidential accessory structures may be located between the rear of the primary structure and the rear lot line, provided the accessory structure is located a minimum of five (5) feet from a side or rear property line, and provided the structure complies with any applicable screening or buffering provisions as set forth in §157.306 of this chapter.

(c) Side Yard Requirements

(i) There shall be two side yards for each lot, tract, or development parcel; the minimum widths shall be 5 feet (subject to the provisions and exceptions noted in this division).

(ii) Side Yards Waived for Dwellings with Common Walls

Dwellings with common walls on a lot line (including single family attached residences, duplexes, and triplexes) shall be considered as one building occupying one lot for the purpose of determining side yard setback requirements.



Side Yard Waived

(iii) Waiver of Side Yard Requirements for Additions to Nonconforming Nonresidential Structures

The Planning staff may reduce the required side yard(s) for additions to existing nonconforming nonresidential structures based on consideration of the location, size, and height of the existing structure; and the location of existing structures adjacent to the site.

(iv) Plat and Development Plan Side Yard Waiver

As part of its review and approval of a primary plat or primary development plan, the Plan Commission or Plat Committee may waive or modify the minimum side yard requirement at the request of the developer/applicant.

(v) Nonresidential accessory structures

Nonresidential accessory structures may be located beside a primary structure, provided the accessory structure meets the side and rear yard setback requirement, except that nonresidential dumpsters may be located a minimum of five (5) feet from a side property line, and is located no closer to the front lot line than the primary structure or the required front yard setback, whichever is less.

(vi) Nonresidential outdoor display

The following standards apply to uses permitted to have outdoor display unless further limited herein. Outdoor display shall not be permitted within the required front yard, or between the leading edge of any existing primary

structure and the front property line, whichever distance is less; except in conjunction with the following uses. However, outdoor display shall be permitted in the required side and rear yards as an accessory use that is clearly incidental to a permitted primary use. On a corner lot, outdoor display shall not be permitted within the required side yard which abuts the side street.

(1) Department store with seasonal outdoor retail sales;
(2) Hardware store;
(3) Open lot Christmas tree sales, or other similar seasonal outdoor retail sales;
(4) Service stations, including automobile accessory stores, and similar automotive uses; and
(5) Similar retail uses.

(vii) Nonresidential outdoor storage

The following standards apply to uses permitted to have outdoor storage.

(1) In any commercial or industrial district, outdoor storage shall be not be permitted in any required front yard, or between the leading edge of any existing primary structure and the front property line.

(2) On an interior lot outdoor storage may be permitted in a required side or rear yard if contained within an approved screen meeting the requirements of §157.306.

(3) On a corner lot, outdoor storage shall not be permitted within the required side yard that abuts the side street. Permitted outdoor storage shall be contained within an approved screen meeting the requirements of §157.306.

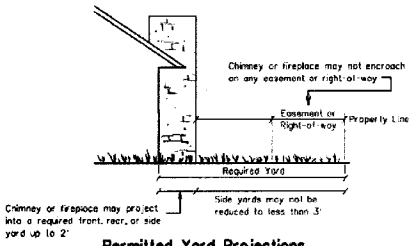
(4) In any commercial or industrial district, any automobile repair shop, body shop, or similar use which stores over ten (10) vehicles overnight shall screen the vehicle storage area as set forth in §157.306. The vehicle storage area may only be located within a side or rear yard.

(5) The outdoor storage of wrecked, dismantled, or inoperable vehicles shall only be permitted as a short-term (up to 30 days) accessory use to a permitted automobile repair shop, body shop, or similar use.

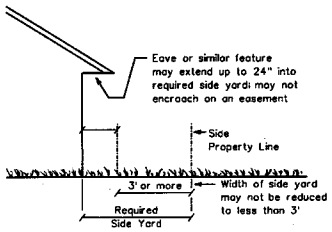
(d) Yard Projections

The following structures, buildings, or other construction shall be permitted to project into any required or existing front, side and rear yard as specified in the following table.

YARD PROJECTIONS			
Uses	**Front**	**Side**	**Rear**
Cornice, eave, overhang, belt course, sill, awning, or similar architectural feature	30″	Up to 24″ (however, a 3′ minimum side yard must be maintained)	30″
Chimney or fireplace	2′	Up to 2′ (however, a 3′ minimum side yard must be maintained)	2′
Fire escape	4′	4′	4′
Handicapped ramps	Can project to front lot line	Up to 4′ (however, a 3′ minimum side yard must be maintained)	4′
Open stairway or balcony (unenclosed with no roof or canopy)	30″	Not permitted to project	4′
Open porch, platform, landing, or deck (cannot extend above level of first floor of the building)	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	10′
Slab on grade patio	8′	Up to 4′ (however, a 3′ minimum side yard must be maintained)	20′
Cantilever bay window (or similar projection)	2′	Not permitted to project	2′



Permitted Yard Projections
(Chimneys and Fireplaces)



Permitted Yard Projections
(Eave in Side Yard)