

1 **#ZORD-2018-0004**

2 BILL NO. Z-19-01-01 (as amended)

3 ORDINANCE NO. Z- 10-19

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

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

8 SECTION 1. That the current Chapter 157 (Zoning Ordinance), Sections 157.203 through  
9 157.223 (Zoning Districts, AR/Low Intensity Residential through I2/General Industrial); Section  
10 157.503 (Administration, Procedures-Special Uses); Section 157.504 (Nonconforming  
11 Situations), and Section 157.506 (Definitions) are hereby amended as follows.

12 Amendment SU1 – 157.203 through 157.223:

13 Every zoning district has a Special Use for “Nonconforming use (expansion of existing  
14 nonconforming use, or allow conforming status to existing use)”; make it clear that gas stations  
15 are not eligible for this Special Use by adding “excluding gas station uses” to this Special Use  
16 provision in every district that does not allow gas stations (the AR, R1,R2, R3, RP, MHS, C1, C2,  
17 NC, DC, DE, UC, I1, and I2 districts)

18 Amendment SU2 – 157.213(D)(5):

19 The C2/Limited Commercial district allows a gas station to be approved as a special use; remove  
20 the gas station special use from the district

21 Amendment SU3 – 157.214(D)(5):

22 The NC/Neighborhood Center district allows a gas station to be approved as a special use;  
23 remove the gas station special use from the district

24 Amendment SU4 – 157.219(C)(7):

25 The DE/Downtown Edge district allows a gas station to be approved as a special use; remove  
26 the gas station special use from the district (including the associated design standards)

27 Amendment SU5 – 157.222(C)(3):

28 The I1/Limited Industrial district allows a gas station to be approved as a special use; remove the  
29 gas station special use from the district

30 Amendment SU6 – 157.223(C)(3):

The I2/General Industrial district allows a gas station to be approved as a special use; remove  
the gas station special use from the district

Amendment SU7 – 157.503(D)(1):

The Procedures - Special Uses table includes an Automobile Service, General special use that  
would allow a gas station use as a special use in the I1 district; add “excluding gas station uses”  
to the Automobile Service, General special use in the Special Uses table

Amendment SU7 – 157.503(D)(1):

1 The Procedures - Special Uses table includes a Gas station (including convenience store)  
2 special use for the C2, NC, SC, , I1, and I2 districts; remove the Gas station (including  
convenience store) special use from the table

3 Amendment SU8 – 157.503(D)(1):

4 The Procedures - Special Uses table includes a Gas stations/convenience stores (as a primary  
5 or accessory use) special use for the DE district; remove the Gas stations/convenience stores  
6 special use from the table

7 Amendment SU9 – 157.503(D)(1):

8 The Procedures - Special Uses table includes a “Nonconforming use (expansion of existing  
9 nonconforming use, or allow conforming status to existing use)” special use; make it clear that  
10 gas stations are not eligible for this Special Use by adding “this special use shall not be available  
11 for gas station uses” to this provision

12 Amendment NC1 – 157.504(E)(6):

13 There is no language giving guidance on how nonconforming gas stations can expand; add a  
14 new Gas Stations subsection to the Other Nonconforming Situations portion of the  
15 Nonconforming Situations section, as shown below:

16 (6) Gas Stations

17 A gas station that was approved via a Special Use or Use Variance by the Board of Zoning  
18 Appeals shall not be considered a nonconforming use subject to these provisions, and  
19 shall remain subject to any previous Board of Zoning Appeals conditions of approval. Any  
20 gas station that became nonconforming as of April 3, 2014:

- 21 (a) May be enlarged, expanded, or extended on the same parcel or lot that existed at  
22 the time the gas station became nonconforming, so long as such enlargement,  
23 expansion, or extension, meets all development standards of this ordinance and an  
24 Improvement Location Permit and/or Certificate of Use is issued before such  
25 enlargement, expansion, or extension. This provision is intended to also allow for the  
26 addition of gas pumps and the expansion or replacement of canopies;
- 27 (b) May be expanded into any building that existed at the time the gas station became  
28 nonconforming, so long as a Certificate of Use is issued before such expansion;
- 29 (c) Shall not be permitted to increase the size of the parcel or lot that the gas station is  
30 located on; and
- (d) Shall be subject to all other applicable Nonconforming Situations provisions in this  
Section, including but not limited to the Nonconforming Buildings or Structures  
provisions, the Maintenance or Reconstruction provisions, and the Discontinuation  
and Damage provisions; and
- (e). New accessory buildings or structures shall meet the development standards of this  
ordinance.

Amendment DEF1 – 157.506(B):

The definition of Convenience Store is not clear, in noting the difference between a Convenience  
Store and a Gas Station; clarify the definition by adding “A use which also includes gas pumps  
shall not be considered a convenience store. A convenience store use shall be considered a  
primary use of a property.”

Amendment DEF2 – 157.506(B):

The definition of Gas Station needs to be updated based on current ordinance provisions; update  
the definition to “A facility where fuel is sold, which may also include a convenience store. A gas  
station use shall be considered a primary use of a property.”

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SECTION 2. That this Ordinance, after its passage and approval by the Mayor, shall be in full force and effect starting on April 1, 2019.

  
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Council Member

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Carol T. Helton, City Attorney

# DEPARTMENT OF PLANNING SERVICES

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Citizens Square  
200 E Berry St – Suite 150  
Fort Wayne, Indiana 46802-1804

Phone: 260-449-7607  
Fax: 260-449-7682

April 16, 2019

Fort Wayne City Council  
City Council Office  
Citizens Square Suite 120  
200 East Berry Street  
Fort Wayne, IN 46802

RE: Gas Station Zoning Ordinance Amendment - Fort Wayne Plan Commission Report

Council Members:

At their meeting on Monday April 8, 2019, the Fort Wayne Plan Commission voted to approve the Fort Wayne Common Council's amendment to the Plan Commission's certified text amendment proposal for ZORD-2018-0004. Ms. Rachel Tobin-Smith moved to approve the amended ordinance and Mr. Tom Freistroffer seconded the motion. The vote was 7 to 1 with Ms. Tobin-Smith and Haas Zuber; Messrs. Schmidt, Freistroffer, Sauerteig, Shurley, and Zaharaco voting in support and Ms. Wire voting in opposition.

This report of the Plan Commission provides compliance with Indiana Code 36-7-4-607(f)(4).

Sincerely,



Kimberly Bowman, AICP  
Secretary to the Commission  
Executive Director  
Department of Planning Services

cc: Lana Keesling, Fort Wayne City Clerk  
Joe Bonahoom, Attorney for Fort Wayne City Council – via email  
Robert Eherenman, Attorney for Fort Wayne Plan Commission – via email  
Megan Flohr, City Council Administrator – via email

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Amendment SU7 – 157.503(D)(1):

The Procedures - Special Uses table includes a Gas station (including convenience store) special use for the C2, NC, SC, , I1, and I2 districts; remove the Gas station (including convenience store) special use from the table

Amendment SU8 – 157.503(D)(1):

The Procedures - Special Uses table includes a Gas stations/convenience stores (as a primary or accessory use) special use for the DE district; remove the Gas stations/convenience stores special use from the table

Amendment SU9 – 157.503(D)(1):

The Procedures - Special Uses table includes a "Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use)" special use; make it clear that gas stations are not eligible for this Special Use by adding "this special use shall not be available for gas station uses" to this provision

Amendment NC1 – 157.504(E)(6):

There is no language giving guidance on how nonconforming gas stations can expand; add a new Gas Stations subsection to the Other Nonconforming Situations portion of the Nonconforming Situations section, as shown below:

(6) Gas Stations

A gas station that was approved via a Special Use or Use Variance by the Board of Zoning Appeals shall not be considered a nonconforming use subject to these provisions, and shall remain subject to any previous Board of Zoning Appeals conditions of approval. Any gas station that became nonconforming as of April 3, 2014:

- (a) May be enlarged, expanded, or extended on the same parcel or lot that existed at the time the gas station became nonconforming, so long as such enlargement, expansion, or extension, meets all development standards of this ordinance and an Improvement Location Permit and/or Certificate of Use is issued before such enlargement, expansion, or extension. This provision is intended to also allow for the addition of gas pumps and the expansion or replacement of canopies;
- (b) May be expanded into any building that existed at the time the gas station became nonconforming, so long as a Certificate of Use is issued before such expansion;
- (c) Shall not be permitted to increase the size of the parcel or lot that the gas station is located on; and
- (d) Shall be subject to all other applicable Nonconforming Situations provisions in this Section, including but not limited to the Nonconforming Buildings or Structures provisions, the Maintenance or Reconstruction provisions, and the Discontinuation and Damage provisions; and
- (e). New accessory buildings or structures shall meet the development standards of this ordinance.

Amendment DEF1 – 157.506(B):

The definition of Convenience Store is not clear, in noting the difference between a Convenience Store and a Gas Station; clarify the definition by adding "A use which also includes gas pumps shall not be considered a convenience store. A convenience store use shall be considered a primary use of a property."

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APPROVED AS TO FORM AND LEGALITY:

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Carol T. Helton, City Attorney

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- (b) May be expanded into any building that existed at the time the gas station became  
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- (c) Shall not be permitted to increase the size of the parcel or lot that the gas station is  
located on; and

1 (d) Shall be subject to all other applicable Nonconforming Situations provisions in this  
2 Section, including but not limited to the Maintenance or Reconstruction provisions,  
3 and the Discontinuation and Damage provisions.

4 Amendment DEF1 – 157.506(B):

5 The definition of Convenience Store is not clear, in noting the difference between a Convenience  
6 Store and a Gas Station; clarify the definition by adding “A use which also includes gas pumps  
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8 Amendment DEF2 – 157.506(B):

9 The definition of Gas Station needs to be updated based on current ordinance provisions; update  
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11 station use shall be considered a primary use of a property.”

12 SECTION 2. That this Ordinance, after its passage and approval by the Mayor, shall be  
13 in full force and effect starting on April 1, 2019.

14 \_\_\_\_\_  
15 Council Member

16 APPROVED AS TO FORM AND LEGALITY:

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19 Carol Helton, City Attorney  
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City of Fort Wayne Common Council  
**DIGEST SHEET**

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**Department of Planning Services**

Title of Ordinance: Amendment to the Fort Wayne Zoning Ordinance  
Case Number: ZORD-2018-0004  
Bill Number: ~~Z~~-19-01-01  
Council District: All districts

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Introduction Date: January 8, 2019

Plan Commission  
Public Hearing Date: January 7, 2019

Next Council Action: Ordinance will return to Council after recommendation by the Plan Commission

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Synopsis of Ordinance: A proposal to amend the Fort Wayne Zoning Ordinance (Chapter 157)

Location: Within the planning jurisdiction of Fort Wayne

Applicant: This ordinance amendment was initiated by the Common Council of the City of Fort Wayne

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Related Petitions: This ordinance is being proposed as a result of a resolution approved by Council on November 27, 2018 (R-108-18); this amendment will only affect the Fort Wayne Zoning Ordinance

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Effect of Passage: These amendments are proposed to address issues brought up by Council member Glynn Hines relative to gas station uses, by:

- 1) Addressing the number of permitted and special uses for gas stations available in the existing zoning categories by reducing the number of zoning categories that allow gas stations by special use, while still providing zoning districts that permit gas stations; and
- 2) Clarifying how existing nonconforming gas station uses will be treated in the ordinance.

Effect of Non-Passage: The City of Fort Wayne will not address the issues identified in the Common Council resolution relative to gas station uses

**Fort Wayne Zoning Ordinance**

**Gas Station Amendment – Clean Draft  
Proposed Compromise Version**

**March 21, 2019**

## FORT WAYNE ZONING ORDINANCE

### (C) Special Uses

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

- (1) Accessory building conversion to a single family residence;
- (2) Accessory building, as a primary building, on a site of at least 5 acres;
- (3) Airstrip/heliport (private; for corporate or multiple owner use);
- (4) Bed and breakfast;
- (5) Boarding house;
- (6) Class II child care home;
- (7) Community garden that includes a structure;
- (8) Country club;
- (9) Educational institution (not otherwise permitted);
- (10) Educational institution-associated facilities, uses, and areas, on non-contiguous properties;
- (11) Funeral home;
- (12) Group residential facility (large);
- (13) Home business (see §157.503(D)(3)(b) for additional standards);
- (14) Home enterprise (see §157.503(D)(3)(c) for additional standards);
- (15) Home workshop (see §157.503(D)(3)(d) for additional standards);
- (16) Homeless/emergency shelter (accessory to a religious institution), for up to eight (8) individuals;
- (17) Manufactured home, Type II (see §157.503(D)(3)(e) for additional standards);
- (18) Model home (for an extension of time or expansion of scope);
- (19) Nature preserve that includes a structure or parking area;
- (20) Neighborhood facility;
- (21) Nonconforming use (expansion of existing legal nonconforming use, or allow conforming status to existing use, excluding gas station uses);
- (22) Reception, meeting, or recreation hall; clubhouse;
- (23) Recreation area;
- (24) Recreation facility;
- (25) Religious institution or non-public school illuminated athletic field(s);
- (26) Residential facility for a court-ordered re-entry program;
- (27) Residential facility for homeless individuals, for up to eight (8) individuals;
- (28) Riding stable, nonresidential (on a lot with no residential building; the stable shall be located on a tract of at least five acres);
- (29) Sign (temporary subdivision direction);
- (30) Solarpanel (ground-mounted);

## FORT WAYNE ZONING ORDINANCE

- (18) Instruction/training/education (transitional use);
- (19) Live-work unit (transitional use);
- (20) Manufactured home, Type II (see §157.503(D)(3)(e) for additional standards);
- (21) Medical office (transitional use);
- (22) Model home (for extension of time/expansion of scope);
- (23) Museum;
- (24) Nature preserve that includes a structure or parking area;
- (25) Neighborhood facility;
- (26) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use, excluding gas station uses);
- (27) Personal service (transitional use, excluding copy/duplicating service, health club/fitness center, or social service agency);
- (28) Professional office/business service (transitional use, excluding bank, credit union, loan office, or savings and loan);
- (29) Recreation use, outdoor (athletic field, riding stable, swim club, tennis club);
- (30) Religious institution or non-public school illuminated athletic field(s);
- (31) Residential facility for a court-ordered re-entry program;
- (32) Residential facility for homeless individuals, for up to eight (8) individuals; the facility shall be located a minimum of 3000 feet from a small group residential facility, a large group residential facility, a court-ordered re-entry program residential facility, or another residential facility for homeless individuals, as measured from the closest property lines of the facilities;
- (33) Sign (temporary subdivision direction);
- (34) Solar panel (ground mounted);
- (35) Subdivision clubhouse, meeting hall, neighborhood center, or swim/tennis facility, if not previously approved as part of the subdivision;
- (36) Studio (transitional use);
- (37) Two family dwelling (to allow conforming status for existing nonconforming uses);
- (38) Utility facility, private (not otherwise permitted or exempt);
- (39) Wind energy conversion system, micro (for single family detached dwellings on unplatted land); and
- (40) Wind energy conversion system, standard (for fire/police station, public park/recreation area, religious institution, or school uses; or unplatted residential land over five acres).

## FORT WAYNE ZONING ORDINANCE

- (16) Home business (see §157.503(D)(3)(b) for additional standards);
- (17) Homeless/emergency shelter (accessory to a religious institution), for up to eight (8) individuals;
- (18) Instruction/training/education (transitional use);
- (19) Live-work unit (transitional use);
- (20) Manufactured home, Type II (see §157.503(D)(3)(e) for additional standards);
- (21) Medical office (transitional use);
- (22) Model home (for extension of time/expansion of scope);
- (23) Museum;
- (24) Nature preserve that includes a structure or parking area;
- (25) Neighborhood facility;
- (26) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use, excluding gas station uses);
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- (29) Recreation use, outdoor (athletic field, riding stable, swim club, tennis club);
- (30) Religious institution or non-public school illuminated athletic field(s);
- (31) Residential facility for a court-ordered re-entry program;
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- (33) Sign (temporary subdivision direction);
- (34) Solar panel (ground mounted);
- (35) Subdivision clubhouse, meeting hall, neighborhood center, or swim/tennis facility, if not previously approved as part of the subdivision;
- (36) Studio (transitional use);
- (37) Utility facility, private (not otherwise permitted or exempt);
- (38) Wind energy conversion system, micro (for single family detached structures on unplatted land only); and
- (39) Wind energy conversion system, standard (for fire/police station, public park/recreation area, religious institution, or school uses; or unplatted residential land over five acres).

## FORT WAYNE ZONING ORDINANCE

### (C) Special Uses

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

- (1) Animal keeping (outdoor, small animal);
- (2) Bed and breakfast;
- (3) Boarding house;
- (4) Class II child care home;
- (5) Club, private (transitional use);
- (6) Community facility not otherwise permitted (transitional use);
- (7) Community garden that includes a structure;
- (8) Country club;
- (9) Educational institution (not otherwise permitted);
- (10) Educational institution-associated facilities, uses, and areas on non-contiguous properties;
- (11) Emergency response facility (transitional use);
- (12) Funeral home;
- (13) Golf course;
- (14) Group residential facility (large);
- (15) Heliport (private individual or accessory to permitted nonresidential use, excluding hospital uses);
- (16) Home business (see §157.503(D)(3)(b) for additional standards);
- (17) Homeless/emergency shelter (accessory to a religious institution), for up to eight (8) individuals;
- (18) Instruction/training/education (transitional use);
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## FORT WAYNE ZONING ORDINANCE

- (22) Model home (for extension of time/expansion of scope);
- (23) Museum;
- (24) Nature preserve that includes a structure or parking area;
- (25) Neighborhood facility;
- (26) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use, excluding gas station uses);
- (27) Personal service (transitional use, excluding copy/duplicating service, health club/fitness center, or social service agency);
- (28) Professional office/business service (transitional use, excluding bank, credit union, loan office, or savings and loan);

## FORT WAYNE ZONING ORDINANCE

- (17) Homeless/emergency shelter (accessory to a religious institution), for up to eight (8) individuals;
- (18) Instruction/training/education (transitional use);
- (19) Live-work unit (transitional use);
- (20) Medical office (transitional use);
- (21) Model home (for extension of time/expansion of scope);
- (22) Museum;
- (23) Nature preserve that includes a structure or parking area;
- (24) Neighborhood facility;
- (25) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use, excluding gas station uses);
- (26) Personal service (transitional use, excluding copy/duplicating service, health club/fitness center, or social service agency);
- (27) Professional office/business service (transitional use, excluding bank, credit union, loan office, or savings and loan);
- (28) Recreation use, outdoor (athletic field, riding stable, swim club, tennis club);
- (29) Religious institution or non-public school illuminated athletic field(s);
- (30) Residential facility for a court-ordered re-entry program;
- (31) Residential facility for homeless individuals, for up to eight (8) individuals;
- (32) Sign (temporary subdivision direction)
- (33) Solar panel (ground mounted);
- (34) Subdivision clubhouse, meeting hall, neighborhood center, or swim/tennis facility, if not previously approved as part of the subdivision;
- (35) Studio (transitional use);
- (36) Two family dwelling (to allow conforming status for existing nonconforming uses);
- (37) Utility facility, private (not otherwise permitted or exempt);
- (38) Wind energy conversion system, micro (for single family detached buildings on unplatted land only); and
- (39) Wind energy conversion system, standard (for fire/police station, public park/recreation area, religious institution, or school uses; or unplatted residential land over five acres).

## FORT WAYNE ZONING ORDINANCE

### (C) Special Uses

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

- (1) Animal service, indoor (animal grooming, animal hospital, animal kennel, animal obedience school, veterinary clinic);
- (2) Automatic teller machine (ATM) (stand alone);
- (3) Club, private;
- (4) Commercial communication tower (see §157.503(D)(3)(a) for additional standards);
- (5) Community garden that includes a structure;
- (6) Educational institution-associated uses (on non-contiguous properties, not otherwise permitted);
- (7) Group residential facility (large) (if adjacent to a residential district);
- (8) Home business (in a single family detached dwelling only; (see §157.503(D)(3)(b) for additional standards);
- (9) Homeless/emergency shelter (if adjacent to a residential district, or accessory to a religious institution);
- (10) Manufactured home, Type II (see §157.503(D)(3)(e) for additional standards);
- (11) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use, excluding gas station uses);
- (12) Parking area (as the primary use of a lot), a special use shall not be required for a universally permitted off-site parking area;
- (13) Recreation facility or use, outdoor (athletic field, riding stable, swim club, tennis club);
- (14) Religious institution or non-public school illuminated athletic field(s);
- (15) Residential facility for court-ordered re-entry program;
- (16) Residential facility for homeless individuals (if adjacent to a residential district);
- (17) Retail: art gallery, bakery, coffee shop, confectionary/candy/ice cream store, craft gallery, delicatessen, florist, jeweler, medical supply sales, musical instrument sales, sandwich shop, tea room (this special use shall only be permitted to allow for the conversion of an existing building; allowed up to 2500 square feet; drive-through facilities shall not be permitted as part of this special use);
- (18) Sign (temporary subdivision direction);
- (19) Solar panel (ground mounted);
- (20) Tattoo establishment;
- (21) Utility facility, private (not otherwise permitted or exempt);
- (22) Wind energy conversion (WEC) system (standard, or more than 1 micro system); and
- (23) Wind energy conversion system, micro (on land adjacent to a residential district).

## FORT WAYNE ZONING ORDINANCE

### (D) Special Uses

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

- (1) Automobile maintenance (quick service)
- (2) Commercial communication tower (see §157.503(D)(3)(a) for additional standards)
- (3) Community garden that includes a structure
- (4) Educational institution-associated uses (on non-contiguous properties)
- (5) Gas Station (except when a gas station site is adjacent to a residential district, or is on a street that is directly opposite from a residential district)

The Board may consider the gas station size, building/canopy orientation, general design standards, and specific primary building orientation design requirements set forth for gas stations in §157.219(C)(7) (Downtown Edge district)

- (6) Greenhouse
- (7) Group residential facility (large) (if adjacent to a residential district)
- (8) Home business (in a single family detached dwelling only; see §157.503(D)(3)(b) for additional standards)
- (9) Homeless/emergency shelter (if adjacent to a residential district, or accessory to a religious institution)
- (10) Manufactured home, Type II (see §157.503(D)(3)(e) for additional standards)
- (11) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use, excluding gas station uses)
- (12) Outdoor use (in conjunction with a permitted primary use)
- (13) Parking area (as a primary use, if adjacent to a residential district) ; a special use shall not be required for a universally permitted off-site parking area
- (14) Plant nursery
- (15) Recreation area, including accessory recreation areas {
- (16) Recreation facility (if adjacent to a residential district)
- (17) Religious institution or non-public school illuminated athletic field(s)
- (18) Residential facility for a court-ordered re-entry program
- (19) Residential facility for homeless individuals (if adjacent to a residential district)
- (20) Shooting range (indoor)
- (21) Sign (temporary subdivision direction)
- (22) Solar panel (ground mounted)
- (23) Utility facility, private (not otherwise permitted or exempt)
- (24) Wind energy conversion (WEC) system (standard, or more than 1 micro system)
- (25) Wind energy conversion system, micro (on land adjacent to a residential district)

## FORT WAYNE ZONING ORDINANCE

### (D) Special Uses

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

- (1) Automobile maintenance (quick service)
- (2) Commercial communication tower (see §157.503(D)(3)(a) for additional standards)
- (3) Community garden that includes a structure
- (4) Educational institution-associated uses (on non-contiguous properties, not otherwise permitted)
- (5) Gas Station (except when a gas station site is adjacent to a residential district, or is on a street that is directly opposite from a residential district)

The Board may consider the gas station size, building/canopy orientation, general design standards, and specific primary building orientation design requirements set forth for gas stations in §157.219(C)(7) (Downtown Edge district)

- (6) Greenhouse
- (7) Group residential facility (large) (if adjacent to a residential district)
- (8) Home business (for single family detached buildings only; see §157.503(D)(3)(b) for additional standards)
- (9) Homeless/emergency shelter (if adjacent to a residential district, or accessory to a religious institution)
- (10) Manufactured home, Type II (see §157.503(D)(3)(e) for additional standards) (10)  
Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use, excluding gas station uses)
- (11) Outdoor use (in conjunction with a permitted primary use)
- (12) Parking area (if adjacent to a residential district); a special use shall not be required for a universally permitted off-site parking area
- (13) Plant nursery
- (14) Recreation area, including accessory recreation areas
- (15) Recreation facility (if adjacent to a residential district)
- (16) Religious institution or non-public school illuminated athletic field(s)
- (17) Residential facility for a court-ordered re-entry program
- (18) Residential facility for homeless individuals (if adjacent to a residential district)
- (19) Sign (temporary subdivision direction)
- (20) Solar panel (ground mounted)
- (21) Utility facility, private (not otherwise permitted or exempt)
- (22) Wind energy conversion (WEC) system (standard, or more than 1 micro system)
- (23) Wind energy conversion system, micro (on land adjacent to a residential district)

## FORT WAYNE ZONING ORDINANCE

### (C) Special Uses

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

- (1) Animal keeping (outdoor, small animal)
- (2) Community garden that includes a structure
- (3) Group residential facility (large)
- (4) Group residential facility (small)
- (5) Home business (see §157.503(D)(3)(b) for additional standards)
- (6) Homeless/emergency shelter
- (7) Model unit (for extension of time/expansion of scope)
- (8) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use, excluding gas station uses)
- (9) Parking structures (public or private)

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

- (a) Parking structures should contain commercial or residential uses along the street frontages where practical to encourage pedestrian oriented uses and activity at the street level. If commercial or residential uses are not provided, parking structures shall maintain a minimum 10' setback along yards with a street frontage. The Board may require a greater setback on a case-by-case basis.
  - (b) The first two floors shall be adequately screened by landscaping and/or architectural features. If a new parking structure is connected to an existing or proposed building than the parking structure shall be compatible with that building.
  - (c) If a new parking structure is not connected to an existing or proposed building then the parking structure shall be compatible with the proposed building or one or more structures adjoining to the parking structure.
- (10) Pawn shop
  - (11) Religious institution or school illuminated athletic field(s)
  - (12) Residential facility for a court-ordered re-entry program
  - (13) Residential facility for homeless individuals
  - (14) Self-service storage (mini-warehouse facility), as a primary use
  - (15) Solar panel (ground mounted)
  - (16) Utility facility, private (not otherwise permitted or exempt)

## FORT WAYNE ZONING ORDINANCE

### (C) Special Uses

#### (1) Accessory dwelling units (ADU)

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

- (a) The accessory dwelling unit (ADU) shall not exceed 40% of the floor area of the primary residence or 800 total square feet, whichever is less;
- (b) The ADU shall not exceed 600 square feet in ground floor area;
- (c) The ADU shall be no less than 250 square feet and have no more than two (2) bedrooms;
- (d) New ADU structures shall be located behind the primary structure and meet the setback, height, and rear yard lot coverage standards for accessory structures;
- (e) There shall be only one ADU per lot; and
- (f) As part of its review of a request for an ADU, the Board may also consider the size, bulk, scale and compatibility of the ADU, relative to the primary residence and other structures in the immediate area, and the size of the lot.

- (2) Animal keeping (outdoor, small animal)
- (3) Boarding house
- (4) Child care home (class II)
- (5) Educational institution-associated uses (on non-contiguous properties, not otherwise permitted)
- (6) Fraternity house
- (7) Gas station (as a primary or accessory use) (except when a gas station site is adjacent to a residential district, or is on a street that is directly opposite from a residential district)

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

- (a) Location and size requirements. The proposed gas station/convenience store shall meet the following requirements.
  - (i) A new gas station/convenience store shall have a minimum of 100 feet of frontage on one of the following arterial roads: Washington Boulevard, Jefferson Boulevard, Clinton Street, and Lafayette Street.
  - (ii) The primary building shall be at least 2,000 square feet in size.
- (b) Building/canopy orientation  
The preferred building/canopy orientation for a gas station/convenience store is for the primary building to be located near the street and the canopy and service pumps to be located behind the primary building, however alternate layouts may be approved provided they comply with the appropriate design requirements (see §157.219(C)(7)(d), (e), and (f) below).

## FORT WAYNE ZONING ORDINANCE

- (c) General design standards
- (i) The primary building and any canopies shall be compatible with architecture and development pattern of the surrounding area and be adequately screened from adjacent residential uses. To enhance compatibility, structures should provide variation in rooflines and utilize similar forms and materials.
  - (ii) Canopy lighting shall be recessed with the canopy constructed to shield the light fixtures to avoid glare on public rights of way and/or adjacent properties.
  - (iii) There shall be at least one unobstructed pedestrian walkway at least five (5) feet wide connecting the primary building to an adjacent public sidewalk.
  - (iv) Except for the vehicular access driveways, all pavement, parking and drive lanes shall be located a minimum of eight (8) feet from any lot line. These setback areas shall be landscaped and low walls are encouraged along street frontages.
  - (v) A minimum of one bicycle rack shall be provided.
  - (vi) For the purposes of this subsection the determination of a rear yard for a lot having frontages on two streets shall be determined as that part of the lot that is parallel to the street having the highest traffic volume.
- (d) Design requirements based on orientation of the primary building at street (meeting the required front yard setback), with the canopy located behind the primary building
- (i) Primary Building and Canopy Attachment  
Under this design option it is not required that the canopy be attached to the primary structure, however it would be encouraged.
  - (ii) Canopy location and design  
The canopy shall be located a minimum of twenty (20) feet from side and rear lot lines. Other than setback, there are no special design requirements for the canopy under this option, however, varied rooflines for the canopy and decorative designs (using materials such as brick or stone) for the canopy support columns/poles are encouraged.
  - (iii) Front and side wall design.  
The front and any side wall of the primary building that faces a street shall have windows or the appearance of windows.
- (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

## FORT WAYNE ZONING ORDINANCE

canopy shall not be required to have decorative designs for the canopy columns, unless the canopy is located having frontage on two streets. In cases where decorative design for canopy columns is required, such columns shall be designed of brick or stone or other material to achieve a similar decorative affect.

(iii) Front and side wall design

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

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

(i) Primary building and canopy attachment

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

(ii) Canopy location and design

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

(iii) Front and side wall design

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

(8) Group residential facility (large)

(9) Group residential facility (small)

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

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

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

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

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

(15) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use, excluding gas station uses)

## FORT WAYNE ZONING ORDINANCE

### (C) Special Uses

- (1) Animal keeping (outdoor, small animal)
- (2) Child care home (class II)
- (3) Community garden that includes a structure or water
- (4) Educational institution-associated uses (on non-contiguous properties)
- (5) Fraternity house
- (6) Group residential facility (large)
- (7) Group residential facility (small)
- (8) Home business (for single family detached buildings only)
- (9) Homeless/emergency shelter (accessory to a religious institution)
- (10) Manufactured home, Type II (see §157.503(D)(3)(e) for additional standards)
- (11) Nature preserve (with parking areas or structures)
- (12) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use, excluding gas station uses)
- (13) Parking structures (public or private)

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

- (a) Parking structures should contain commercial or residential uses along the street frontages where practical to encourage pedestrian oriented uses and activity at the street level. If commercial or residential uses are not provided, parking structures shall maintain a minimum 10' setback along yards with a street frontage. The Board may require a greater setback on a case-by-case basis.
  - (b) The first two floors shall be adequately screened by landscaping and/or architectural features. If a new parking structure is connected to an existing or proposed building, then the parking structure shall be compatible with that building.
  - (c) If a new parking structure is not connected to an existing or proposed building, then the parking structure shall be compatible with the proposed building or one or more structures adjoining the parking structure.
- (14) Recreation area, including accessory recreation areas
  - (15) Religious institution or school illuminated athletic field(s)
  - (16) Residential facility for a court-ordered re-entry program
  - (17) Residential facility for homeless individuals
  - (18) Sorority house
  - (19) Solar panel (ground mounted)
  - (20) Subdivision amenity
  - (21) Utility facility, private (not otherwise permitted or exempt)

## FORT WAYNE ZONING ORDINANCE

### (C) Special Uses

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

- (1) Automobile service, general (excluding gas station uses)
- (2) Commercial communication tower (see §157.503(D)(3)(a) for additional standards)
- (3) Gas Station

The Board may consider the gas station size, building/canopy orientation, general design standards, and specific primary building orientation design requirements set forth for gas stations in §157.219(C)(7) (Downtown Edge district)

- (4) Group residential facility (large) (if adjacent to a residential district)
- (5) Growing/processing/raising of natural products
- (6) Illuminated recreation field (if adjacent to residential district)
- (7) Metal and plastic extrusion and molding facility
- (8) Metal cutting facility
- (9) Metal fabricating facility
- (10) Metal processing facility (anodizing, buffing, galvanizing, plating, and polishing)
- (11) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use, excluding gas station uses)
- (12) Parking area (as a primary use, if adjacent to a residential district); a special use shall not be required for a universally permitted off-site parking area
- (13) Processing facility (small scale)
- (14) Residential facility for a court-ordered re-entry program
- (15) Residential facility for homeless individuals (if adjacent to a residential district)
- (16) Sheet metal fabrication and/or processing
- (17) Sign (temporary subdivision direction)
- (18) Solar panel (ground-mounted)
- (19) Wind energy conversion system, micro (on land adjacent to a residential district, or to erect an additional micro system or systems)
- (20) Wind energy conversion (WEC) system, standard (on land of under two acres, or on land adjacent to a residential district)

## FORT WAYNE ZONING ORDINANCE

### (C) Special Uses

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

- (1) Commercial communication tower (see §157.503(D)(3)(a) for additional standards)
- (2) Fuel storage facility
- (3) Gas Station

The Board may consider the gas station size, building/canopy orientation, general design standards, and specific primary building orientation design requirements set forth for gas stations in §157.219(C)(7) (Downtown Edge district)

- (4) Group residential facility (large) (if adjacent to a residential district)
- (5) Illuminated recreation field (if adjacent to residential zoning)
- (6) Junk yard (outdoor)
- (7) Motor vehicle storage yard
- (8) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use, excluding gas station uses)
- (9) Parking area (as a primary use, if adjacent to a residential district); a special use shall not be required for a universally permitted off-site parking area
- (10) Parking or outdoor display area, gravel (not otherwise permitted)
- (11) Residential facility for a court-ordered re-entry program
- (12) Residential facility for homeless individuals (if adjacent to a residential district)
- (13) Salvage yard (outdoor)
- (14) Sawmill
- (15) Sign (temporary subdivision direction)
- (16) Solar panel (ground-mounted)
- (17) Solid waste transfer station
- (18) Wind energy conversion system, micro (on land adjacent to a residential district, or to erect an additional micro system or systems)
- (19) Wind energy conversion (WEC) system, standard (on land of under two acres, or on land adjacent to a residential district)

FORT WAYNE ZONING ORDINANCE

(D) Special Uses

(1) List of Special Uses

The following **special uses** may be permitted by the **Board of Zoning Appeals** in the **zoning districts** shown in the table below, after public hearing pursuant to §157.503(A)(1). To approve a **special use**, the **Board** shall determine that the application meets the criteria in §157.503(D)(2) below and any other requirements stated for the specific **use** in this ordinance. The **Board** may impose reasonable **conditions** as part of its approval.

In addition, as set forth in §157.411(I) of the **Airport Overlay Districts** provisions, certain **uses** shall also require approval of a special use, even in cases where the **use** is a permitted **use** in the existing underlying zoning **district**.

SPECIAL USES	
Special Use	District(s) Where Allowed
Accessory building conversion to a single family residence	AR
Accessory building, as a primary building, on a site of at least 5 acres	AR
Accessory dwelling units (ADU)	DE
Airstrip/heliport (for corporate or multiple owner use)	AR
Animal grooming	C1
Animal hospital	C1
Animal keeping (outdoor, small animal)	R1, R2, R3, RP, MHS, and DC
Animal keeping (small)	DE and UC
Animal kennel	C1
Animal obedience school	C1
Automatic teller machine (stand-alone ATM)	C1
Automobile maintenance (quick service)	C2, NC, and SC
Automobile sales	C2, NC, and SC
Automobile Service, General (excluding gas station uses)	I1
Bed and breakfast	AR, R1, R2, R3, RP, and MHS
Boarding house	AR, R1, R2, R3, RP, MHS, and DE
Child care home (class II)	AR, R1, R2, R3, RP, MHS, DE, and UC
Club, private <sup>(1)</sup>	R1, R2, R3, RP, MHS, and C1,
Commercial communication tower <sup>(2)</sup>	C1, C2, NC, SC, C3, C4, BTI, I1, I2, and I3
Community facility (transitional use)	R1, R2, R3, RP, and MHS
Community garden that includes a structure	AR, R1, R2, R3, RP, MHS, C1, C2, NC, DC, DE, and UC
Country club	AR, R1, R2, R3, RP, and MHS
Educational institution uses	AR, R1, R2, R3, RP, MHS <sup>(1)</sup> , C1, C2, C3, DE, UC
Emergency response facility (transitional use)	R1, R2, R3, RP, and MHS
Flood control improvement project/non-permitted fill, private	Any district
Fraternity house	DE and UC
Fuel storage facility	I2
Funeral home	AR, R1, R2, R3, RP, and MHS

FORT WAYNE ZONING ORDINANCE

<b>SPECIAL USES</b>	
<b>Special</b>	<b>District(s) Where Allowed</b>
<b>Gas station</b>	C2, NC, and DE (except when a gas station site is adjacent to a residential district, or is on a street that is directly opposite from a residential district), and I1 and I2
<b>Golf course</b>	AR, R1, R2, R3, RP, and MHS
<b>Greenhouse (retail)</b>	C2, NC, and SC
<b>Group residential facility (large)</b> <sup>(1)</sup>	AR, R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, DC, DE, UC, I1, I2, and I3
<b>Heliport</b>	R1, R2, R3, RP, and MHS
<b>Home business</b> <sup>(2)</sup>	AR, R1, R2, R3, RP, MHS, C1, C2, C3, C4, DC, DE, and UC
<b>Home enterprise</b> <sup>(2)</sup>	AR
<b>Home workshop</b> <sup>(2)</sup>	AR
<b>Homeless/emergency shelter (accessory to a religious institution)</b>	AR, R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, DC, DE,
<b>Illuminated recreation field (if adjacent to residential)</b>	BTI, I1, I2, and I3
<b>Instruction/training education (transitional use)</b>	R1, R2, R3, RP, and MHS
<b>Junk yard</b>	I2
<b>Live-work unit (transitional use)</b>	R1, R2, R3, RP, and MHS
<b>Manufactured home, Type II</b> (see §157.503(D)(3)(e) for additional standards)	R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, DE, UC
<b>Medical office (transitional use)</b>	R1, R2, R3, RP, and MHS
<b>Metal and plastic extrusion and molding</b>	I1
<b>Metal cutting facility</b>	I1
<b>Metal fabricating facility</b>	I1
<b>Metal processing facility</b>	I1
<b>Model home (for an extension of time or expansion of scope)</b>	AR, DC, DE, MHS, R1, R2, R3, and RP
<b>Model unit (for an extension of time or expansion of scope)</b>	DC, DE
<b>Motor vehicle storage yard</b>	I2
<b>Museum</b>	R1, R2, R3, RP, and MHS
<b>Nature preserve (that includes a structure or parking area)</b>	AR, R1, R2, R3, RP, MHS, DE, and UC
<b>Neighborhood facility</b>	AR, R1, R2, R3, RP, and MHS
<b>Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use; this special use shall not be available for gas station uses)</b>	AR, R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, DC, DE, UC, BTI, I1, I2, and I3
<b>Open use of land (not otherwise permitted)</b>	I3
<b>Outdoor use (in conjunction with a permitted primary)</b>	C2
<b>Parking structures (public or private)</b>	DE
<b>Pawn shop</b>	DC and DE
<b>Personal service (transitional use)</b>	R1, R2, R3, RP, and MHS
<b>Plant nursery (retail)</b>	C2, NC, and SC
<b>Processing facility (including but not limited to animals, animal products, lumber, timber, raw materials processing)</b>	I2
<b>Professional office/business service (transitional use)</b>	R1, R2, R3, RP, and MHS
<b>Reception, meeting, or recreation hall; clubhouse</b>	AR

# FORT WAYNE ZONING ORDINANCE

## (2) Parking Areas

**Parking areas** that do not conform to the **development**, landscaping, and/or screening and buffering standards of §157.404 (**Development Design Standards** and Requirements) or §157.408 (Screening and Buffering), may continue to be used. Any proposed expansion of such a **parking area** shall be required to conform to the applicable **development** standards in the area of that expansion. The resurfacing, restriping, or similar maintenance of existing parking area shall not be considered an **addition** or expansion.

## (3) Signs

Nonconforming **signs** shall be governed by the provisions of §157.409(F)(10).

## (4) Reversion of Use

A **building** originally designed for single or two **family use** and converted to a higher intensity residential or **nonresidential use** may be reverted to a single **family** or two **family use** if acceptable evidence can be provided to the **DPS** staff showing that the **building** was originally built for or was historically used for single **family** or two **family use**. A **Certificate of Use** application is required for consideration of a **building** reversion. **Buildings** reverted under this §157.504(E)(4) shall be considered to be a conforming **use**. Evidence that could be determined to be acceptable includes but is not limited to the following:

- (a) Original **building** designs or permits;
- (b) Sanborn Fire Insurance Maps;
- (c) **City** directories;
- (d) Tax or assessment records; and
- (e) Affidavits

## (5) Acquisition of Property for Public Purposes

If a government or quasi-governmental entity acquires property for public purposes, and the result of that acquisition is to reduce **lot area**, **lot width**, property **setbacks** below the minimums required by this ordinance in the **district** where the property is located, or otherwise results in **development** on the property not complying with the requirements of this ordinance, and that deviation from the requirements of this ordinance did not exist before the acquisition of property for public purposes, then the deviation from the requirements of this ordinance created by acquisition of property for public purposes shall not be considered a non-conformity, and the applicant's rights with regard to the remaining property shall be the same as if a portion of the property had not been acquired for public purposes.

## (6) Gas Stations

A **gas station** that was approved as a **Special Use** or **Use Variance** by the **Board** shall not be considered a nonconforming **use** subject to these provisions, and shall remain subject to any previous **Board** conditions of approval. Any **gas station** that became nonconforming as of April 3, 2014:

- (a) May be enlarged, expanded, or extended on the same **parcel** or **lot** that existed at the time the **gas station** became nonconforming, so long as such enlargement, expansion, or extension meets all **development** standards of this ordinance and an **Improvement Location Permit** and/or **Certificate of Use** is issued before such enlargement, expansion, or extension. This provision is intended to also allow for the addition of gas pumps and the expansion or replacement of canopies;
- (b) May be expanded into any **building** that existed at the time the **gas station** became

## FORT WAYNE ZONING ORDINANCE

nonconforming, so long as a **Certificate of Use** is issued before such expansion;

- (c) Shall not be permitted to increase the size of the **parcel** or **lot** that the **gas station** is located on; and
- (d) Shall be subject to all other applicable Nonconforming Situations provisions in this Section, including but not limited to the Nonconforming Buildings or Structures provisions, the Maintenance or Reconstruction provisions, and the Discontinuation and Damage provisions.
- (e) New accessory buildings or structures shall meet the development standards of this ordinance.

### (F) Discontinuation and Damage

#### (1) Discontinuation of Use

Any **nonconforming use** that has been discontinued for a period of twelve (12) consecutive months as determined by the **Zoning Administrator** shall be deemed abandoned and shall not be permitted to be reestablished. Any subsequent **use** of the **lot** shall only conform to the **use** provisions of this ordinance. In a case where a detached residential **accessory building** becomes a **nonconforming building** and **use** due to the demolition or other removal of the primary **residential building** on the same **lot** the passage of twelve (12) months after the removal of the **primary building** without the construction of a new primary **residential building** shall be deemed as intent to abandon the **accessory building and use**. Enforcement proceedings as provided in this ordinance may be initiated after the expiration of the twelve (12) month period.

#### (2) Restoration of Damaged Building or Structure

- (a) A damaged **nonconforming building** or **structure** may be reconstructed or restored if the cost of **restoration** or reconstruction is no more than double the total value of the **nonconforming building or structure**. A damaged **nonconforming building or structure** that costs more than double the total value of the **nonconforming building or structure** to repair shall only be repaired or rebuilt in conformance with the provisions of this ordinance. However, a nonconforming detached single **family residential structure** located in a **district** which does not allow new single **family detached residential structures** shall be permitted to be rebuilt if damaged, provided it meets the other applicable standards of this ordinance.
- (b) For purposes of this subsection, the “value of the **nonconforming structure**” shall be presumptively determined by the property **owner**’s most current property record card that is maintained by the applicable agency responsible for assessing the property for real estate taxes. The property **owner** may attempt to prove the value of **nonconforming structure** by providing the **Zoning Administrator** with an appraisal that is completed and signed by an appraiser licensed by the State of Indiana and performed in accordance with the Uniform Standards for Professional Appraisal Practice (USPAP). The **Zoning Administrator** shall determine the value of the original **nonconforming structure**,

#### (3) No Expansion of Damaged Building or Structure

Any damaged **nonconforming building** or **structure** shall be reconstructed or restored within the boundaries of the footprint of the original **nonconforming building or structure**, and the original **nonconforming building or structure** shall not be expanded or enlarged. Any **nonconforming building or structure** that is restored or reconstructed at more than

## FORT WAYNE ZONING ORDINANCE

### § 157.504 NONCONFORMING SITUATIONS

#### (A) Purpose

The purpose of this §157.504 is to set forth criteria, standards, and procedures for establishing, continuing, altering, or discontinuing legal **nonconforming uses, structures, lots** and situations. This section is intended to provide for the continued **use of nonconforming structures, uses, lots** and situations, along with reasonable maintenance and repairs.

#### (B) Nonconforming Lots

Any **lot** established by legally recorded **plat** or deed prior to April 3, 2014 that does not meet the minimum size or dimension requirements of this ordinance, or that subsequently becomes nonconforming as a result of an amendment to this ordinance, may still be used for any **use** or **structure** permitted in the **zoning district** in which the **lot** is located, but any **buildings** or **structures** constructed on such a **lot** shall comply with all applicable requirements for that **building** or **structure**. Any **lot** located within a recorded residential **plat** previously approved with lesser yard requirements shall be permitted to be developed for single **family** residential **use**, and any existing single **family** detached residences may be enlarged in accordance with the previously approved **setbacks**. If a single **family** detached residence on a **lot** with nonconforming yard requirements is damaged or destroyed, the residence shall be permitted to be rebuilt in accordance with the previously approved yard requirements.

#### (C) Nonconforming Uses

##### (1) Continuation

Except as otherwise provided in this section, a **use** that existed as of March 2, 1998, or that subsequently becomes nonconforming as a result of an amendment to this ordinance, may be continued.

##### (2) Expansion of Use

(a) A **structure** used for a **nonconforming use** shall not be added to or enlarged in any manner unless the **use** and the **structure**, including the **addition** or enlargement, is brought into conformance with the permitted **use** and **setback** requirements of the **district** in which it is located, with the following exceptions:

(i) A single **family**, two **family**, or attached single **family** residential **structure**, located in a **zoning district** that does not permit **single family uses**, may be added to or enlarged, provided the **addition** conforms to all applicable residential **setback** requirements. **Residential accessory structures**, such as a **fence**, **garage**, or **shed**, shall also be permitted.

(ii) **Uses** located in the DC, DE, UC, and **BTI districts** that have become legal nonconforming due to reclassification or amendment to this ordinance may be added to or enlarged on (a) the property shown on the Allen **County** Assessor's Office property record card for the property at the time of the rezoning or amendment that created the nonconforming situation or (b) the **development site** where the **building** and improvements are located at the time of the rezoning or amendment that created the nonconforming situation, provided the **addition** conforms to all other applicable provisions of this ordinance.

(iii) For gas station use provisions, see §157.504(E)(6).

(b) A nonconforming **use** may be expanded or extended into any other portion of the **structure** that existed at the time the nonconforming **use** was established.

## FORT WAYNE ZONING ORDINANCE

### **Convenience Store**

A small retail establishment designed and stocked to sell primarily food, beverages, and other household supplies to customers. A **use** which also includes gas pumps shall not be considered a **convenience store**. A convenience store use shall be considered a primary use of a property.

### **Convent**

A **structure** used for the purpose of housing **persons** on a permanent basis who are not members of a **family** and who constitute a religious community typically consisting of nuns, priests, monks, or other similar religious personnel. For the purpose of this definition the terms **convent** and monastery are interchangeable and shall have the same meaning. Assembly for worship services may be conducted in conjunction with the **convent use** but only for the residents of the **convent**. A **convent** is a permitted **accessory use** where incidental to a religious assembly **use** (**church, synagogue, temple, and mosque**).

### **Convention Facility**

A facility specially designed to host conferences, exhibitions, events, large meetings, seminars and **training** facilities. Office, retail, accommodations, and other commercial **uses** commonly established in these facilities and related **parking structures** shall be allowed as accessory appurtenances.

### **Conveyance (including the word “convey”)**

The transfer of title to land from one **person** to another by deed.

### **Corner Lot (see “Lot, Corner”)**

### **Corner Visibility Area**

The following areas, in which no **fence, retaining wall, hedge, or other planting, building, or structure** that would impede vision between a height of three (3) and eight (8) feet shall be located, except that this restriction shall not apply to **buildings** in the DC **district**:

- (1) For a **corner lot**, the area bounded by the edges of intersecting roadways and a line intersecting those edge lines at points 40 feet distant from the intersection of the edge or roadway lines extended.
- (2) For a **lot** at the intersection of an **alley**, the area bounded by the edge of the roadway and the edge of the intersecting **alley** and a line intersecting those edge lines at points 90 feet distant on the roadway and 15 feet distant on the **alley** from the intersection of those edge lines extended.

### **Corporate Campus**

A **building or buildings** in close proximity to each other, either **adjacent** or connected with centralized amenities, parking, support, and other internal functions. The **buildings** are intended to have quality architectural and site design features.

### **Correctional Institution**

A place of confinement, including places requiring overnight stays only, for **persons** who have broken the law, are awaiting trial, and/or have been convicted of criminal offenses. This definition shall not include a **correctional services facility** or a residential facility for a court-ordered re-entry program

### **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** that is intended as a place of social and recreational gatherings for members of a **private club**.

## FORT WAYNE ZONING ORDINANCE

### **Gas Pump Embellishment**

Letters, figures, characters or representatives in irregular forms that used as a supplement to permitted gas pump signage.

### **Gas Station**

A facility where fuel is sold, which may also include a convenience store. A gas station use shall be considered a primary use of a property.

### **Gateway**

A point along a roadway at which a motorist or pedestrian gains a sense of having entered the **City** or a particular part of the **City**. This impression can be imparted through such things as **signs**, **monuments**, landscaping, a change in **development** character, or a natural feature.

### **Gazebo**

A freestanding, roofed, usually open-sided **structure** providing seating or an area for gathering.

### **Glare**

A situation created when illumination sources shine with visibly harsh, uncomfortably bright light that: causes discomfort; distracts attention; or leads to reduction or loss of visibility or visual performances (up to and including situations of blinding **glare**, as defined in the Illuminating Engineering Society of North America's current Lighting Handbook). These situations are typically caused by insufficiently shielded light sources, or high luminance (luminance that is sufficiently greater than the luminance to which the eyes are adapted).

### **Golf Course**

A **tract** of land typically laid out for playing the game of golf that may include a **clubhouse**, dining and snack **bars**, pro **shop**, and practice facilities.

### **Golf Course (Miniature)**

A **recreational facility**, typically comprised of small putting greens, each with a "cup" or "hole," where patrons in groups pay a **fee** to move in consecutive order from the first hole to the last.

### **Golf Driving Range**

A **tract** of land devoted as a practice range for practicing golf shots.

### **Government Facility**

An institution operated by a federal, state, **county**, town, township or **city** government, or by a special purpose **district**.

### **Greenhouse**

An establishment, including a **building**, part of a **building** or open space, for the growth, display and/or sale of plants, trees, and other materials used in indoor or outdoor planting for retail and wholesale sales.

### **Grocery Store**

A retail sales establishment selling primarily food and beverages for off-site preparation and consumption that maintains a sizable inventory of fresh fruits, vegetables, fresh-cut meats, or fresh seafood or specialize in the sale of one type of food item. This **use** may also include sales of personal convenience and small household goods.

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### (C) Special Uses

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

- (1) **Accessory building** conversion to a single **family** residence;
- (2) **Accessory building**, as a **primary building**, on a site of at least 5 acres;
- (3) **Airstrip/heliport** (private; for corporate or multiple **owner use**);
- (4) **Bed and breakfast**;
- (5) **Boarding house**;
- (6) **Class II child care home**;
- (7) **Community garden** that includes a **structure**;
- (8) **Country club**;
- (9) **Educational institution** (not otherwise permitted);
- (10) **Educational institution**-associated facilities, **uses**, and areas, on non-contiguous properties;
- (11) **Funeral home**;
- (12) **Group residential facility (large)**;
- (13) **Home business** (see §157.503(D)(3)(b) for additional standards);
- (14) **Home enterprise** (see §157.503(D)(3)(c) for additional standards);
- (15) **Home workshop** (see §157.503(D)(3)(d) for additional standards);
- (16) **Homeless/emergency shelter** (accessory to a **religious institution**), for up to eight (8) individuals;
- (17) **Manufactured home, Type II** (see §157.503(D)(3)(e) for additional standards);
- (18) **Model home** (for an extension of time or expansion of scope);
- (19) **Nature preserve** that includes a **structure** or parking area;
- (20) **Neighborhood facility**;
- (21) **Nonconforming use** (expansion of existing legal **nonconforming use**, or allow conforming status to existing **use**, excluding **gas station uses**);
- (22) Reception, meeting, or **recreation hall**; **clubhouse**;
- (23) **Recreation area**;
- (24) Recreation facility;
- (25) **Religious institution** or non-public **school** illuminated **athletic field(s)**;
- (26) **Residential facility for a court-ordered re-entry program**;
- (27) **Residential facility for homeless individuals**, for up to eight (8) individuals;
- (28) **Riding stable, nonresidential** (on a **lot** with no **residential building**; the stable shall be located on a **tract** of at least five acres);
- (29) **Sign** (temporary **subdivision** direction);
- (30) **Solar panel (ground-mounted)**;

## FORT WAYNE ZONING ORDINANCE

- (18) **Instruction/training/education (transitional use);**
- (19) **Live-work unit (transitional use);**
- (20) **Manufactured home, Type II** (see §157.503(D)(3)(e) for additional standards);
- (21) **Medical office (transitional use);**
- (22) **Model home** (for extension of time/expansion of scope);
- (23) **Museum;**
- (24) **Nature preserve** that includes a **structure** or parking area;
- (25) **Neighborhood facility;**
- (26) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use**, excluding **gas station uses**);
- (27) **Personal service (transitional use**, excluding copy/duplicating service, **health club/fitness center**, or social service agency);
- (28) **Professional office/business service (transitional use**, excluding **bank, credit union, loan office**, or **savings and loan**);
- (29) **Recreation use**, outdoor (**athletic field, riding stable, swim club, tennis club**);
- (30) **Religious institution** or non-public **school** illuminated **athletic field(s)**;
- (31) **Residential facility for a court-ordered re-entry program;**
- (32) **Residential facility for homeless individuals**, for up to eight (8) individuals; the facility shall be located a minimum of 3000 feet from a small **group residential facility**, a large **group residential facility**, a court-ordered re-entry program **residential facility**, or another **residential facility for homeless individuals**, as measured from the closest property lines of the facilities;
- (33) **Sign** (temporary **subdivision** direction);
- (34) **Solar panel (ground mounted);**
- (35) **Subdivision clubhouse, meeting hall, neighborhood center**, or swim/tennis facility, if not previously approved as part of the **subdivision**;
- (36) **Studio (transitional use);**
- (37) **Two family dwelling** (to allow conforming status for existing **nonconforming uses**);
- (38) **Utility facility, private** (not otherwise permitted or exempt);
- (39) **Wind energy conversion system, micro** (for **single family detached dwellings** on **unplatted land**); and
- (40) **Wind energy conversion system, standard** (for **fire/police station, public park/recreation area, religious institution, or school uses**; or unplatted residential land over five acres).

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- (16) **Home business** (see §157.503(D)(3)(b) for additional standards);
- (17) **Homeless/emergency shelter** (accessory to a **religious institution**), for up to eight (8) individuals;
- (18) **Instruction/training/education (transitional use)**;
- (19) **Live-work unit (transitional use)**;
- (20) **Manufactured home, Type II** (see §157.503(D)(3)(e) for additional standards);
- (21) **Medical office (transitional use)**;
- (22) **Model home** (for extension of time/expansion of scope);
- (23) **Museum**;
- (24) **Nature preserve** that includes a **structure** or parking area;
- (25) **Neighborhood facility**;
- (26) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use**, excluding **gas station uses**);
- (27) **Personal service (transitional use**, excluding copy/duplicating service, **health club/fitness center**, or social service agency);
- (28) **Professional office/business service (transitional use**, excluding **bank, credit union, loan office**, or **savings and loan**);
- (29) **Recreation use**, outdoor (**athletic field, riding stable, swim club, tennis club**);
- (30) **Religious institution** or non-public **school** illuminated **athletic field(s)**;
- (31) **Residential facility for a court-ordered re-entry program**;
- (32) **Residential facility for homeless individuals**, for up to eight (8) individuals;
- (33) **Sign** (temporary **subdivision** direction);
- (34) **Solar panel (ground mounted)**;
- (35) **Subdivision clubhouse, meeting hall, neighborhood center**, or swim/tennis facility, if not previously approved as part of the **subdivision**;
- (36) **Studio (transitional use)**;
- (37) **Utility facility, private** (not otherwise permitted or exempt);
- (38) **Wind energy conversion system, micro** (for single **family** detached **structures** on **unplatted land** only); and
- (39) **Wind energy conversion system, standard** (for **fire/police station, public park/recreation area, religious institution, or school uses**; or unplatted residential land over five acres).

## FORT WAYNE ZONING ORDINANCE

### (C) Special Uses

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

- (1) **Animal keeping** (outdoor, small animal);
- (2) **Bed and breakfast**;
- (3) **Boarding house**;
- (4) **Class II child care home**;
- (5) **Club, private (transitional use)**;
- (6) **Community facility** not otherwise permitted (**transitional use**);
- (7) **Community garden** that includes a **structure**;
- (8) **Country club**;
- (9) **Educational institution** (not otherwise permitted);
- (10) **Educational institution-associated facilities, uses, and areas** on non-contiguous properties;
- (11) **Emergency response facility (transitional use)**;
- (12) **Funeral home**;
- (13) **Golf course**;
- (14) **Group residential facility (large)**;
- (15) **Heliport (private individual or accessory to permitted nonresidential use, excluding hospital uses)**;
- (16) **Home business** (see §157.503(D)(3)(b) for additional standards);
- (17) **Homeless/emergency shelter** (accessory to a **religious institution**), for up to eight (8) individuals;
- (18) **Instruction/training/education (transitional use)**;
- (19) **Live-work unit (transitional use)**;
- (20) **Manufactured home, Type II** (see §157.503(D)(3)(e) for additional standards);
- (21) **Medical office (transitional use)**;
- (22) **Model home** (for extension of time/expansion of scope);
- (23) **Museum**;
- (24) **Nature preserve** that includes a **structure** or parking area;
- (25) **Neighborhood facility**;
- (26) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use**, excluding **gas station uses**);
- (27) **Personal service (transitional use**, excluding copy/duplicating service, **health club/fitness center**, or social service agency);
- (28) **Professional office/business service (transitional use**, excluding **bank, credit union, loan office**, or **savings and loan**);

## FORT WAYNE ZONING ORDINANCE

### (C) Special Uses

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

- (1) **Animal keeping** (outdoor, small animal);
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- (4) **Class II child care home**;
- (5) **Club, private (transitional use)**;
- (6) **Community facility** not otherwise permitted (**transitional use**);
- (7) **Community garden** that includes a **structure**;
- (8) **Country club**;
- (9) **Educational institution** (not otherwise permitted);
- (10) **Educational institution-associated facilities, uses, and areas** on non-contiguous properties;
- (11) **Emergency response facility (transitional use)**;
- (12) **Funeral home**;
- (13) **Golf course**;
- (14) **Group residential facility (large)**;
- (15) **Heliport (private individual or accessory to permitted nonresidential use, excluding hospital uses)**;
- (16) **Home business** (see §157.203(D)(3)(b) for additional standards);
- (17) **Homeless/emergency shelter** (accessory to a **religious institution**) , for up to eight (8) individuals;
- (18) **Instruction/training/education (transitional use)**;
- (19) **Live-work unit (transitional use)**;
- (20) **Manufactured home, Type II** (see §157.203(D)(3)(e) for additional standards);
- (21) **Medical office (transitional use)**;
- (22) **Model home** (for extension of time/expansion of scope);
- (23) **Museum**;
- (24) **Nature preserve** that includes a **structure** or parking area;
- (25) **Neighborhood facility**;
- (26) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use**, excluding **gas station uses**);
- (27) **Personal service (transitional use**, excluding copy/duplicating service, **health club/fitness center**, or social service agency);
- (28) **Professional office/business service (transitional use**, excluding **bank, credit union, loan office**, or **savings and loan**);

## FORT WAYNE ZONING ORDINANCE

- (17) **Homeless/emergency shelter** (accessory to a **religious institution**), for up to eight (8) individuals;
- (18) **Instruction/training/education (transitional use)**;
- (19) **Live-work unit (transitional use)**;
- (20) Medical office (**transitional use**);
- (21) **Model home** (for extension of time/expansion of scope);
- (22) **Museum**;
- (23) **Nature preserve** that includes a **structure** or parking area;
- (24) **Neighborhood facility**;
- (25) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use**, excluding **gas station uses**);
- (26) **Personal service (transitional use**, excluding copy/duplicating service, **health club**/fitness center, or social service agency);
- (27) **Professional office/business service (transitional use**, excluding **bank, credit union, loan office**, or **savings and loan**);
- (28) **Recreation use**, outdoor (**athletic field, riding stable, swim club, tennis club**);
- (29) **Religious institution** or non-public **school** illuminated **athletic field(s)**;
- (30) **Residential facility for a court-ordered re-entry program**;
- (31) **Residential facility for homeless individuals**, for up to eight (8) individuals;
- (32) **Sign** (temporary **subdivision** direction)
- (33) **Solar panel (ground mounted)**;
- (34) **Subdivision clubhouse, meeting hall, neighborhood center**, or swim/tennis facility, if not previously approved as part of the **subdivision**;
- (35) **Studio (transitional use)**;
- (36) **Two family dwelling** (to allow conforming status for existing **nonconforming uses**);
- (37) **Utility facility, private** (not otherwise permitted or exempt);
- (38) **Wind energy conversion system, micro** (for **single family detached buildings** on **unplatted land** only); and
- (39) **Wind energy conversion system, standard** (for **fire/police station, public park/recreation area, religious institution, or school uses**; or unplatted residential land over five acres).

## FORT WAYNE ZONING ORDINANCE

### (C) Special Uses

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

- (1) **Animal service**, indoor (animal grooming, **animal hospital**, **animal kennel**, animal obedience **school**, **veterinary clinic**);
- (2) **Automatic teller machine (ATM)** (stand alone);
- (3) **Club, private**;
- (4) **Commercial communication tower** (see §157.503(D)(3)(a) for additional standards);
- (5) **Community garden** that includes a **structure**;
- (6) **Educational institution-associated uses** (on non-contiguous properties, not otherwise permitted);
- (7) **Group residential facility (large)** (if **adjacent** to a **residential district**);
- (8) **Home business** (in a **single family detached dwelling** only; (see §157.503(D)(3)(b) for additional standards);
- (9) **Homeless/emergency shelter** (if **adjacent** to a **residential district**, or accessory to a **religious institution**);
- (10) **Manufactured home, Type II** (see §157.503(D)(3)(e) for additional standards);
- (11) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use**, excluding **gas station uses**);
- (12) **Parking area** (as the **primary use** of a **lot**), a special **use** shall not be required for a universally permitted off-site parking area;
- (13) **Recreation facility or use**, outdoor (**athletic field**, **riding stable**, swim **club**, tennis **club**);
- (14) **Religious institution** or non-public **school** illuminated **athletic field(s)**;
- (15) **Residential facility for court-ordered re-entry program**;
- (16) **Residential facility for homeless individuals** (if **adjacent** to a **residential district**);
- (17) Retail: **art gallery**, **bakery**, **coffee shop**, confectionary/candy/ice cream store, craft gallery, delicatessen, florist, jeweler, medical supply sales, musical instrument sales, sandwich **shop**, tea room (this special **use** shall only be permitted to allow for the conversion of an existing **building**; allowed up to 2500 square feet; **drive-through facilities** shall not be permitted as part of this special **use**);
- (18) **Sign** (temporary **subdivision** direction);
- (19) **Solar panel (ground mounted)**;
- (20) Tattoo establishment;
- (21) **Utility facility, private** (not otherwise permitted or exempt);
- (22) **Wind energy conversion (WEC) system (standard**, or more than 1 micro system); and
- (23) **Wind energy conversion system, micro** (on land **adjacent** to a **residential district**).

## FORT WAYNE ZONING ORDINANCE

### (D) Special Uses

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

- (1) **Automobile maintenance (quick service)**
- (2) **Commercial communication tower** (see §157.503(D)(3)(a) for additional standards)
- (3) **Community garden** that includes a **structure**
- (4) **Educational institution-associated uses** (on non-contiguous properties)
- (5) **Greenhouse**
- (6) **Group residential facility (large)** (if **adjacent** to a **residential district**)
- (7) **Home business** (in a **single family detached dwelling** only; see §157.503(D)(3)(b) for additional standards)
- (8) **Homeless/emergency shelter** (if **adjacent** to a **residential district**, or accessory to a **religious institution**)
- (9) **Manufactured home, Type II** (see §157.503(D)(3)(e) for additional standards)
- (10) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use**, excluding **gas station uses**)
- (11) **Outdoor use** (in conjunction with a permitted **primary use**)
- (12) **Parking area** (as a **primary use**, if **adjacent** to a **residential district**) ; a special use shall not be required for a universally permitted off-site parking area
- (13) **Plant nursery**
- (14) **Recreation area**, including accessory recreation areas
- (15) **Recreation facility** (if **adjacent** to a **residential district**)
- (16) **Religious institution** or non-public **school** illuminated **athletic field(s)**
- (17) **Residential facility for a court-ordered re-entry program**
- (18) **Residential facility for homeless individuals** (if **adjacent** to a **residential district**)
- (19) **Shooting range** (indoor)
- (20) **Sign** (temporary **subdivision** direction)
- (21) **Solar panel (ground mounted)**
- (22) **Utility facility, private** (not otherwise permitted or exempt)
- (23) **Wind energy conversion (WEC) system (standard**, or more than 1 micro system)
- (24) **Wind energy conversion system, micro** (on land **adjacent** to a **residential district**)

## FORT WAYNE ZONING ORDINANCE

### (D) Special Uses

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

- (1) **Automobile maintenance (quick service)**
- (2) **Commercial communication tower** (see §157.503(D)(3)(a) for additional standards)
- (3) **Community garden** that includes a **structure**
- (4) **Educational institution-associated uses** (on non-contiguous properties, not otherwise permitted)
- (5) **Greenhouse**
- (6) **Group residential facility (large)** (if **adjacent** to a **residential district**)
- (7) **Home business** (for single **family detached buildings** only; see §157.503(D)(3)(b) for additional standards)
- (8) **Homeless/emergency shelter** (if **adjacent** to a **residential district**, or accessory to a **religious institution**)
- (9) **Manufactured home, Type II** (see §157.503(D)(3)(e) for additional standards)
- (10) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use**, excluding **gas station uses**)
- (11) **Outdoor use** (in conjunction with a permitted **primary use**)
- (12) **Parking area** (if **adjacent** to a **residential district**); a special **use** shall not be required for a universally permitted off-site parking area
- (13) **Plant nursery**
- (14) **Recreation area, including accessory recreation areas**
- (15) **Recreation facility** (if **adjacent** to a **residential district**)
- (16) **Religious institution** or non-public **school** illuminated **athletic field(s)**
- (17) **Residential facility for a court-ordered re-entry program**
- (18) **Residential facility for homeless individuals** (if **adjacent** to a **residential district**)
- (19) **Sign** (temporary **subdivision** direction)
- (20) **Solar panel (ground mounted)**
- (21) **Utility facility, private** (not otherwise permitted or exempt)
- (22) **Wind energy conversion (WEC) system (standard, or more than 1 micro system)**
- (23) **Wind energy conversion system, micro** (on land **adjacent** to a **residential district**)

## FORT WAYNE ZONING ORDINANCE

### (C) Special Uses

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

- (1) **Animal keeping** (outdoor, small animal)
- (2) **Community garden** that includes a **structure**
- (3) **Group residential facility (large)**
- (4) **Group residential facility (small)**
- (5) **Home business** (see §157.503(D)(3)(b) for additional standards)
- (6) **Homeless/emergency shelter**
- (7) **Model unit** (for extension of time/expansion of scope)
- (8) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use**, excluding **gas station uses**)
- (9) **Parking structures** (public or private)

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

- (a) **Parking structures** should contain commercial or residential **uses** along the **street frontages** where practical to encourage **pedestrian oriented uses** and activity at the **street** level. If commercial or residential **uses** are not provided, **parking structures** shall maintain a minimum 10' **setback** along **yards** with a **street frontage**. The **Board** may require a greater **setback** on a case-by-case basis.
  - (b) The first two floors shall be adequately screened by landscaping and/or architectural features. If a new **parking structure** is connected to an existing or proposed **building** than the **parking structure** shall be compatible with that **building**.
  - (c) If a new **parking structure** is not connected to an existing or proposed **building** then the **parking structure** shall be compatible with the proposed **building** or one or more **structures** adjoining to the **parking structure**.
- (10) **Pawn shop**
  - (11) **Religious institution** or **school** illuminated **athletic field(s)**
  - (12) **Residential facility for a court-ordered re-entry program**
  - (13) **Residential facility for homeless individuals**
  - (14) **Self-service storage (mini-warehouse facility)**, as a **primary use**
  - (15) **Solar panel (ground mounted)**
  - (16) **Utility facility, private** (not otherwise permitted or exempt)

## FORT WAYNE ZONING ORDINANCE

### (C) Special Uses

#### (1) Accessory dwelling units (ADU)

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

- (a) The **accessory dwelling unit (ADU)** shall not exceed 40% of the floor area of the primary residence or 800 total square feet, whichever is less;
  - (b) The **ADU** shall not exceed 600 square feet in **ground floor area**;
  - (c) The **ADU** shall be no less than 250 square feet and have no more than two (2) bedrooms;
  - (d) New **ADU structures** shall be located behind the **primary structure** and meet the **setback**, height, and **rear yard lot coverage** standards for **accessory structures**;
  - (e) There shall be only one **ADU per lot**; and
  - (f) As part of its review of a request for an **ADU**, the **Board** may also consider the size, bulk, scale and compatibility of the **ADU**, relative to the primary residence and other **structures** in the immediate area, and the size of the **lot**.
- (2) **Animal keeping** (outdoor, small animal)
  - (3) **Boarding house**
  - (4) **Child care home (class II)**
  - (5) **Educational institution-associated uses** (on non-contiguous properties, not otherwise permitted)
  - (6) **Fraternity house**
  - (7) **Group residential facility (large)**
  - (8) **Group residential facility (small)**
  - (9) **Home business** (for single **family detached buildings** only; see §157.503(D)(3)(b) for additional standards)
  - (10) **Homeless/emergency shelter** (accessory to a **religious institution**)
  - (11) **Manufactured home, Type II** (see §157.503(D)(3)(e) for additional standards)
  - (12) **Model unit** (for extension of time/expansion of scope)
  - (13) **Nature preserve** (with parking areas or **structures**)
  - (14) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use**, excluding **gas station uses**)

## FORT WAYNE ZONING ORDINANCE

(15) **Parking structures** (public or private)

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

- (a) **Parking structures** should contain commercial or residential **uses** along the **street frontages** where practical to encourage **pedestrian oriented uses** and activity at the **street** level. If commercial or residential **uses** are not provided, **parking structures** shall maintain a minimum 10' **setback** along **yards** with a **street frontage**. The **Board** may require a greater **setback** on a case-by-case basis.
- (b) The first two floors shall be adequately screened by landscaping and/or architectural features. If a new **parking structure** is connected to an existing or proposed **building**, then the **parking structure** shall be compatible with that **building**.
- (c) If a new **parking structure** is not connected to an existing or proposed **building**, then the **parking structure** shall be compatible with the proposed **building** or one or more **structures** adjoining to the **parking structure**.

(16) **Pawn shop**

(17) **Religious institution** or **school** illuminated **athletic field(s)**

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

(19) **Residential facility for homeless individuals**

(20) **Single family dwelling (detached)**

(21) **Solar panel (ground mounted)**

(22) **Sorority house**

(23) **Utility facility, private** (not otherwise permitted or exempt)

## FORT WAYNE ZONING ORDINANCE

(D) **Accessory Buildings, Structures and Uses**

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

<b>UNIVERSALLY PERMITTED ACCESSORY BUILDINGS, STRUCTURES, AND USES</b>		
<b>Accessory dwelling unit</b> <sup>(1)</sup>	<b>Hedge</b>	<b>Satellite dish</b>
<b>Access ramp</b>	<b>Holiday decorations</b>	<b>Sign</b>
Address marker	<b>Landscape elements</b>	<b>Solar panels (building mounted)</b>
<b>Arbor or pergola</b>	Mailbox	<b>Swimming pool</b>
Bird bath/house	<b>Name plate</b>	Swing set
<b>Carport</b>	Newspaper delivery box	Television aerial
<b>Deck</b>	<b>Patio</b>	<b>Trellis</b>
<b>Driveway</b>	<b>Play equipment</b>	<b>Utility fixture</b>
<b>Fence</b>	Pond	Walk
Flagpole	Property boundary marker	<b>Wall</b>
<b>Garage</b>	Radio antenna (amateur)	<b>Yard light</b>
<b>Gazebo</b>	Rain barrel	
Geothermal system	Rain garden	
Note: (1) If integrated into an existing <b>single family detached</b> residence, the integrated <b>accessory dwelling unit</b> shall be at least 300 square feet		

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

## FORT WAYNE ZONING ORDINANCE

### (C) Special Uses

- (1) **Animal keeping** (outdoor, small animal)
- (2) **Child care home (class II)**
- (3) **Community garden** that includes a **structure** or water
- (4) **Educational institution-associated uses** (on non-contiguous properties)
- (5) **Fraternity house**
- (6) **Group residential facility (large)**
- (7) **Group residential facility (small)**
- (8) **Home business** (for single **family detached buildings** only)
- (9) **Homeless/emergency shelter** (accessory to a **religious institution**)
- (10) **Manufactured home, Type II** (see §157.503(D)(3)(e) for additional standards)
- (11) **Nature preserve** (with parking areas or **structures**)
- (12) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use**, excluding **gas station uses**)
- (13) **Parking structures** (public or private)

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

- (a) **Parking structures** should contain commercial or residential **uses** along the **street frontages** where practical to encourage **pedestrian oriented uses** and activity at the **street** level. If commercial or residential **uses** are not provided, **parking structures** shall maintain a minimum 10' **setback** along **yards** with a **street frontage**. The **Board** may require a greater **setback** on a case-by-case basis.
  - (b) The first two floors shall be adequately screened by landscaping and/or architectural features. If a new **parking structure** is connected to an existing or proposed **building**, then the **parking structure** shall be compatible with that **building**.
  - (c) If a new **parking structure** is not connected to an existing or proposed **building**, then the **parking structure** shall be compatible with the proposed **building** or one or more **structures** adjoining the **parking structure**.
- (14) **Recreation** area, including accessory recreation areas
  - (15) **Religious institution** or **school** illuminated **athletic field(s)**
  - (16) **Residential facility for a court-ordered re-entry program**
  - (17) **Residential facility for homeless individuals**
  - (18) **Sorority house**
  - (19) **Solar panel (ground mounted)**
  - (20) **Subdivision amenity**
  - (21) **Utility facility, private** (not otherwise permitted or exempt)

## FORT WAYNE ZONING ORDINANCE

### (C) Special Uses

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

- (1) **Automobile service, general** (excluding **gas station uses**)
- (2) **Commercial communication tower** (see §157.503(D)(3)(a) for additional standards)
- (3) **Group residential facility (large)** (if **adjacent** to a **residential district**)
- (4) Growing/processing/raising of natural products
- (5) Illuminated **recreation field** (if **adjacent** to **residential district**)
- (6) Metal and plastic extrusion and molding facility
- (7) Metal cutting facility
- (8) Metal fabricating facility
- (9) Metal processing facility (anodizing, buffing, galvanizing, plating, and polishing)
- (10) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use**, excluding **gas station uses**)
- (11) Parking area (as a primary **use**, if **adjacent** to a **residential district**); a special **use** shall not be required for a universally permitted off-site parking area
- (12) Processing facility (small scale)
- (13) **Residential facility for a court-ordered re-entry program**
- (14) **Residential facility for homeless individuals** (if **adjacent** to a **residential district**)
- (15) Sheet metal fabrication and/or processing
- (16) **Sign** (temporary **subdivision** direction)
- (17) **Solar panel (ground-mounted)**
- (18) **Wind energy conversion system, micro** (on land **adjacent** to a **residential district**, or to erect an additional micro system or systems)
- (19) **Wind energy conversion (WEC) system, standard** (on land of under two acres, or on land **adjacent** to a **residential district**)

## FORT WAYNE ZONING ORDINANCE

### (C) Special Uses

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

- (1) **Commercial communication tower** (see §157.503(D)(3)(a) for additional standards)
- (2) **Fuel storage facility**
- (3) **Group residential facility (large)** (if **adjacent** to a **residential district**)
- (4) **Illuminated recreation field** (if **adjacent** to residential zoning)
- (5) **Junk yard** (outdoor)
- (6) **Motor vehicle storage yard**
- (7) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use**, excluding **gas station uses**)
- (8) **Parking area** (as a primary **use**, if **adjacent** to a **residential district**); a special **use** shall not be required for a universally permitted off-site parking area
- (9) **Parking or outdoor display area**, gravel (not otherwise permitted)
- (10) **Residential facility for a court-ordered re-entry program**
- (11) **Residential facility for homeless individuals** (if **adjacent** to a **residential district**)
- (12) **Salvage yard** (outdoor)
- (13) **Sawmill**
- (14) **Sign** (temporary **subdivision** direction)
- (15) **Solar panel (ground-mounted)**
- (16) **Solid waste transfer station**
- (17) **Wind energy conversion system, micro** (on land **adjacent** to a **residential district**, or to erect an additional micro system or systems)
- (18) **Wind energy conversion (WEC) system, standard** (on land of under two acres, or on land **adjacent** to a **residential district**)

## FORT WAYNE ZONING ORDINANCE

### (D) Special Uses

#### (1) List of Special Uses

The following **special uses** may be permitted by the **Board of Zoning Appeals** in the **zoning districts** shown in the table below, after public hearing pursuant to §157.503(A)(1). To approve a **special use**, the **Board** shall determine that the application meets the criteria in §157.503(D)(2) below and any other requirements stated for the specific **use** in this ordinance. The **Board** may impose reasonable **conditions** as part of its approval.

In addition, as set forth in §157.411(I) of the **Airport Overlay Districts** provisions, certain **uses** shall also require approval of a special use, even in cases where the **use** is a permitted **use** in the existing underlying zoning **district**.

<b>SPECIAL USES</b>	
<b>Special Use</b>	<b>District(s) Where Allowed</b>
<b>Accessory building</b> conversion to a single <b>family</b> residence	AR
<b>Accessory building</b> , as a <b>primary building</b> , on a site of at least 5 acres	AR
<b>Accessory dwelling units (ADU)</b>	DE
<b>Airstrip/heliport</b> (for corporate or multiple <b>owner use</b> )	AR
Animal grooming	C1
<b>Animal hospital</b>	C1
<b>Animal keeping</b> (outdoor, small animal)	R1, R2, R3, RP, MHS, and DC
<b>Animal keeping (small)</b>	DE and UC
<b>Animal kennel</b>	C1
Animal obedience <b>school</b>	C1
<b>Automatic teller machine</b> (stand-alone <b>ATM</b> )	C1
<b>Automobile maintenance (quick service)</b>	C2, NC, and SC
<b>Automobile sales</b>	C2, NC, and SC
<b>Automobile Service, General</b> (excluding <b>gas station uses</b> )	I1
<b>Bed and breakfast</b>	AR, R1, R2, R3, RP, and MHS
<b>Boarding house</b>	AR, R1, R2, R3, RP, MHS, and DE
<b>Child care home (class II)</b>	AR, R1, R2, R3, RP, MHS, DE, and UC
<b>Club, private</b> <sup>(1)</sup>	R1, R2, R3, RP, MHS, and C1,
<b>Commercial communication tower</b> <sup>(2)</sup>	C1, C2, NC, SC, C3, C4, BTI, I1, I2, and I3
<b>Community facility (transitional use)</b>	R1, R2, R3, RP, and MHS
<b>Community garden</b> that includes a <b>structure</b>	AR, R1, R2, R3, RP, MHS, C1, C2, NC, DC, DE, and UC
<b>Country club</b>	AR, R1, R2, R3, RP, and MHS
<b>Educational institution uses</b>	AR, R1, R2, R3, RP, MHS <sup>(1)</sup> , C1, C2, C3, DE, UC
<b>Emergency response facility (transitional use)</b>	R1, R2, R3, RP, and MHS
<b>Flood control improvement project/non-permitted fill, private</b>	Any district
<b>Fraternity house</b>	DE and UC
<b>Fuel storage</b> facility	I2
<b>Funeral home</b>	AR, R1, R2, R3, RP, and MHS

**FORT WAYNE ZONING ORDINANCE**

<b>SPECIAL USES</b>	
<b>Special Use</b>	<b>District(s) Where Allowed</b>
<b>Golf course</b>	AR, R1, R2, R3, RP, and MHS
<b>Greenhouse (retail)</b>	C2, NC, and SC
<b>Group residential facility (large)</b> <sup>(1)</sup>	AR, R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, DC, DE, UC, I1, I2, and I3
<b>Heliport</b>	R1, R2, R3, RP, and MHS
<b>Home business</b> <sup>(2)</sup>	AR, R1, R2, R3, RP, MHS, C1, C2, C3, C4, DC, DE, and UC
<b>Home enterprise</b> <sup>(2)</sup>	AR
<b>Home workshop</b> <sup>(2)</sup>	AR
<b>Homeless/emergency shelter (accessory to a religious institution)</b>	AR, R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, DC, DE,
<b>Illuminated recreation field (if adjacent to residential district)</b>	BTI, I1, I2, and I3
<b>Instruction/training education (transitional use)</b>	R1, R2, R3, RP, and MHS
<b>Junk yard</b>	I2
<b>Live-work unit (transitional use)</b>	R1, R2, R3, RP, and MHS
<b>Manufactured home, Type II</b> (see § 157.503(D)(3)(e) for additional standards)	R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, DE, UC
<b>Medical office (transitional use)</b>	R1, R2, R3, RP, and MHS
<b>Metal and plastic extrusion and molding</b>	I1
<b>Metal cutting facility</b>	I1
<b>Metal fabricating facility</b>	I1
<b>Metal processing facility</b>	I1
<b>Model home (for an extension of time or expansion of scope)</b>	AR, DC, DE, MHS, R1, R2, R3, and RP
<b>Model unit (for an extension of time or expansion of scope)</b>	DC, DE
<b>Motor vehicle storage yard</b>	I2
<b>Museum</b>	R1, R2, R3, RP, and MHS
<b>Nature preserve ( that includes a structure or parking area</b>	AR, R1, R2, R3, RP, MHS, DE, and UC
<b>Neighborhood facility</b>	AR, R1, R2, R3, RP, and MHS
<b>Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use; this special use shall not be available for gas station uses)</b>	AR, R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, DC, DE, UC, BTI, I1, I2, and I3
<b>Open use of land (not otherwise permitted)</b>	I3
<b>Outdoor use (in conjunction with a permitted primary building)</b>	C2
<b>Parking structures (public or private)</b>	DE
<b>Pawn shop</b>	DC and DE
<b>Personal service (transitional use)</b>	R1, R2, R3, RP, and MHS
<b>Plant nursery (retail)</b>	C2, NC, and SC
<b>Processing facility (including but not limited to animals, animal products, lumber, timber, raw materials processing)</b>	I2
<b>Professional office/business service (transitional use)</b>	R1, R2, R3, RP, and MHS
<b>Reception, meeting, or recreation hall; clubhouse</b>	AR

# FORT WAYNE ZONING ORDINANCE

## § 157.504 NONCONFORMING SITUATIONS

### (A) Purpose

The purpose of this §157.504 is to set forth criteria, standards, and procedures for establishing, continuing, altering, or discontinuing legal **nonconforming uses, structures, lots** and situations. This section is intended to provide for the continued **use of nonconforming structures, uses, lots** and situations, along with reasonable maintenance and repairs.

### (B) Nonconforming **Lots**

Any **lot** established by legally recorded **plat** or deed prior to April 3, 2014 that does not meet the minimum size or dimension requirements of this ordinance, or that subsequently becomes nonconforming as a result of an amendment to this ordinance, may still be used for any **use** or **structure** permitted in the **zoning district** in which the **lot** is located, but any **buildings** or **structures** constructed on such a **lot** shall comply with all applicable requirements for that **building** or **structure**. Any **lot** located within a recorded residential **plat** previously approved with lesser yard requirements shall be permitted to be developed for single **family** residential **use**, and any existing single **family** detached residences may be enlarged in accordance with the previously approved **setbacks**. If a single **family** detached residence on a **lot** with nonconforming yard requirements is damaged or destroyed, the residence shall be permitted to be rebuilt in accordance with the previously approved yard requirements.

### (C) **Nonconforming Uses**

#### (1) Continuation

Except as otherwise provided in this section, a **use** that existed as of March 2, 1998, or that subsequently becomes nonconforming as a result of an amendment to this ordinance, may be continued.

#### (2) Expansion of Use

(a) A **structure** used for a **nonconforming use** shall not be added to or enlarged in any manner unless the **use** and the **structure**, including the **addition** or enlargement, is brought into conformance with the permitted **use** and **setback** requirements of the **district** in which it is located, with the following exceptions:

(i) A single **family**, two **family**, or attached single **family** residential **structure**, located in a **zoning district** that does not permit **single family uses**, may be added to or enlarged, provided the **addition** conforms to all applicable residential **setback** requirements. **Residential accessory structures**, such as a **fence**, **garage**, or **shed**, shall also be permitted.

(ii) **Uses** located in the DC, DE, UC, and **BTI districts** that have become legal nonconforming due to reclassification or amendment to this ordinance may be added to or enlarged on (a) the property shown on the Allen **County** Assessor's Office property record card for the property at the time of the rezoning or amendment that created the nonconforming situation or (b) the **development site** where the **building** and improvements are located at the time of the rezoning or amendment that created the nonconforming situation, provided the **addition** conforms to all other applicable provisions of this ordinance.

(iii) For **gas station use** provisions, see §157.504(E)(6).

(b) A nonconforming **use** may be expanded or extended into any other portion of the **structure** that existed at the time the nonconforming **use** was established.

## FORT WAYNE ZONING ORDINANCE

### (2) **Parking Areas**

**Parking areas** that do not conform to the **development**, landscaping, and/or screening and buffering standards of §157.404 (**Development Design Standards** and Requirements) or §157.408 (Screening and Buffering), may continue to be used. Any proposed expansion of such a **parking area** shall be required to conform to the applicable **development** standards in the area of that expansion. The resurfacing, restriping, or similar maintenance of existing parking area shall not be considered an **addition** or expansion.

### (3) **Signs**

Nonconforming **signs** shall be governed by the provisions of §157.409(F)(10).

### (4) **Reversion of Use**

A **building** originally designed for single or two **family use** and converted to a higher intensity residential or **nonresidential use** may be reverted to a single **family** or two **family use** if acceptable evidence can be provided to the **DPS** staff showing that the **building** was originally built for or was historically used for single **family** or two **family use**. A **Certificate of Use** application is required for consideration of a **building** reversion. **Buildings** reverted under this §157.504(E)(4) shall be considered to be a conforming **use**. Evidence that could be determined to be acceptable includes but is not limited to the following:

- (a) Original **building** designs or permits;
- (b) Sanborn Fire Insurance Maps;
- (c) **City** directories;
- (d) Tax or assessment records; and
- (e) Affidavits

### (5) **Acquisition of Property for Public Purposes**

If a government or quasi-governmental entity acquires property for public purposes, and the result of that acquisition is to reduce **lot** area, **lot width**, property **setbacks** below the minimums required by this ordinance in the **district** where the property is located, or otherwise results in **development** on the property not complying with the requirements of this ordinance, and that deviation from the requirements of this ordinance did not exist before the acquisition of property for public purposes, then the deviation from the requirements of this ordinance created by acquisition of property for public purposes shall not be considered a non-conformity, and the applicant's rights with regard to the remaining property shall be the same as if a portion of the property had not been acquired for public purposes.

### (6) **Gas Stations**

A **gas station** that was approved via a **Special Use** or **Use Variance** by the **Board of Zoning Appeals** shall not be considered a nonconforming **use** subject to these provisions, and shall remain subject to any previous **Board of Zoning Appeals** conditions of approval. Any **gas station** that became nonconforming as of April 3, 2014:

- (a) May be enlarged, expanded, or extended on the same **parcel** or **lot** that existed at the time the **gas station** became nonconforming, so long as such enlargement, expansion, or extension, meets all **development** standards of this ordinance and an **Improvement Location Permit** and/or **Certificate of Use** is issued before such enlargement, expansion, or extension. This provision is intended to also allow for the addition of gas pumps and the expansion or replacement of canopies;

## FORT WAYNE ZONING ORDINANCE

- (b) May be expanded into any **building** that existed at the time the **gas station** became nonconforming, so long as a **Certificate of Use** is issued before such expansion;
- (c) Shall not be permitted to increase the size of the **parcel** or **lot** that the **gas station** is located on; and
- (d) Shall be subject to all other applicable Nonconforming Situations provisions in this Section, including but not limited to the Nonconforming **Buildings** or **Structures** provisions, the Maintenance or Reconstruction provisions, and the Discontinuation and Damage provisions.
- (e) **New accessory buildings or structures shall meet the development standards of this ordinance.**

### (F) Discontinuation and Damage

#### (1) Discontinuation of Use

Any **nonconforming use** that has been discontinued for a period of twelve (12) consecutive months as determined by the **Zoning Administrator** shall be deemed abandoned and shall not be permitted to be reestablished. Any subsequent **use** of the **lot** shall only conform to the **use** provisions of this ordinance. In a case where a detached residential **accessory building** becomes a **nonconforming building** and **use** due to the demolition or other removal of the primary **residential building** on the same **lot** the passage of twelve (12) months after the removal of the **primary building** without the construction of a new primary **residential building** shall be deemed as intent to abandon the **accessory building and use**. Enforcement proceedings as provided in this ordinance may be initiated after the expiration of the twelve (12) month period.

#### (2) Restoration of Damaged Building or Structure

- (a) A damaged **nonconforming building** or **structure** may be reconstructed or restored if the cost of **restoration** or reconstruction is no more than double the total value of the **nonconforming building or structure**. A damaged **nonconforming building or structure** that costs more than double the total value of the **nonconforming building or structure** to repair shall only be repaired or rebuilt in conformance with the provisions of this ordinance. However, a nonconforming detached single **family residential structure** located in a **district** which does not allow new single **family detached residential structures** shall be permitted to be rebuilt if damaged, provided it meets the other applicable standards of this ordinance.
- (b) For purposes of this subsection, the “value of the **nonconforming structure**” shall be presumptively determined by the property **owner**’s most current property record card that is maintained by the applicable agency responsible for assessing the property for real estate taxes. The property **owner** may attempt to prove the value of **nonconforming structure** by providing the **Zoning Administrator** with an appraisal that is completed and signed by an appraiser licensed by the State of Indiana and performed in accordance with the Uniform Standards for Professional Appraisal Practice (USPAP). The **Zoning Administrator** shall determine the value of the original **nonconforming structure**,

#### (3) No Expansion of Damaged Building or Structure

Any damaged **nonconforming building** or **structure** shall be reconstructed or restored within the boundaries of the footprint of the original **nonconforming building or structure**, and the original **nonconforming building or structure** shall not be expanded or enlarged. Any **nonconforming building or structure** that is restored or reconstructed at more than

# FORT WAYNE ZONING ORDINANCE

## Convenience Store

A small retail establishment designed and stocked to sell primarily food, beverages, and other household supplies to customers. A **use** which also includes gas pumps shall not be considered a **convenience store**. A **convenience store use** shall be considered a **primary use** of a property.

## Convent

A **structure** used for the purpose of housing **persons** on a permanent basis who are not members of a **family** and who constitute a religious community typically consisting of nuns, priests, monks, or other similar religious personnel. For the purpose of this definition the terms **convent** and monastery are interchangeable and shall have the same meaning. Assembly for worship services may be conducted in conjunction with the **convent use** but only for the residents of the **convent**. A **convent** is a permitted **accessory use** where incidental to a religious assembly **use** (**church, synagogue, temple, and mosque**).

## Convention Facility

A facility specially designed to host conferences, exhibitions, events, large meetings, seminars and **training** facilities. Office, retail, accommodations, and other commercial **uses** commonly established in these facilities and related **parking structures** shall be allowed as accessory appurtenances.

## Conveyance (including the word “convey”)

The transfer of title to land from one **person** to another by deed.

## Corner Lot (see “Lot, Corner”)

### Corner Visibility Area

The following areas, in which no **fence, retaining wall, hedge, or other planting, building, or structure** that would impede vision between a height of three (3) and eight (8) feet shall be located, except that this restriction shall not apply to **buildings** in the DC **district**:

- (1) For a **corner lot**, the area bounded by the edges of intersecting roadways and a line intersecting those edge lines at points 40 feet distant from the intersection of the edge or roadway lines extended.
- (2) For a **lot** at the intersection of an **alley**, the area bounded by the edge of the roadway and the edge of the intersecting **alley** and a line intersecting those edge lines at points 90 feet distant on the roadway and 15 feet distant on the **alley** from the intersection of those edge lines extended.

## Corporate Campus

A **building** or **buildings** in close proximity to each other, either **adjacent** or connected with centralized amenities, parking, support, and other internal functions. The **buildings** are intended to have quality architectural and site design features.

## Correctional Institution

A place of confinement, including places requiring overnight stays only, for **persons** who have broken the law, are awaiting trial, and/or have been convicted of criminal offenses. This definition shall not include a **correctional services facility** or a residential facility for a court-ordered re-entry program

## 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** that is intended as a place of social and recreational gatherings for members of a **private club**.

## FORT WAYNE ZONING ORDINANCE

### Gas Pump Embellishment

Letters, figures, characters or representatives in irregular forms that used as a supplement to permitted gas pump signage.

### Gas Station

A facility where fuel is sold, which may also include a **convenience store**. A **gas station use** shall be considered a **primary use** of a property.

### Gateway

A point along a roadway at which a motorist or pedestrian gains a sense of having entered the **City** or a particular part of the **City**. This impression can be imparted through such things as **signs**, **monuments**, landscaping, a change in **development** character, or a natural feature.

### Gazebo

A freestanding, roofed, usually open-sided **structure** providing seating or an area for gathering.

### Glare

A situation created when illumination sources shine with visibly harsh, uncomfortably bright light that: causes discomfort; distracts attention; or leads to reduction or loss of visibility or visual performances (up to and including situations of blinding **glare**, as defined in the Illuminating Engineering Society of North America's current Lighting Handbook). These situations are typically caused by insufficiently shielded light sources, or high luminance (luminance that is sufficiently greater than the luminance to which the eyes are adapted).

### Golf Course

A **tract** of land typically laid out for playing the game of golf that may include a **clubhouse**, dining and snack **bars**, pro **shop**, and practice facilities.

### Golf Course (Miniature)

A **recreational facility**, typically comprised of small putting greens, each with a "cup" or "hole," where patrons in groups pay a **fee** to move in consecutive order from the first hole to the last.

### Golf Driving Range

A **tract** of land devoted as a practice range for practicing golf shots.

### Government Facility

An institution operated by a federal, state, **county**, town, township or **city** government, or by a special purpose **district**.

### Greenhouse

An establishment, including a **building**, part of a **building** or open space, for the growth, display and/or sale of plants, trees, and other materials used in indoor or outdoor planting for retail and wholesale sales.

### Grocery Store

A retail sales establishment selling primarily food and beverages for off-site preparation and consumption that maintains a sizable inventory of fresh fruits, vegetables, fresh-cut meats, or fresh seafood or specialize in the sale of one type of food item. This **use** may also include sales of personal convenience and small household goods.

**BILL NO. Z-19-01-01AA**

**REPORT OF COMMITTEE ON REGULATIONS**

**March 12, 2019**

***Michael Barranda Chair***

***Tom Freistroffer Co-Chair***

***All Council Members***

An Ordinance amending Chapter 157 of the City of Fort Wayne Municipal Code

**COMMITTEE ON FINANCE 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**

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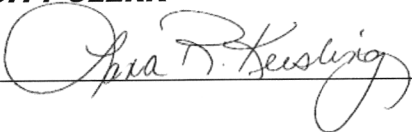
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**LANA R. KEESLING  
CITY CLERK**



March 26, 2019

Plan Commission  
Suite 150 Citizen Square  
200 East Berry Street  
Fort Wayne, IN 46802

**Re: Potential Zoning Amendment – Gas stations and special use**

Plan Commission:

As you are well aware, Fort Wayne City Council (“City Council”) initiated a process to amend the zoning code with respect to gas station special use availability in the City of Fort Wayne. This proposal was sponsored by Councilman Glynn Hines and the procedure was initiated by City Council at the request of the Department of Plan Services (“DPS”) and the Plan Commission (“Commission”).

There are a number of Indiana Code statutory provisions that impact the process City Council and the Plan Commission must follow with regard to zoning changes. This letter, however, is being directed to you per the requirements of I.C. 36-7-4-607(f)(4) which considers a zoning change proposal initiated by City Council, recommended with amendments by the Commission, sent to City Council for action, and ultimately further amended by City Council. In this case, City Council amended the Commission’s proposed language. As such, City Council must refer the proposal with the new language back to the Commission for its consideration. *Id.* City Council must also attach a “written statement of the reasons for the amendment” to the new proposal. *Id.* Please consider the following information when reviewing City Council’s most recent proposed zoning ordinance amendment.

Throughout the process, a number of interested parties have collaboratively discussed potential solutions to the concerns that initially gave rise to Councilman Hines’ plan to amend the zoning ordinance. At the time that the original proposal was initiated and sent to DPS/the Commission, several Councilmembers and other interested parties began discussing potential changes to the zoning code language that was different than the language initially suggested by Councilman Hines. Councilman Hines has been clear in his reasons for supporting a zoning change and has provided those specific reasons on numerous occasions, including City Council’s meeting on March 12, 2019. Councilman Hines focused on two main concerns in his presentation, the ‘food desert’ problem plaguing certain areas of the city and the prevalence of gas stations near residential districts.

Councilman Hines’ originally initiated proposal sought to eliminate the availability of a special use exception for gas stations in zoning districts I1, I2, C2, NC, and DE. **During the zoning change process, various parties collaborated to identify an alternative drafting solution that would: 1) promote Councilman Hines’ intent to protect residents from the prevalence of gas stations near residential districts and help address the food desert concern; and, 2) allow gas stations to be built in areas zoned for industrial use and in those areas where residential districts were not in the immediate vicinity.**

Plan Commission  
City of Fort Wayne  
March 26, 2019  
Page 2

Therefore, a compromise was reached whereby no changes would be made to the existing ordinance for I1 and I2 districts (special use we be available in I1 and I2). In C2, NC, and DE districts, gas stations would be eligible to apply for a special use exception unless the site is adjacent to a residential district or when the site is located on a street directly opposite from a residential district.

Thank you for considering these reasons when addressing the accompanying zoning proposal voted on by City Council. Please let me know if you have any questions.

Very truly yours,



Joseph G. Bonahoom  
Attorney for Fort Wayne City Council

ZPL  
Enclosure (City Council amended proposal)

cc: Fort Wayne City Council  
Department of Plan Services

# REPORT OF COMMITTEE ON REGULATIONS

March 26, 2019

*Michael Barranda* Chair

*Tom Freistroffer* Co-Chair

*All Council Members*

An Ordinance amending Chapter 157 of the City of Fort Wayne Municipal Code



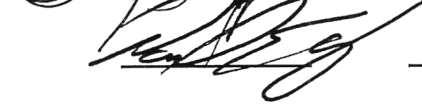
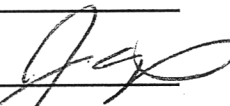
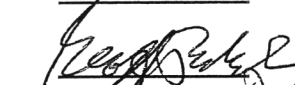
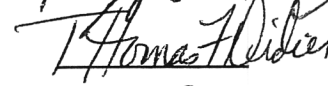
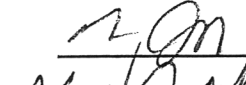
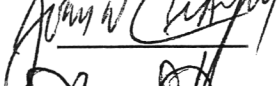
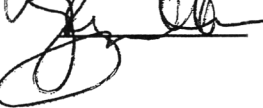
COMMITTEE ON REGULATIONS HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance

DO PASS

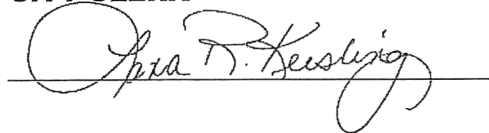
DO NOT PASS

ABSTAIN

NO REC

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**LANA R. KEESLING**  
**CITY CLERK**



Public Hearing Date: N/A

Read the first time in full and on motion by Councilman Barranda.

Read the second time by title and referred to the Regulations Committee.

Read the third time in full and on motion by Councilman Barranda, placed on passage by the following vote:

<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
ARP	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BARRANDA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CRAWFORD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DIDIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ENSLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FREISTROFFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JEHL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>


DATED: March 26, 2019




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LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as Zoning Ordinance No. Z-19-01-01AAAA on the 26th day of March, 2019




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LANA R. KEESLING  
CITY CLERK




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PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 17th of April 2019, at the hour of 3:00 o'clock P.M. E.S.T.




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LANA R. KEESLING, CITY CLERK

Approved and signed by me this 18<sup>TH</sup> day of APRIL 2019, at the hour of 12:30 o'clock Pm. E.S.T.




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THOMAS C. HENRY, MAYOR