

CITY OF PORTLAND UNIFIED ZONING & SUBDIVISION CONTROL ORDINANCE



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Section 1

General Provisions and Enforcement

GENERAL PROVISIONS AND ENFORCEMENT

1.1 TITLE

These regulations shall be known and cited as the Unified Zoning & Subdivision Control Ordinance of Portland, Indiana.

1.2 PURPOSE

This Ordinance is intended to encourage the growth and development of the City in accordance with the Comprehensive Plan for the City of Portland. The Comprehensive Plan and all amendments thereto are incorporated herein by reference with copies of the same maintained in the Office's of the City Clerk-Treasurer and the Zoning Administrator/Director being open for public inspection during regular business hours.

1.3 JURISDICTION

This Ordinance shall apply to all lands within the corporate limits and two-mile territorial jurisdiction of the City of Portland, Indiana, unless otherwise specified.

1.4 INTERPRETATION

The provisions of this Ordinance shall be held as the minimum requirements for the protection of the health, safety, comfort, morals, convenience, and general welfare of the people at large, and are designed to encourage the establishment and maintenance of reasonable community standards for the physical environment.

1.5 APPLICATION

It is not intended by this Ordinance to interfere with, abrogate or amend any existing easements, covenants, or other agreements between parties, nor is it intended by this Ordinance to repeal, abrogate, annul, or in any way interfere with any existing provisions of laws or ordinances (other than previous zoning and subdivision control ordinances), or any rules, regulations, or permits previously adopted or issued pursuant to law relating to the use of building or premises provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises than is imposed or required by such existing provisions of law or by such rules, regulations, agreements, covenants, or permits, the provisions of this Ordinance shall control; but where private covenants, permits, agreements, rules or regulations impose a greater restriction than is imposed by this Ordinance, the greater restriction shall control.

1.6 SAVING PROVISION

This Ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing zoning and/or subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue.

1.7 COMPLIANCE

No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, or enlarged; nor shall any structure or land be used, unless in full compliance with all provisions of this Ordinance and under the lawful issue of all permits and certificates required by this Ordinance.

GENERAL PROVISIONS AND ENFORCEMENT

1.8 SEVERABILITY

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

1.9 REPEALER

This Ordinance repeals all prior zoning and subdivision control ordinances and zoning maps.

1.10 AMENDMENTS

In accordance with IC 36-7-4-602, the legislative body may amend or partially repeal the text of this Ordinance or they may amend the zoning maps of this Ordinance as follows:

- A.** The legislative body or the Plan Commission may initiate a proposal to amend or partially repeal the text according to the procedure of IC 36-7-4-602(b) and IC 36-7-4-607 and according to the Commission Rules and Procedures.
- B.** The legislative body, Plan Commission, or at least fifty percent of the affected property owners may initiate a petition to change the zoning maps according to the procedure of IC 36-7-4-602(c) and IC 36-7-4-608 and according to the Commission rules.
- C.** In its review of the text and zoning map amendments, the legislative body and the Plan Commission shall pay reasonable regard to:
 - 1. The most recently adopted Comprehensive Plan.
 - 2. Current conditions and the character of structure and uses in each district.
 - 3. The most desirable use for which the land in each district is adapted.
 - 4. The conservation of property values throughout the jurisdiction.
 - 5. Responsible development and growth.

1.11 ADMINISTRATIVE OFFICER

The Portland Plan Commission's appointed Zoning Administrator/Director, or his/her designee(s), shall have the principal responsibility for implementation and enforcement of this Ordinance.

Section 2

Definitions

2.1 INTENT

The definitions contained in this section shall be observed and applied in the interpretation of all sections of this Ordinance, except where the context clearly indicates otherwise. Furthermore, words used in the present tense, singular number, and masculine gender, shall also mean the future, plural, and feminine.

2.2 SPECIFIC

The following words and terms appearing in this Ordinance shall have the following meanings:

Abandonment

The relinquishment of property or a cessation of the use of the property for a continuous period of one year by the owner without the intention of transferring rights to the property to another owner nor of resuming the use of the property.

Accessory Building, Structure, or Use (Section 4.1)

A building, structure, or use which:

- A. is subordinate to and serves a principal building, structure, or use in area, extent, or purpose; and
- B. contributes to the comfort, convenience, or necessity of occupants of the principal buildings, structures, or principal uses served; and
- C. does not alter or change the character of the premises; and
- D. is located on the same zoning lot as the principal building, structure, or use; and
- E. conforms to the setback, height, bulk, lot coverage, and other requirements of this Ordinance unless otherwise provided for by this Ordinance; and
- F. may not be constructed prior to the time of construction of the principal building or structure; and
- G. is not designed for human occupancy as a dwelling or commercial use.

Administrator See "Zoning Administrator/Director"

Adult Bookstore

An establishment having as a majority of its stock in trade or its dollar volume in trade, books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, DVD's, video cassettes, slides, tapes, records, or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual activities or sexual anatomical areas.

Adult Entertainment Business

An adult bookstore, adult motion picture theater, adult cabaret, or adult live entertainment arcade, or like uses.

Adult Day Care Facility

A facility for the supervised care of older adults, providing activities such as meals and socialization one or more days a week during specified daytime hours.

Advisory Plan Commission

A plan commission serving a single local government jurisdiction established as defined under the Indiana Code, 36-7-1-2 (1983) as amended. The Portland Plan Commission is an Advisory Plan Commission.

Aesthetics

The pleasantness of the total environment related to the perceptual aspects of the surroundings including their appearance to the eye and the comfort and enjoyment offered to the other senses.

Agriculture

The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, agriculture, horticulture, floriculture, viticulture, animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any accessory uses shall be secondary to that of the normal agricultural activities. "Agriculture" shall not include feed lots, stock yards, or the commercial feeding of garbage or offal to swine or other animals.

Agriculture Residential Zoning District

Refers to a "AR" District

Aisle See "Maneuvering Space."

Alley

A public right-of-way, other than a street, road, crosswalk, or easement, that provides secondary access to abutting properties.

Allowable Livestock Operation

A livestock operation located outside the Corporate Limits of the City of Portland but within the two (2) mile jurisdictional area on property zoned Agricultural Residential (AR) with no more than the following number of livestock per acre based on the tract(s) of land upon which the livestock and/or livestock buildings are located. Computable acres shall be defined for the purposes of this section as undeveloped tillable land up to fifty (50) acres:

1. 10 finishing hogs; or 4 sows; or 25 nursery pigs (under 40 lbs.); or
2. 1 cow; or 2 feeder cattle; or 2 heifers (replacement); or 5 veal calves; or
3. 100 turkeys; or 150 laying hens; or 150 pullets; or 150 broilers; or
4. 5 sheep; or 5 goats; or
5. 4 horses;

Limits for other livestock not enumerated herein shall be determined by the Zoning Administrator/Director based upon type or size of livestock.

Animal Hospital/Clinic See "Veterinary Animal Hospital or Animal Clinic."

Animal Shelter See "Kennel."

Annexation

The process by which a municipality may add territory to itself, as specified in IC 36-4-3-1 to 36-4-3-21, as amended.

Apartment House

A single structure containing apartments that are accessed only by public streets and does not include any recreational facilities or similar accessory uses..

Apartment Building/Multi-Family Dwelling

A multi-family housing structure designed and constructed to accommodate three (3) or more dwelling units (apartments), with the number of families in residence not exceeding the number of dwelling units provided.

Applicant

The owner, owners, or legal representative of real estate who makes application to the Plan Commission and/or Board of Zoning Appeals for action by said commission or board affecting the real estate owned thereby.

Arterial Street See "Street, Arterial"

Attached Building

Any building that is structurally connected to another building by a foundation, wall, or roof line. Carports, garages, porch awnings and the like shall be considered attached buildings and abide by all regulations pertaining to primary buildings.

Auto Repair, Major

Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame, or fender straightening or repair; and overall painting of vehicles.

Auto Repair, Minor

Incidental repairs, replacement of parts, and motor service to automobiles but excluding any operation specified under "Automobile Repair, Major."

Automobile Service Station

Any building or premises used for the dispensing, sale, or offering for sale at retail to the public, motor vehicle fuels stored only in underground tanks and located wholly within the lot lines.

Awning

A roof-like shelter of canvas or other material that projects from the wall of a building, and overhangs the public way in order to provide protection.

Barrier Curb See "Curb, Barrier."

Bed and Breakfast Facility

An owner occupied or owner employee occupied residence containing no more than six (6) guest rooms for hire, for lodging by pre-arrangement for periods not to exceed three (3) consecutive weeks and providing for occasional meals daily (usually breakfast) and not a hotel, boarding, lodging house or motel.

Berm

A man-made, formed, earth mound of definite height and width used for landscaping and obscuring purposes, the intent of which is to provide a transition between uses of differing intensity.

Bicycle-Compatible Roadway

A road designed to accommodate the shared use of the roadway by bicycles and motor vehicles.

Bicycle Lane

A lane at the edge of a roadway reserved and marked for the exclusive use of bicycles.

Bicycle Path

A pathway designed to be used by bicyclists.

Billboard See "Sign, Outdoor Advertising."

Block

Property abutting on one side of a street and lying between the two (2) nearest intersecting or intercepting streets, intersecting railroad, intersecting waterway, or the end of a dead end street.

Blow-Off

An outfall in a pipe through which water or sediment can be discharged from a lower sewer.

Board

The City of Portland Advisory Board of Zoning Appeals or any division thereof, as the case may be.

Boarding House

A building, not available to transients, in which meals are regularly provided for compensation for at least three (3) but not more than thirty (30) persons.

Bond

Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Plan Commission. All bonds shall be approved by the Commission wherever a bond is required by these regulations.

Buffer Landscaping

Any trees, shrubs, walls, fences, berms, space, or related landscaping features required under this Ordinance on private lots, and privately maintained, for buffering lots from adjacent properties or public rights-of-way for the purpose of increasing privacy and aesthetics.

Buffer yards

An area adjacent to front, side and rear property lines, measured perpendicularly from adjacent property lines and/or right-of-way lines, intended to provide attractive spaces to reduce the impacts of proposed uses on adjacent property or natural features and to screen incompatible uses from each other. Buffers also help to maintain existing trees or natural vegetation, to block or reduce noise, glare or other emissions and to maintain privacy.

Building

A structure having a roof supported by columns or walls, for the shelter, support, or enclosure of persons, property, or animals; and when separated by division walls from the ground up and without openings, each portion of such building shall be deemed as a separate building.

Building Area

The horizontal area of the buildings on a lot, measured from the outside exterior walls, excluding open areas or terraces, unenclosed porches or decks, and architectural features that project no more than two (2) feet.

Building Code

The City ordinance establishing and controlling the standards for constructing mechanical equipment, and all forms of permanent structures and related matters within the City. Also referred to herein as the Portland Building Code.

Building, Detached

A building having no structural connection with another building.

Building Footprint

The profile of a building or structure as viewed from above the roof looking downward toward ground level.

Building Line

The line that establishes the minimum permitted distance on a lot between the building and property lines or right-of-way. (See Figure 2.1, page 2-30)

Building, Principal

A building in which is conducted the main or principal use of the lot on which said building is situated. Where a substantial part of an accessory building is attached to the principal building in a substantial manner, as by a roof, such accessory building shall be counted as a part of the principal building.

Burn Barrel

Any container used for the outdoor incineration of waste material, yard debris, etc.

Business

The engaging in the purchase, sale, barter, or exchange of goods, wares, merchandise, or services, or the maintenance or operation of offices, recreational, or amusement enterprises.

Business District

Refers to NB, CB, HS, and PD-B Districts.

BZA

The Advisory Board of Zoning Appeals of the City Portland, Indiana.

Campground

Any site, lot, field, or tract of land designed with facilities for short term occupancy by recreational vehicles and other camping equipment but not including mobile homes.

Capital Improvement Plan See "Plan, Capital Improvement."

Capped System

A completed water supply and/or sewage system put in place for future use (contingent upon expansion), rather than to meet immediate development needs.

Cartway

The actual road surface area from curbline to curbline, which may include travel lanes, parking lanes, and deceleration and acceleration lanes. Where there are no curbs, the cartway is that portion between the edges of the paved, or hard surface, width.

Car Wash

Any permanent structure or facility used for the principal purpose of washing, cleaning, or polishing the exterior and/or interior of motor vehicles for a fee.

Cemetery

Includes any crematory, mausoleum, or mortuary operated in conjunction with and on the same tract as the cemetery.

Central Sewerage System

The community sewer system including collection and treatment facilities owned and maintained by the City of Portland.

Central Water System

The community water supply system including existing and new wells and/or surface water sources and intakes, treatment facilities, and distribution lines and includes such of the above facilities established by the developer to serve a new subdivision or commercial/industrial development.

Certificate of Occupancy and Use

A certificate stating that the occupancy and use of a building or structure complies with the provisions of this Ordinance and the Portland Building Code.

Channel

The bed and banks of a natural stream which convey the constant or intermittent flow of the stream.

Channelization

The straightening and deepening of channels and/or the surfacing thereof to permit water to move rapidly and/or directly.

Child Care Facility / Day Care Center

Any institution operated for the care of children, licensed pursuant to Indiana Code IC 12-17.2-4, et seq., and as defined by IC 12-7-2-28.4.

Child Care – In Home / Residential

Home-based child care provided for a portion of the day in a private residence. The residence must be owned and inhabited by the family/individual providing care.

City

The City of Portland, Indiana.

Clinic

An establishment in which human patients are admitted for medical or dental study or treatment and in which the services of at least two (2) physicians or dentists are provided.

Club

A building or portion thereof or premises owned or operated by a person for a social, literacy, political, educational or recreational purpose primarily for the exclusive use of members and their guests, but not including any organization, group or association, the principal activity of which is to render a service usually and ordinarily carried on as a business.

Cluster Development See “Planned Development.”

Collector Street See “Street, Collector.”

Commission

The City of Portland Advisory Plan Commission.

Common Open Space See “Open Space, Common.”

Component Home See “Manufactured Home.”

Composting

A controlled process of degrading organic material by microorganisms.

Composting Facility

Any location, structure, or facility where composting takes place.

Comprehensive Plan See “Plan, Comprehensive.”

Conceptual Plan See “Plan, Conceptual.”

Conditional Use

Special provisions or requirements applicable to specific uses in certain zoning districts. If specified conditions are met as determined in this Ordinance, the Plan Commission, the BZA or by the Zoning Administrator/Director, no further approval is required

Condominium

Real estate lawfully subject to IC 32-25, (Condominium), by the recordation of condominium instruments, in which undivided interests in the common areas and facilities are vested in the condominium unit owners.

Confined Feeding Operation

The raising of animals for food, fur or recreation in lots, pens, ponds, sheds or buildings, where they are confined, fed and maintained for at least forty-five (45) days during any year, and where there is no ground cover or vegetation present over at least half of the animal's confinement area. Livestock markets and sale barns are excluded. (See Section 4.15).

Conforming Manufactured Home

Pursuant to Public Law 312, Acts of 1981 (IC 36-7-4-1106), a residence constructed after January 1, 1981, that exceeds nine hundred fifty (950) square feet of occupied space and which is installed as a permanent dwelling unit which may be placed or constructed providing it complies with setback, side and rear yard, parking space, minimum square footage requirements, and other specific requirements of this Ordinance and the district in which it is located, and the under floor space requirements of the Portland Unified Zoning and Subdivision Control Ordinance.

Construction Plan See "Plan, Conceptual."

Contingent Use

A use that is essential or desirable to the public convenience or welfare but is not necessarily a permitted use.

Convenience Store

Any commercial location, facility, or structure where motor vehicle fuel and groceries (including food, drink, and household items) are sold on the same premises.

Conventional Development

Development other than planned development.

Correctional Facility

A building or series of buildings used for the purpose of confining criminals.

Council

The Common Council of the City of Portland, Indiana.

County

Jay County, Indiana.

Covenants

Private and legal restrictions of various kinds on the usage of lots within a subdivision which are proposed by the subdivider and, in the case of public health, safety and welfare, by the Commission, that are recorded with the plat and deed. Covenants can also be placed on commercial and industrial developments.

Cul-De-Sac

A short street having one (1) end open to traffic and being permanently terminated by a vehicular turn-around.

Culvert

A structure designed to convey a watercourse not incorporated in a closed drainage system under a road or pedestrian walk.

Curb

A vertical or sloping edge of a roadway.

Curb, Barrier

A steep-faced curb intended to prevent encroachments.

Curb, Mountable

A low curb with a flat slope designed to be crossed easily without discomfort.

Day Care Center See "Child Care Facility"

Dedication

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

Density

The number of buildings, offices, or housing units on a particular area of land.

Density, High

Those residential districts in which the density is not in excess of ten (10) dwelling units per acre.

Density, Low

Those residential districts in which the density is equal to or less than four (4) dwelling units per acre.

Density, Medium

Those residential districts in which the density is less than or equal to eight (8) dwelling units per acre, but not less than five (5) dwelling units per acre.

Design Flood See “Regulatory Flood.”

Design Standards

Standards that set forth specific improvement requirements, including but not limited to Standards for Acceptance of Municipal Improvements as adopted by City Ordinance 1985-12.

Design Standards Variance See “Variance, Design Standards/Development Regulations.”

Detached Building

A building that has no structural connection with the principal building.

Detention Basin

A man-made or natural water collector facility designed to collect surface and subsurface water in order to impede its flow and to release the same, gradually, at a rate not greater than that prior to the development of the property, into natural or man-made outlets.

Developer

The owner or legal representative of land proposed to be subdivided or commercially/industrially utilized. Consent for making applications for development approval shall be required from the legal owner of the premises.

Design Review Board A group of citizens appointed by the Mayor and approved by the City Council for the purpose of protecting visual character and community aesthetics through the recommendation and/or establishment of published design guidelines.

Development Plan See “Plan, Development.”

Development Regulation

Zoning, subdivision, site plan, official map, flood plain regulation, or other governmental regulation of the use and development of land.

Development Regulation Standards See “Design Standards.”

Development Regulation Variance See “Variance, Design Standards/Development Regulations.”

Digital Dish System

A small dish of approximately one (1) to two (2) feet (.3-.6m) in diameter installed on or adjacent to a building for the purpose of receiving audio/video signals transmitted by a private telecommunications company.

District

A section of the City of Portland or the two mile area for which uniform zoning regulations governing use, height, area, size, intensity of use of buildings and land, and open spaces about buildings, as established by this Ordinance.

Divided Street See "Street, Divided."

Drainage

The removal of surface water or groundwater from land by drains, grading, or other means.

Drainage Facility

Any component of the drainage system.

Drainage System

The system through which water flows from the land, including all watercourses, water bodies, and wetlands.

Drive-In

An establishment selling foods, desserts, or beverages to consumers, the establishment being designed, intended or used for the consumption of such items on the premises outside of the building in which they were prepared.

Drives, Private See "Street, Private."

Duplex

Any structure which contains only two (2) dwelling units; a two-family dwelling.

Dwelling

A building or structure or portion thereof, conforming to all requirements applicable to the residential use districts and Portland Building Code, used exclusively for residential occupancy, including single-family dwelling units, two-family dwelling units, and multi-family dwelling units, but excluding hotels, boarding houses, and lodging houses.

Dwelling, Multi-Family See "Apartment Building/Multi-Family Dwelling"

Dwelling, Single-Family

A detached residential dwelling unit designed for and occupied by one (1) family.

Dwelling, Two-Family

A detached residential building containing two (2) dwelling units designed for occupancy by not more than two (2) families. (See also "Duplex.")

Dwelling Unit

Any structure or portion thereof designed for or used for residential purposes as a self-sufficient or individual unit by one (1) family or other social association of persons and having permanently installed cooking and sanitary facilities.

Easement

A grant by a property owner to specific persons, the general public, corporations, utilities, or others, for the purpose of providing services or access to the property.

Environmental Constraints

Features, natural resources, or land characteristics that are sensitive to improvements and may require conservation measures or the application of creative development techniques to prevent degradation of the environment, or may require limited development, or in certain instances may preclude development.

Erosion

The detachment and movement of soil or rock fragments, or the wearing away of the land surface by water, wind, ice or gravity.

Escrow

A deed, a bond, money, or a piece of property delivered to a third person to be delivered by him to the grantee only upon fulfillment of a condition.

Essential Services

The phrase "Essential Services" means the erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead electrical, gas, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles and other similar equipment and accessories in connection therewith, but not including buildings reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or including electrical substations. No permit is required for essential services.

Expressway/Freeway

Any roadway that operates at a high service level, consists of limited access, is divided, carries region-wide traffic and is generally classified as part of an interstate system.

Family

An individual, or two (2) or more persons related by blood, marriage, or adoption, or a group of not more than three (3) persons, not related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit.

Farm

An area used for agricultural operations, forestry, the operating of a tree or plant nursery, or the production of livestock and poultry.

Fence

A structure or barrier, consisting of living or not-living material, designed and constructed to prevent escape or intrusion, mark a boundary, or for enclosures and/or screening. Such a structure or barrier being made of posts and wire or boards. A hedge serving the same purposes as a fence shall be considered a fence.

Fee Schedule See "Official Fee Schedule."

Filling Station

Any establishment supplying and selling motor vehicle fuel or oil direct to motor vehicles.

Final Approval

The official action of the Plan Commission taken on a preliminarily approved major subdivision or site plan, after all conditions, engineering plans, and other requirements have been completed or fulfilled and the required improvements have been installed, or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantee (generally referred to as secondary approval).

Final Plat

The final map of all or a portion of a development which is presented for final approval (generally referred to as secondary plat.)

Flood Control

The prevention of floods, the control, regulation, diversion or confinement of flood water or flood flow, and the protection therefrom, according to sound and accepted engineering practice, to minimize the extent of floods, and the death, damage, and destruction caused thereby.

Flood Plain

The relatively flat area or low land adjoining the channel of a river or stream which has been or may be covered by flood water. The flood plain includes the channel, floodway, and floodway fringe. Flood plain boundaries are to be determined by using the Floodway- Flood Boundary Maps of the Federal Insurance Administration.

Flood Protection Grade

The elevation of the lowest point around the perimeter of a building at which flood waters may enter the interior of the building.

Floodway See "Regulatory Floodway."

Floor Area

The horizontal area of all floors of buildings or structures.

Footprint See "Building Footprint."

Foundation

The supporting member of a wall or structure.

Freeway See "Expressway/Freeway"

Front Line

With respect to a building, the foundation line that is nearest the front lot line.

Front Lot Line

For an interior or through lot, the line marking the boundary between the lot and the abutting street right-of-way or a lake or watercourse; and for a corner lot, the line marking the boundary between the lot and the shorter of the two abutting street right-of-way segments; except as deed restrictions specify otherwise. (See Figure 2.1, page 2-30)

Front Yard

The horizontal space between the nearest foundation of a building to the Front Lot Line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the Front Lot Line, unless deed restrictions specify otherwise. (See Figure 2.1, page 2-30)

Frontage

All property of a lot fronting on a street right-of-way, as measured between side lot lines.

Garage, Private

A detached accessory building or an accessory portion of the principal building, including a carport which is intended for and used for storing the private passenger vehicles of the family or families resident upon the premises, and in which no business, service or industry connected directly or indirectly with the automotive vehicles is carried on, provided that not more than one-half of the space may be rented for the private passenger vehicles of persons not resident on the premises, except that all the space in a garage of one or two-car capacity may be so rented.

Garage, Public

Any building, except those defined herein as a private garage, used for the storage or care of motor vehicles, or where such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

General Development Plan See “ Plan, General Development.”

Governing Body See “Council.”

Grade

The slope of a street, or other public way, specified in percentage (%) terms.

Greenhouse, Commercial

Any location, facility, or structure where plants are grown indoors for sale.

Greenhouse, Residential

Any accessory use, structure, or addition to a residential property where plants are grown indoors for hobby, personal use, or personal consumption. Also, any accessory use, structure, or addition to a residential property being primarily constructed of glass or other translucent materials.

Ground Cover

A planting of low-growing plants or sod that in time forms a dense mat covering the area, preventing both soil from being blown or washed away and the growth of unwanted plants.

Ground Floor Area

See Building Area

Group Home

Refer to facilities listed under Indiana Code, Title 12, Human Services

Gutter

A shallow channel usually set along a curb or the pavement edge of a road for purposes of catching and carrying off runoff water.

Hardship

A difficulty with regard to one's ability to improve land stemming from the application of the development standards of this Ordinance, which may or may not be subject to relief by means of variance. In and of themselves, self-imposed situations and claims based on a perceived reduction of or restriction on economic gain shall not be considered hardships. Self-imposed situations include: the purchase of land with actual or constructive knowledge that, for reasons other than physical characteristics of the property, the development standards herein will inhibit the desired improvement; any improvement initiated in violation of the standards of this Ordinance; any result of land division requiring variance from the development standards of this Ordinance in order to render that site buildable.

Height of Building

The vertical distance measured from the highest ground level at the foundation to the highest point of the roof, or any projection thereof.

High Density See “Density, High.”

Historic District

An area related by historical events or themes, by visual continuity or character, or by some other special feature that helps give it a unique historical identity, which may be designated as such by local, state, or federal government. (See Section 3.5)

Historic Site

A structure or place of historical significance, which may be designated as such by local, state, or federal government.

Home Occupation

A home occupation is a business conducted in a residential dwelling unit that is incidental and subordinate to the primary residential use. (See Section 4.4)

Hotel

A building in which lodging or board and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public. Compensation is usually assessed on a day-to-day basis.

Hospital

An institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for three (3) or more non-related individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions. The term "hospital" as used in this Ordinance does not apply to institutions operating primarily for treatment of insane persons, drug addicts, alcoholics, and other types of cases necessitating restraint of patients, and the term "hospital" shall not include convalescent, nursing, shelter, or boarding homes.

Impervious Surface

A **mainly artificial** surface that has been compacted or covered with a layer of material so that it is resistant to infiltration by water, such as concrete, asphalt, brick, paving block.

Impoundment

A body of water, such as a pond, confined by a dam, dike, floodgate, or other barrier.

Improvement

Any man-made, immovable item which becomes part of, is placed upon, or is affixed to, real estate; facilities which aid in land development.

Improvement Location Permit

A permit signed by the Zoning Administrator/Director stating that a proposed improvement complies with the provisions of this Ordinance and such other ordinances as may be applicable.

Incinerator

A device, structure, or facility designed to reduce waste volume by combustion, consisting of refuse handling and storage facilities, furnaces, combustion chambers, subsidence chambers, residue handling and removal facilities, and chimneys.

Industrial District

Refers to the I and PD-I Districts.

Integrated Center

A building containing a number of individual, unrelated and separately operated uses which share common site facilities and services such as driveway entrances and exits, parking areas, truck loading, maintenance, sewer and water utilities, or similar common facilities and services; or one or more buildings containing individual, unrelated and separately operated uses, occupying a site under one ownership of management for lease, and utilizing one or a combination of the aforementioned common services.

Interstate See "Expressway."

Island

With respect to street design, a raised area, usually curbed, placed to guide traffic and separate lanes, or uses for landscaping, signing, or lighting.

Junk

Old, cast off, or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some use. Any article of material which is composed of, but not limited to, copper, brass, rags, batteries, paper, trash, rubber, stone, wrecked or dismantled automobiles, trucks, trailers, farm machinery or other vehicles or equipment, or parts thereof, iron, steel and other old or scrap ferrous or non-ferrous metal.

Junk Yard / Salvage Yard

A structure or place, usually outdoors, where waste or discarded used property other than putrefying matter is accumulated or stored and is or may be salvaged for re-use or resale, including, but not limited to, one (1) or more unlicensed or inoperable motor vehicle or farm machinery or equipment of any kind.

Jurisdiction

The territory under the regulatory control of the Portland Plan Commission, including all lands inside and those within two (2) miles of the corporate limits of the City of Portland as described on the map entitled *Jurisdictional Area of Portland, Indiana*.

Kennel

Any lot on which four (4) or more dogs, or small animals at least four (4) months of age, are kept.

Landscaping

The improvement of a lot with grass, shrubs, trees, and other vegetation and/or ornamental objects. Landscaping may include pedestrian walks, flowerbeds, berms, fountains and other similar natural and manmade objects designed and arranged to produce an aesthetically pleasing effect.

Light Industrial Use

Manufacturing, processing, heavy repairing, dismantling, or storage, in which all operations, other than transportation, are performed entirely within enclosed buildings and for which all loading and unloading facilities are enclosed.

Limited Access Highway

A highway to which abutting properties are denied access.

Loading and Unloading Berths

The off-street area required for the receipt or distribution by vehicles of material or merchandise, which in this Ordinance is held to be, at minimum, a twelve (12) foot by thirty (30) foot loading space with a fourteen (14) foot height clearance, paved with a hard surface.

Local Street See "Street, Local."

Lodging House

A building, not available to transients, in which lodgings are regularly provided for compensation for at least three (3) but not more than thirty (30) persons.

Lot

A parcel of land occupied or to be occupied by one (1) or more buildings and uses including the open spaces required under this Ordinance. A lot may be land so recorded on official records or it may include parts or a combination of such lots when adjacent to one another, provided such ground is used for only one (1) principle use, or may be a parcel of land described by metes and bounds.

Lot, Corner

A lot situated at the intersection of two (2) streets or which fronts a street on two (2) or more sides. (See Figure 2.1, page 2-30)

Lot Coverage

The area of a lot occupied by the principal building and any accessory buildings.

Lot Depth

The horizontal distance between the front and rear lot lines.

Lot, Interior

A lot other than a corner lot or through lot. (See Figure 2.1, page 2-30)

Lot Line, Front

In the case of an interior lot, a line separating the lot from the street or place; and in the case of a corner lot, a line separating the lot from each street or place. (See Figure 2.1, page 2-30)

Lot Line, Rear

A lot line which is opposite and most distant from the front lot line, and in case of an irregular or triangular-shaped lot, a line ten (10) feet in length within the lot, parallel to and at a maximum distance from the front lot line. (See Figure 2.1, page 2-30)

Lot Line, Side

Any lot boundary line not a front lot line or a rear lot line. (See Figure 2.1, page 2-30)

Lot, Through

A lot fronting on two (2) parallel or approximately parallel streets and includes lots fronting on both a street and a watercourse or lake.

Lot Width

The distance between the side lot lines as measured on the building line.

Low Density See "Density, Low."**Main**

In any system of continuous piping, the principal artery of the system to which branches may be connected.

Maintenance Guarantee

Any security which may be required and accepted by a governmental agency to ensure that necessary improvements will function as required for a specific period of time.

Maneuvering Space

An open space in a parking area, which is immediately adjacent to a parking space. Is used for and/or is necessary for turning, backing or driving forward a motor vehicle into such parking space, but not used for the parking of storage on motor vehicles.

Manufactured Home

A dwelling unit designed and constructed to the "National Manufactured Housing Construction and Safety Standards Act of 1974" as amended and published by the United States Department of Housing and Urban Development and having the HUD Manufactured Home Label attached to the unit.

Marker (Survey)

A stake, pipe, rode, nail, or any other object which is not intended to be a permanent point for record purposes.

Master Plan See "Plan, Comprehensive."**Median**

That portion of a divided highway separating lanes of traffic proceeding in opposite directions.

Medium Density See “Density, Medium.”

Mobile Commercial Structure

A mobile structure consisting to two (2) or more single-story units.

Mobile Home

A factory-fabricated building built on a chassis and so constructed as to permit its being towed upon public thoroughfares and designed to be used for year-round living when connected to the required utilities. The term "manufactured home" is defined as a dwelling unit built in a factory and bearing a seal of compliance with Federal Manufactured Housing Construction and Safety Standards of Indiana Public Law 360, Acts of 1971, as amended, which is of at least 600 square.

Mobile Home Parks

Any site, lot, field, or tract of land under single ownership, or ownership of two or more persons upon which two or more mobile homes to be used for human habitation are parked, either free of charge or for revenue purposes, and shall include any street used or intended for use as part of the facilities of such mobile home park. A mobile home park does not include a mobile home sales area on which unoccupied mobile homes are parked for inspection or sale.

Mobile Home Park Street

A public or private way other than an alley which affords a primary means of access to abutting property within a mobile home park.

Mobile Home Subdivision

Any site, lot, field, or tract of land under single ownership, or ownership of two or more persons, which is to be divided into smaller sites, lots, fields, or tracts of land, which smaller sites, lots, fields, or tracts of land are to be sold for use by the purchaser to park such purchaser's mobile homes.

Mobile Residential Structure

A mobile structure consisting of one (1) or more units, additions, or components erected or installed that are not preempted by the HUD “National Manufactured Housing Construction and Safety Standards Act of 1974”.

Mobile Structure

Means any part of a fabricated unit that is designed to be towed on its own chassis and connected to utilities for year round occupancy or used as a Class 1 Structure, a Class 2 Structure, or another structure, as defined by the Indiana Building Code, as amended. The term includes two or more components that can be retracted for towing purposes and subsequently expanded for additional capacity, or two or more units that are separately towable but designed to be joined into one integral unit. Whenever any mobile system is placed on a permanent foundation, the mobile system shall be considered an industrialized building system.

Mobile Transitory Structure

A mobile structure consisting of one (1) single-story unit certified under IC 22-15-4-2, with the Indiana Mobile Unit Insignia attached to the unit.

Modular Commercial Structure

A modular structure of one (1) or more units or enclosed panels to be used or occupied as a Class 1 structure or an accessory structure thereto, based upon the number of stories and a specific completed structure configuration.

Modular Residential Structure

A modular structure of one or more units or enclosed panels to be used or occupied as a one or two family dwelling (Class 2 Structure, as defined by the Indiana Building Code, as amended) or an accessory structure thereto, based upon the number of stories, not to exceed three, and a specific completed structure configuration.

Modular Structure

An industrialized building system other than a mobile structure intended for placement upon a permanent foundation.

Monument (Survey)

A permanent physical structure which marks the location of a corner or other survey point.

Motel

An establishment consisting of a group of attached or detached living or sleeping accommodations with bathroom and closet space, located on a single zoning lot, and designed for use by transient automobile tourists. A motel furnishes customary hotel services such as maid service and laundering of linen, telephone, secretarial, or desk service, and the use and upkeep of furniture.

Motor Vehicle

Any machine propelled by power other than human power to travel along the ground or other surface by the use of wheels, treads, runners, slides or any other method of propelling along any surface and transport persons or property or pull machinery, trailer or other device, and shall include but not necessarily be limited to a motor vehicle, automobile, motorcycle, truck, trailer, semi-trailer, truck tractor, tractor, bus, school bus, recreational vehicle, boat or other vehicle intended to be operated upon water and construction vehicles.

Mountable Curb See "Curb, Mountable."

Moving Lane

Any traffic lane where traffic movement is the primary if not sole function.

Mulch

A layer of wood chips, dry leaves, straw, hay, plastic, or other materials placed on the surface of the soil around plants to retain moisture, prevent weeds from growing, hold the soil in place, aid in plant growth, or improve the general aesthetic quality.

Mural

A non-commercial message, picture, scene, or diagram exhibited on the outside wall of a building or structure through application of paint, canvas, tile, panels or similar materials such that the wall becomes the background surface or platform for the mural. (See Section 8.10)

Non-Conforming Building

A building, structure, or portion thereof, which was designed, erected, or structurally altered such that it does not conform to the regulations of the district in which it is located.

Non-Conforming Use

A use which does not conform with the use regulations of the district in which it is located.

Nuisance

The use of land or behavior that brings harm or substantial annoyance to adjacent property owners or the public in general.

Nursing Home

A private home for the care of the aged or infirm, or any other person in need of nursing care and which does not contain equipment for surgical care or for treatment of disease or injury, and is not primarily designed for mental patients or alcoholics.

Official Fee Schedule

Schedule of fees established by City Council and maintained in the Clerk-Treasurer's office and the Building and Planning Department, which specifies all current permit fees, rates, penalties, etc.

Off-Site

Located outside the lot lines of the lot in question but within the property (of which the lot is a part) that is the subject of a development application, or in a contiguous portion of a street or right-of-way.

Off-Site Improvements

Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval, upon which is located improvements required by or related to the property to be subdivided.

Off-Street Parking Space See “Parking, Off-Street.”

Off-Tract

Not located on the property that is the subject of a development application nor on a contiguous portion of a street or right-of-way.

On-Site

Located on the lot in question.

On-Street Parking Space See “Parking, On-Street.”

On-Tract

Located on the property that is the subject of a development application or on a contiguous portion of a street right-of-way.

Open Space, Common

Land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development. It may include complementary structures and improvements.

Open Space, Public

An open space area conveyed or otherwise dedicated to a municipality, municipal agency, board of education, state or county agency, or other public body for recreational or conservational uses.

Outdoor Advertising See “Sign, Outdoor Advertising.”

Outdoor Café

Any portion of food establishment or eating or drinking place located on a public sidewalk or public open space that provides waiter or waitress service and is unenclosed.

Outdoor Sales See “Sales ...”

Outdoor Storage See “Storage, Outdoor.”

Owner

Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PUZSCO

The Portland Unified Zoning and Subdivision Control Ordinance.

Parcel

A piece of land having a legal description formally set forth in a conveyance together with a description of its location, shape, and size, in order to make possible its easy identification.

Parking, Off-Street

A parking space provided in a parking lot, parking structure, or private driveway.

Parking, On-Street

A parking space that is located on a dedicated street right-of-way.

Parking Area, Public

An open area, other than a street or alley, designed for use or used for the temporary parking of more than four motor vehicles when available for public use, whether free or for compensation or as an accommodation for clients or customers, and paved with a hard surface.

Parking Lane

A lane generally located on the sides of streets, designed to provide on-street parking for vehicular traffic.

Parking Space, Automobile

Space within a public or private parking area for the storage of one (1) passenger automobile or commercial vehicle under a one and one-half (1 ½) ton capacity.

Parks & Recreation Zoning District

Refers to a "PR" District.

Performance Bond

An amount of money or other negotiable security paid by the subdivider or his surety to the City which guarantees that the subdivider will perform all actions required by the City regarding an approved plat, and provides that if the subdivider defaults and fails to comply with the provisions of an approved plat, the subdivider or his surety will pay damages up to the limit of the bond, or the surety will itself complete the requirements of the approved plat.

Permanent Foundation

A structural system for transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.

Permanent Perimeter Enclosure

A permanent perimeter structural system completely enclosing the space between the floor joists of the home and the ground, except for the necessary openings, constructed in accordance with the Portland Building Code.

Person

A corporation, firm, partnership, association, organization, unit of government, or any other group that acts as a unit, as well as a natural person.

Plan

In reference to documentation, The Comprehensive Plan of Portland, Indiana, and any other supporting or accompanying ordinances, plans, resolutions, rules, or regulations and including their provisions, except where the context clearly indicates otherwise.

Plan, Capital Improvement

A proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project. Major projects requiring the expenditure of public funds, over and above the annual local government's operating expenses, for the purchase, construction, or replacement of the capital improvements for the community are included.

Plan Commission

The Advisory Plan Commission of the City of Portland.

Plan, Comprehensive

A long-range plan intended to guide the growth and development of the community; inclusive physical, social, and economic analysis, recommendations, proposals, plans, and policies in graphic statement forms for the development of the jurisdiction and adopted by the Commission pursuant to the IC 36-7-4-500 series and including any part and/or policies separately adopted and any amendment to such plan or parts thereof.

Plan, Conceptual / Construction

A preliminary presentation and attendant documentation of a proposed subdivision or site plat showing the specific location and design of improvements to be installed for the subdivision or site in accordance with the requirements of this Plan as a condition of the approval of the plat.

Plan, Development

A drawing, including a legal or site description of the real estate involved, which shows the location and size of all existing and proposed easements; widths and lengths of all entrances and exits to and from said real estate; location of all adjacent or adjoining streets; all of which presents a unified and organized arrangement of buildings and service facilities and other improvements such as planting areas, which shall have a functional relationship to the real estate comprising the planned development and to the uses of properties immediately adjacent to the proposed development.

Plan, General Development

A plan outlining general, rather than detailed, development intentions. It describes the basic parameters of a major development proposal, rather than giving full engineering details. As such, it allows general intentions to be proposed and discussed without the extensive costs involved in submitting a detailed proposal.

Plan, Thoroughfare

A plan which includes a street plan, sets forth the location, alignment, dimensions, identification, and classification of existing and proposed streets, and other thoroughfares.

Planned Development (PUD)

A large-scale unified development meeting the requirements for zoning approval under the provisions of Section VI of this Ordinance. Generally, a planned development consists of a parcel or parcels of land, controlled by a single landowner, to be developed as a single entity which does not correspond in size of lots, bulk or type of buildings, density, lot coverage, and required open space to the regulations established in any district specified in this Ordinance. This may result in more attractive and affordable development than conventional developments would allow. Clustered housing (dwellings built in innovative lot arrangements around common open space) and zero lot line housing (dwellings built immediately adjacent to lot lines) are possible as part of planned developments. A planned development requires approval through a zoning map amendment.

Plat

A map or chart that shows a division of land and is intended to be filed for record.

Plat, Primary

The primary plat, pursuant to IC 36-7-4-700 series, is the plat and plans upon which the approval of a proposed subdivision are based. The primary plat and plans shall be subject to public notice and public hearing according to law and according to Plan Commission rules. (Under former State Statutes, the primary plat was referred to as a "preliminary" plat.)

Plat, Secondary

The secondary plat, pursuant to IC 36-7-4-700 series, is the final plat document in recordable form. A secondary plat shall substantially conform with the preceding primary plat, or section thereof. The secondary plat and plans are not subject to public notices and public hearings. Secondary plat approval is an administrative function to be carried out in the manner prescribed by the written rules of the Advisory Plan Commission rules, either in public meeting or by Zoning Administrator/Director. (Under former state statutes, the secondary plat was referred to as the "Final" Plat.)

Porch

A roofed-over structure projecting out from the wall or walls of a main structure and commonly open to the weather in part.

Portland Building Code See "Building Code."

Practical Difficulty

A difficulty with regard to one's ability to improve land stemming from regulations of this Ordinance. A practical difficulty is not a "hardship", rather it is a situation where the owner could comply with the regulations within this Ordinance, but would like a variance from the Development Standards to improve his site in a practical manner. For instance, a person may request a variance from a side yard setback due to a large tree which is blocking the only location that would meet the Development Standards for a new garage location.

Principal Building/Structure

The building or structure in which the principal use of the lot or premises is located or conducted, with respect to residential uses, the principal building or structure shall be the main dwelling.

Principal Use

The main use of land or buildings as distinguished from an accessory use. A principal use may be either a permitted use or a special exception.

Private School

Private preprimary, primary, grade, high or preparatory school or academy.

Private Street - See "Street, Private."

Professional Office

An office used by members of a recognized profession such as architects, artists, dentists, engineers, lawyers, musicians, physicians, surgeons or pharmacists, and realtors or insurance agents and brokers.

Public Improvements

Any storm drainage facility, street, highway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, lot improvement, utility, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

Public Open Space See "Open Space, Public."

Public Parking Area See "Parking Area, Public."

Public/Private Parking Area

A group of parking spaces in an open area not including any part of a street or alley, designed or used for temporary parking of motor vehicles.

Public Street See "Street, Public."

Public Utility

Any person, firm, or corporation duly authorized to furnish under public regulation to the public, electricity, gas, steam, telephone, fiber optics, transportation, water, or sewerage systems.

PUD See "Planned Unit Development."

Rear Lot Line See "Lot Line, Rear."

Rear Yard See "Yard, Rear."

Recreational Vehicle

Any boat, boat trailer, trailer, any camping trailer, travel trailer, pick-up, motor coach, motor home or other unit built or mounted on a vehicle or chassis, without permanent foundation, which may legally be driven or towed by a motor vehicle on a highway or street.

Recreational Vehicle Park

Any site, lot, field, or tract of land under single ownership, or ownership of two or more people, designed with facilities for short-term occupancy by recreational vehicles only.

Recycling

A resource recovery method involving the collection and processing of a waste product for use as raw material in the manufacture of new products.

Recycling Center

Any permanent structure or facility where recyclable materials are stored or processed.

Recycling Drop-Off

Any structure, facility, or location, either temporary or permanent, where recyclable materials from more than one household are left for transport to a recycling center.

Recycling, Mobile Unit

Any vehicle, wagon, cart, trailer, or moveable bin used for the collection and/or temporary storage of recyclable materials.

Registered/Certified Land Surveyor

A land surveyor properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Registered Professional Engineer

An engineer properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Regulatory Flood

A flood having a peak discharge which can be equaled or exceeded on the average of once in a one hundred (100) year period, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission; this flood is equivalent to a flood having a probability of occurrence of one percent (1%) in any given year.

Regulatory Flood Profile

A longitudinal profile along the thread of a stream showing the maximum water surface elevation attained by the regulatory flood.

Regulatory Floodway

The channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to efficiently carry and discharge peak flow of the regulatory flood of any river or stream and, is that area covered by floodwaters in significant downstream motion or covered by significant volumes of stored water during the occurrence of the regulatory flood.

Residential District

Refers to a RR, R-4, R-8, R-10 or PD-R District.

Resubdivision

A change in a recorded subdivision plat if such change affects any street layout or area reserved thereon for public use or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

Retaining Wall

A structure erected between lands of different elevation to protect structures and/or to prevent the washing down or erosion of earth from the upper slope level.

Retention Basin

A pond, pool, or basin used for the permanent storage of water runoff.

Right-of-Way

A strip of land occupied or intended to be occupied by transportation facilities, public utilities, or other special public uses. Rights-of-way intended for any use involving maintenance by a public agency shall be dedicated to the public use by the maker of the plat on which such right-of-way is established.

Rule 5

Any construction activity, which includes clearing, grading, excavation, and other land disturbing activities that results in the disturbance of one (1) or more acres of total land area. Regulated by the Jay County Soil and Water Conservation District and the Indiana Department of Environmental Management (IDEM).

Sale, Roadside

Sale of goods by one or more vendor over the age of eighteen (18), having transported such goods or services by car, truck, bicycle, trailer, or cart to a temporary roadside location (See City of Portland Ordinance Chapter 110 Solicitation).

Sale, Sidewalk

Sale of goods or services by one or more vendor on a sidewalk or public open space immediately outside of the commercial establishment in which such goods or services are typically sold (See City of Portland Ordinance Chapter 110 Solicitation).

Salvage Yard / Junk Yard See "Junk Yard / Salvage Yard"

Sanitary Landfill

A site on which solid wastes are disposed of in a manner protective to the environment, such that wastes are spread in thin layers, compacted to the smallest practical volume, and covered with soil at the end of each work day.

Satellite Dish

An apparatus capable of receiving audio/visual broadcasts from a transmitter relay located in a planetary orbit. Generally four (4) to eight (8) feet (1.2 to 2.4 m) in diameter.

School

A public or private institution which offers instruction in any of the branches of learning and study comparable to that taught in the public schools under the Indiana School Laws, including pre-kindergarten, kindergarten, elementary school, and junior and senior high schools, but excluding trade, business, or commercial schools.

Scrap Metal Yard

A general industrial use, including but not limited to, established independent or ancillary to and connected with another general industrial use, which is concerned exclusively in new and salvaged metal pipes, wire, beams, angles, rods, machinery, parts, fittings, clippings, vehicle parts, and all other metal items of every type, and which acquires such items incidental to its connection with the other general industrial use or by purchase, consignment or bailment which stores, grades, processes, melts, cuts, dismantles, compresses, cleans, or in any way prepares said items for reuse by the connected other general industrial use or for storage, sale and shipment and use in other industries or businesses; such an establishment shall not include junk yards, dumps, or automobile graveyards.

Seasonal Business

A temporary business operating at a non-permanent location for certain months of the year or during special events.

Service Station See "Automobile Service Station."

Setback

The minimum horizontal distance between the building line and a lot line or right-of-way. (See Fig. 2.1, page 2-29)

Shared Housing

Any dwelling unit which the owner allows to be occupied by unrelated persons living as a single housekeeping unit, provided that the number of occupants does not exceed twice the number of bedrooms, and that the total number of occupants does not exceed four (4) regardless of the number of bedrooms.

Shoulder

The graded part of the right-of-way that lies between the edge of the main pavement (main traveled way) and the curb.

Side Lot Line

A lot boundary line other than a front or rear lot line. (See Figure 2.1, page 2-30)

Sidewalk

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

Side Yard

The horizontal space between the nearest foundation of a building to the side lot line and that side lot line, unoccupied other than by architectural appurtenances projecting not more than twenty-four (24) inches into that space; steps or terraces not higher than the level of the first floor of the building; and open lattice-enclosed fire escapes, fireproof outside stairways and balconies projecting not over twenty-four (24) inches into that space. (See Figure 2.1, page 2-30)

Sight Triangle

A triangular-shaped portion of land established at street or alley intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

Sign

A name, identification, description, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building, structure, or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization, or business.

Sign, Outdoor Advertising

A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located or to which it is affixed. Also called billboard or off-premises sign.

Sign, Temporary

A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

Small Business

A business that is independently owned and operated that is not dominant in its field of operation; a home-based business used as a market segment.

Special Exception

The authorization of a use that is designated as such by this ordinance as being permitted in the district concerned if it meets special conditions, and upon application, is specifically authorized by the Plan Commission per Section 10.3 of this Ordinance.

Storage, Outdoor

The outdoor accumulation of goods, junk, vehicles, equipment, products, or materials for permanent or temporary holding.

Story

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof.

Street

Any street, avenue, boulevard, road, parkway, viaduct, drive, or other roadway.

Street, Arterial

A street designed for high volume traffic.

Street, Collector

A street designed to facilitate the collection of traffic from local streets and to provide circulation within neighborhood areas and convenient ways to reach arterial streets.

Street, Divided

A street having an island or other barrier separating moving lanes.

Street Furniture

Man-made, above-ground items that are generally found in street rights-of-way, including benches, kiosks, plants, canopies, shelters, and phone booths.

Street Hardware

The mechanical and utility systems within a street right-of-way, such as hydrants, manhole covers, traffic lights and signs, utility poles and lines, and parking meters.

Street, Local

A street designed primarily to provide access between individual properties and a collector and arterial street system.

Street, Private

Vehicular streets and driveways, paved or unpaved, which are wholly within private property except where they intersect with other streets within public rights-of-way and are maintained by the owner(s).

Street, Public

Any publicly dedicated, accepted and maintained right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, easement, lane, road, drive, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for said purposes. A public street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking space, and similar features.

Strip Development

Uncoordinated and often unsightly development that generally occurs along main highways and thoroughfares leading into and out of a community. Strip development often includes fast food restaurants, filling stations, used car lots, and shopping centers.

Structure

Any building or thing, constructed or erected, which requires location on the ground or attachment to something having a location on the ground.

Structural Alterations

Any change in the supporting members of a building or structure such as bearing walls, partitions, columns, beams or girders, or any substantial change in the footprint or increasing size of living space.

Subdivision

A tract of land which has been divided into smaller pieces (called lots), usually for the purpose of constructing residences which will be sold individually. (See Section 7)

Survey Marker See "Marker (Survey)"

Survey Monument See "Monument (Survey)"

Swimming Pool

A self-contained body of water at least eighteen (18) inches deep and eight (8) feet in diameter or width and used for recreational purposes. It may be above or below ground level, and shall be considered an accessory structure and use.

Television Antenna

A metal tower located on or adjacent to a residence or other structure, for the purpose of receiving broadcast messages from signal and/or relay towers.

Temporary Business

Any business operating at or within a moveable location or structure, or any business operating at a location which lacks permanent infrastructure including full utilities, parking, permanent signage, etc.

Temporary Sign See "Sign, Temporary."

Territorial Jurisdiction See "Jurisdiction."

Thoroughfare Plan

The plan, now and hereafter adopted, which includes a street plan, sets forth the location, alignment, dimensions, identification, and classification of existing and proposed streets, and other thoroughfares.

Trade or Business School

A secretarial or business school or college that is not publicly owned, is not owned, conducted, or sponsored by a religious, charitable, or non-profit organization, and is not a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering, hairdressing, or the industrial or technical arts and like skills.

Use

The purposes of which land, building, or structure thereon is designed, arranged, or intended, or for which it is occupied, maintained, let, or leased.

Utility See "Public Utility."

Variance, Use

The approval of a use other than that prescribed by this Ordinance; an act granted by IC 36-7-4-918.4. (See Section 10.4)

Variance, Design Standards/Development Regulations

A specific approval granted by a Board of Zoning Appeals in the manner prescribed in Section 10.3 of this Ordinance, to deviate from the development standards (such as height, bulk, area) that the Ordinance otherwise prescribes.

Veterinary Animal Hospital or Animal Clinic

A place used for the care, diagnosis and treatment of sick, ailing, infirm or injured animals, and those who are in need of medical or surgical attention, and may include overnight accommodations on the premises for treatment, observation and/or recuperation. It may also include boarding that is incidental to the principal activity or use.

Yard

A space on the same lot with a principal building that is open and unobstructed except as otherwise authorized by this ordinance.

Yard, Front

The horizontal space between the nearest foundation of a building to the front lot line, extending to the side lines of the lot, and measured as the shortest distance from the nearest foundation to the front lot line. A corner lot shall have two (2) front yards abutting both streets on which the corner lot has frontage, except as deed restrictions specify otherwise. (See Figure 2.1, page 2-30)

Yard, Rear

The horizontal space between the nearest foundation of a building to the rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from the nearest foundation to the rear lot line. The rear yard of a corner lot shall be that yard at the opposite end of the lot from the front yard. (See Figure 2.1, page 2-30)

Yard, Side

The horizontal space between the nearest foundation of a building to the side lot line and that side lot line, unoccupied other than by architectural appurtenances projecting not more than twenty-four (24) inches into that space; steps or terraces not higher than the level of the first floor of the building; and open lattice-enclosed fire escapes, fireproof outside stairways and balconies projecting not over twenty-four (24) inches into that space. (See Figure 2.1, page 2-30)

Zone

An area or areas of the community in which certain land uses are permitted and other uses are prohibited by a zoning ordinance.

Zoning Administrator/Director

The officer, or his/her designee(s), appointed and/or delegated the responsibility for the administration of this Ordinance's regulations. Also referred to as the Administrator, Plan Commission Director and/or the Jay/Portland Building & Planning Department Director/Administrator, or his/her designee(s)

Zoning District See "District."

Zoning Map

The official zoning map of the City of Portland, Indiana, denoting zoning districts.

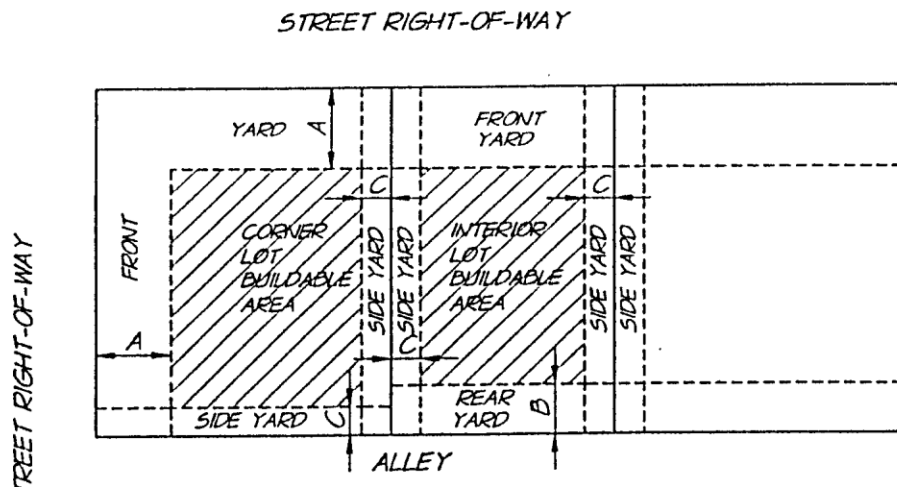
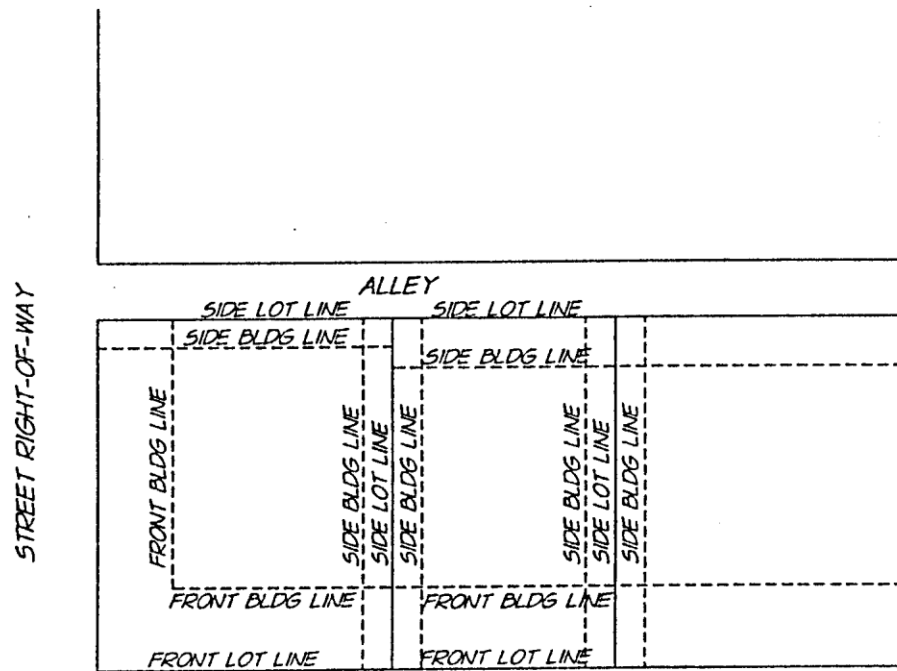
Zoning Ordinance

A set of development guidelines, specifications, and regulations enacted by the Council to create districts which permit certain land uses and character specifications and prohibit others; in reference to documentation, the Portland Unified Zoning and Subdivision Control Ordinance, and any other supporting or accompanying ordinances, plans, resolutions, rules, or regulations and including their provisions, except where the context clearly indicates otherwise.

Zoo

A permanent location, building, or structure where more than one exotic animal is kept, indoors and/or outdoors, as an attraction, and where admission is collected.

FIGURE 2.1



- A - FRONT YARD MINIMUM AS SPECIFIED IN SECTION 5.2 TABLE B
- B - REAR YARD MINIMUM AS SPECIFIED IN SECTION 5.2 TABLE D
- C - SIDE YARD MINIMUM AS SPECIFIED IN SECTION 5.2 TABLE C

Section 3

Zoning District Intent, Uses, & Standards

3.1 ESTABLISHMENT

The City is divided into the following districts for purposes as stated:

PR: Parks & Recreation District

The purpose of the Parks & Recreation (PR) District is to provide areas for public and quasi-public uses, areas for passive and active recreation, and conservation of unique and/or environmentally sensitive natural areas.

AR: Agricultural Residential District

The Agricultural Residential (AR) District is composed of land being used primarily for agricultural activities near the limit of the territorial jurisdiction which is not expected to develop more intensive urban uses within the near future. It is the intent of this district to promote responsible agricultural uses, to conserve its desirable rural character, to preserve prime farmland, and to protect the area from the encroachment of scattered urban uses that may inhibit the overall development of the jurisdiction in accordance with the Comprehensive Plan.

RR Rural Residential District

Included in the Rural Residential (RR) District is the large part of the Jurisdictional Area outside the city subject to residential use where no clear pattern of development is evident, used primarily for single-family dwellings.

R4: Low Density Residential District

The Low Density Residential (R-4) District is established for low density single-family residential development with a density of four dwelling units or less per gross acre. The regulations applicable to this district are intended to promote the new development of larger lot housing opportunities within the community.

R8: Medium Density Residential District

The Medium Density Residential (R-8) District is established for medium density residential development with a density of five to eight dwelling units per gross acre. This district applies to a large portion of Portland's existing residential areas. It is the intent of the regulations applicable to this district to promote the development and redevelopment of housing which is supportive in character and proportion to existing residential development adjacent to downtown areas.

R10: High Density Residential District

The High Density Residential (R-10) District is established for relatively high-density single-family, two-family, and multi-family residential development with a density of ten dwelling units or less per gross acre. The regulations applicable to this district are intended to facilitate a wide variety of multi-family housing opportunities.

NB: Neighborhood Business District

The Neighborhood Business (NB) District is established for promoting the responsible development and operation of small business establishments, located in predominately residential areas along major or high traffic arteries.

HS: Highway Service District

The Highway Service (HS) District is established for areas along major traffic arteries in order to promote responsible development of the appropriate shopping and service needs of such locations.

CB: Central Business District

The Central Business (CB) District is established to promote and regulate a variety of urban uses within the downtown area, which will preserve and promote a level of vitality necessary for the regional attraction of commerce.

IND: Industrial District

The Industrial (IND) Districts are areas designated for the development and expansion of light industrial, manufacturing, and wholesale business establishments, which are clean, quiet, and free of hazardous or objectionable elements and operate primarily within enclosed buildings.

PD: Planned Development Districts

Planned Development Districts (PD-R, PD-B, PD-I, and PD-E) are established with the intent of providing greater design flexibility in the development of land when consistent with the Comprehensive Plan and the intent of this Ordinance. Planned Development Districts shall only be established under the conditions set forth in Section 6 hereof.

3.1-2 Additional Districts

Historical Districts:

A district established by the City of Portland to govern exterior restoration and maintenance of buildings and esthetics in the Historical Districts. (See Section 3.5)

Airport Overlay District:

The Airport Overlay Zoning District (AO) shall include all zones as indicated on the Portland Municipal Airport Airspace Plan, dated May 6, 2013, which is a part of this ordinance and incorporated herein by reference. All land so indicated is hereby zoned and classified as the Airport Overlay Zoning District. (See Section 3.16)

3.2 OFFICIAL ZONING MAP

The zoning map of the City of Portland is hereby included as part of this Ordinance. The map shall be known as the Official Zoning Map of the City of Portland, Indiana.

- A. The Zoning Map is a public document with the original map located in the Office of the City of Portland Clerk-Treasurer.
- B. The Zoning District boundaries shall be shown on the Zoning Map. The abbreviations for the zoning districts appearing throughout this Ordinance shall be used to identify the zoning districts on the map. Planned developments shall be shown on the map by dashed lines and shall be identified by the number and date of passage of the Ordinance approving the Planned Development.
- C. The Zoning Map shall be revised annually, or as the Plan Commission determines, with certified copies made thereof, to show the amendments adopted by the City Council during the previous year. Such revisions may correct drafting or other errors or omissions in the prior map, but shall not have the effect of amending the Zoning Map except as adopted by the City Council during the previous year. Such revisions shall be necessary only to correct previous errors.
- D. In the event that the Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may, by resolution, adopt a new Zoning Map, which shall supersede the prior Zoning Map.

3.3 BOUNDARIES

District boundaries on the Zoning Maps shall meet the following standards:

- A.** District boundaries shown within the lines of roads, easements, and transportation rights-of-way shall be deemed to follow the centerlines.
- B.** Boundaries indicated as following section or fractional section lines, platted lot lines, or City corporation lines shall be construed as following such lines.
- C.** Boundaries indicated as parallel to or extensions of above features shall be so construed as so.
- D.** Boundaries indicated as approximately following the centerline of streams, rivers, or other bodies of water shall be construed to follow such centerlines as established on the effective date of this Ordinance.
- E.** Where a district boundary line divides a lot in single or joint ownership of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than fifty feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district.
- F.** The vacation of streets and roads shall not affect the location of such district boundaries.
- G.** When the Zoning Administrator/Director cannot definitely determine the location of a district boundary by such centerlines, by scale or dimensions stated on the Zoning Map, or by the fact that it clearly does not coincide with a property line, the Zoning Administrator/Director shall refuse action and the Plan Commission shall interpret the location of the district boundary with reference to the scale of the Zoning Map and the purposes set forth in all relevant provisions of this Ordinance. If subject to appeal, the BZA shall interpret.
- H.** Where existing physical or cultural features are at conflict with those shown on the Zoning Map, or in other circumstances not covered by subsections A through G above, the Plan Commission shall interpret the district boundaries. If subject to appeal, the BZA shall interpret.

3.4 SUBDIVISIONS, CLUSTER DEVELOPMENTS, PLANNED DEVELOPMENTS, CONDOMINIUMS AND ZERO LOT LINE DEVELOPMENTS

The subdivision of land pursuant to the requirements of Section 7 herein shall be permitted in these districts: AR, RR, R4, R8, R10, CB, HS, and NB. The intended principal use of each of the proposed lots within a proposed subdivision shall govern the specific district or districts appropriate to the land to be subdivided, as defined in Section 4 of this Ordinance.

However, the following classifications of subdivisions shall only be permitted in RR, R4, R8 or R10 districts: Major subdivisions intended entirely for residential use, and any portions of major subdivisions intended for residential use;

Planned Developments shall be permitted only in these districts: PD-R, PD-B, PD-I, and PD-E, as per Section 5.2 of this Ordinance. In order to provide greater design flexibility, and to encourage innovative land development techniques and a more efficient use of land, the design and development of uses within these districts may deviate from the standards prescribed in Sections 3 and 4 herein.

Condominiums, as defined and regulated in IC 32-25 (Condominium), cluster developments, zero lot line developments, and all developments of the minimum sizes specified in Section 5.2 of this Ordinance and larger shall be considered for zoning purposes to be Planned Developments, and consequently shall be permitted only in these districts: PD-R, PD-B, PD-I and PD-E, as per Section 5.2 of this Ordinance.

3.5 HISTORICAL DISTRICT

The district established by the City of Portland to govern exterior restoration and maintenance of buildings and esthetics located in the Historic District. (See Portland Downtown Historic Preservation District Map).

All changes to the land or the exterior of buildings located in the Downtown Historic Preservation District of the City of Portland will require a Certificate of Appropriateness (COA) issued from the Portland Historic Preservation Commission before the Zoning Administrator/Director may issue a permit for any construction activity or signage placement.

The City of Portland Historic Preservation Commission Ordinance and Portland Historic Preservation Commission (PHPC) were established under City of Portland Ordinance # 2008-7 and the City of Portland Downtown Commercial Historic District was established under City of Portland Ordinance # 2008-22 and Ordinance #2014-6.

PR – Parks & Recreation District
3.6 "PR" District Intent, Permitted Uses,
and Special Exception Uses

Section 3

District Intent

The purpose of the Parks & Recreation (PR) district is to provide areas for public and quasi-public uses, areas for passive and active recreation and conservation of unique and/or environmentally sensitive natural areas.

Permitted Uses

Special Exception Uses

Public Facilities

Park and/or Playground
 Nature Area and/or Trail Area
 Sporting Facility & Areas
 Athletic fields, Courts & Areas
 Swimming Pool
 Golf Course/Country Club
 Driving Range
 Cemetery/Crematorium
 Parking Area (as a primary use)

Uses NOT Permitted

Confined Feeding Operations
 Hazardous Waste Disposal
 Facilities
 Recycling Collection Center
 Salvage / Scrap Yard
 Small Wind Energy System -
 Privately Owned

Communication/Utilities

Above Ground Water Tank
 Communication Relay Tower
 Pipeline Pumping Station
 Sewage Treatment Facilities
 Utility Substation
 Water Treatment Facilities

The Plan Commission, upon hearing a recommendation from the Zoning Administrator/Director, shall determine into which category any use shall be placed which is not specifically listed or defined herein.

<u>Lot & Yard Standards</u>	<u>Additional Development Standards</u>
Minimum Lot Area: 2 Acres Minimum Lot Width: N/A Maximum Lot Coverage: 5% Minimum Front Yard Setback: 30 feet / Arterial Street 20 feet / Collector or Local Street Minimum Side Yard Setback: 20 feet Adjacent to PR, AR, RR 15 feet Adjacent to R4 5 feet Adjacent to R8, R10 20 feet Adjacent to HS, NB, CB, IND Minimum Rear yard Setback: 5 feet from the property line, or the edge of the street right-of-way or alley right-of-way. Maximum Height Regulation: 35 feet See Additional Development Standards That Apply	Accessory Uses & Structures Page 4-2 Miscellaneous Standards Page 4-3 Nonconforming Uses Page 4-5 Home Occupation Page 4-8 Highway Service Additional Standards Page 4-11 Central Business Additional Standards Page 4-11 Buffering Standards Page 4-12 Screening Standards Page 4-14 Landscaping Standards Page 4-15 Fences, Hedges and Walls Page 4-17 Sight Visibility Standards Page 4-18 Entrance and Driveway Page 4-19 Parking Standards Page 4-20 Industrial Standards Page 4-23 Loading Standards Page 4-27 Environmental Standards Page 4-28 Confined Feeding Page 4-31 Small Wind Energy System - Privately Owned Page 4-32 Wind Energy System - Commercial Page 4-34

Additional Information

- 1. Signage Regulations:** See Section 8 of this Ordinance.
- 2. Conflicts:** All conflicts concerning lot/yard regulations specified in this section in existence prior to the time of adoption of this ordinance shall be considered legal nonconforming lots or structures and are subject to Section 5 of this Ordinance.
- 3. Setbacks:** No building or structure shall be erected, altered, enlarged or reconstructed unless such improvement conforms to the yard regulations of the district in which it is located.

AR – Agricultural Residential District (2 Mile Area)**3.7 "AR" District Intent, Permitted Uses,
and Special Exception Uses****Section 3****District Intent**

The Agricultural Residential (AR) District is composed of land being used primarily for agricultural activities near the limit of the territorial jurisdiction which is not expected to develop more intensive urban uses within the near future. It is the intent of this district to promote responsible agricultural uses, to conserve its desirable rural character, to preserve prime farmland, and to protect the area from encroachment of scattered urban uses that may inhibit the overall development of the jurisdiction in accordance with the comprehensive plan.

<u>Permitted Uses</u>	<u>Permitted Uses</u>	<u>Permitted Uses</u>
<u>Residential Uses</u> Dwelling, Single Family Manufactured Home <u>Agricultural Uses</u> Agricultural Seed Sales Allowable Livestock Operation Artificial Lake/3 Acres or More Commercial Greenhouse Cropland and/or Orchard Farm Equip. Sales & Service Fertilizer Storage/Distribution Pasture and Grazing Plant Nursery Pond Roadside Produce Stand	<u>Business Uses</u> Animal Clinic-Veterinarian Equine Massage Therapy Kennel/Pet Boarding Warehouse/Mini-Storage Bldg. Outdoor Advertising/Billboard **(County Roads Only) <u>Public Facilities</u> Church/Temple/Mosque Golf Course/Driving Range Public Park/Private Camp Riding Stable & Trails	<u>Communication/Utilities</u> Above Ground Water Tank Communication Relay Tower Pipeline Pumping Station Radio/TV Station Small Wind Energy System - Privately Owned Utility Substation
<u>Special Exception Uses</u>	<u>Special Exception Uses</u>	<u>Uses NOT Permitted</u>
<u>Residential Uses</u> Group Home <u>Agricultural Uses</u> Livestock Auction Barn Livestock &/or Feed Yard <u>Public Facilities</u> Archery/Firearm Range Cemetery/Crematorium Highway/Municipal Garage Lodge or Private Club Reception Hall Theater, Outdoor Theme/Amusement Park Zoo	<u>Business Uses</u> Adult Day Care Facility Bed & Breakfast (1-5 Rooms) Child Care Facility Convenience Store Gasoline Filling Station General Contractor School and/or College	Mobile Homes Confined Feeding Operations Hazardous Waste Disposal Facility

The Plan Commission, upon hearing a recommendation from the Zoning Administrator/Director, shall determine into which category any use shall be placed which is not specifically listed or defined herein.

<u>Lot & Yard Standards</u>	<u>Additional Development Standards</u>
Minimum Lot Area: 2 Acres	Accessory Uses & Structures Page 4-2 Miscellaneous Standards Page 4-3 Nonconforming Uses Page 4-5 Home Occupation Page 4-8 Highway Service Additional Standards Page 4-11 Central Business Additional Standards Page 4-11 Buffering Standards Page 4-12 Screening Standards Page 4-14 Landscaping Standards Page 4-15 Fences, Hedges and Walls Page 4-17 Sight Visibility Standards Page 4-18 Entrance and Driveway Page 4-19 Parking Standards Page 4-20 Industrial Standards Page 4-23 Loading Standards Page 4-27 Environmental Standards Page 4-28 Confined Feeding Page 4-31 Small Wind Energy System - Privately Owned Page 4-32 Wind Energy System - Commercial Page 4-34
Minimum Lot Width: N/A	
Maximum Lot Coverage: 25%	
Minimum Front Yard Setback: 30 feet / Arterial Street 20 feet / Collector or Local Street	
Minimum Side Yard Setback: 20 feet Adjacent to PR, AR, RR 15 feet Adjacent to R4, R8, R10 20 feet Adjacent to HS, NB, CB, IND	
Minimum Rear yard Setback: 5 feet from the property line, or the edge of the street right-of-way or alley right-of-way.	
Maximum Height Regulation: 35 feet Wind Energy Tower / Privately Owned 100 feet	
See Additional Development Standards That Apply	

Additional Information

1. Conflicts: All conflicts concerning lot/yard regulations specified in this section in existence prior to the time of adoption of this ordinance shall be considered legal nonconforming lots or structures and are subject to Section 5 of this ordinance.

2. Setbacks: No building or structure shall be erected, altered, enlarged, or reconstructed unless such improvement conforms to the yard regulations of the district in which it is located.

RR - Rural Residential District
3.8 "RR" District Intent, Permitted Uses,
and Special Exception Uses

Section 3

District Intent

Included in the Rural Residential (RR) District is the large part of the Jurisdictional Area outside the city subject to residential use where no clear pattern of development is evident, used primarily for single-family dwellings.

Permitted Uses

Residential Uses

Dwelling, Single Family
 Manufactured Home

Public Facilities

Public Park

Special Exception Uses

Agricultural

Artificial Lake/3 Acres or More
 Pond

Public Facilities

Bed & Breakfast/ 1-5 Rooms
 Church/Temple/Mosque

Special Exception Uses

Business Uses

Adult Day Care Facility
 Child Care Facility

Communication/Utilities

Above Ground Water Tank
 Pipeline Pumping Station
 Small Wind Energy System -
 Privately Owned
 Utility Substation

Uses NOT Permitted

Mobile Homes
 Confined Feeding Operations
 Hazardous Waste Disposal
 Facilities
 Recycling Collection Center
 Salvage / Scrap Yard

The Plan Commission, upon hearing a recommendation from the Zoning Administrator/Director, shall determine into which category any use shall be placed which is not specifically listed or defined herein.

<u>Lot & Yard Standards</u>	<u>Additional Development Standards</u>
Minimum Lot Area: 2 Acres (Without Sanitary Sewer) 0.5 Acres (with Sanitary Sewer)	Accessory Uses & Structures Page 4-2 Miscellaneous Standards Page 4-3 Nonconforming Uses Page 4-5 Home Occupation Page 4-8 Highway Service Additional Standards Page 4-11 Central Business Additional Standards Page 4-11 Buffering Standards Page 4-12 Screening Standards Page 4-14 Landscaping Standards Page 4-15 Fences, Hedges and Walls Page 4-17 Sight Visibility Standards Page 4-18 Entrance and Driveway Page 4-19 Parking Standards Page 4-20 Industrial Standards Page 4-23 Loading Standards Page 4-27 Environmental Standards Page 4-28 Confined Feeding Page 4-31 Small Wind Energy System - Privately Owned Page 4-32 Wind Energy System - Commercial Page 4-34
Minimum Lot Width: 100 feet	
Maximum Lot Coverage: 25%	
Minimum Front Yard Setback: 50 feet / Arterial Street 40 feet / Collector or Local Street	
Minimum Side Yard Setback: 20 feet Adjacent to PR, AR, RR 15 feet Adjacent to R4, R8, R10 20 feet Adjacent to HS, NB, CB, IND	
Minimum Rear yard Setback: 5 feet from the property line, or the edge of the street right-of-way or alley right-of-way.	
Maximum Height Regulation: 35 feet Wind Energy Tower / Privately Owned 100 feet	
See Additional Development Standards That Apply	

Additional Information

- Conflicts:** All conflicts concerning lot/yard regulations specified in this section in existence prior to the time of adoption of this ordinance shall be considered legal nonconforming lots or structures and are subject to Section 4 of this ordinance.
- Setbacks:** No building or structure shall be erected, altered, enlarged, or reconstructed unless such improvement conforms to the yard regulations of the district in which it is located.

R4 - Low Density Residential District
3.9 "R4" District Intent, Permitted Uses,
and Special Exception Uses

Section 3

District Intent

The Low Density Residential (R4) District is established for low density single-family residential development with a density of four dwelling units or less per gross acre. The regulations applicable to this district are intended to promote the new development of larger lot housing opportunities within the community.

Permitted Uses

Residential Uses

Dwelling, Single Family
 Manufactured Home

Special Exception Uses

Public Facilities

Church/Temple/Mosque
 Public Park

Uses NOT Permitted

Mobile Homes
 Confined Feeding Operations
 Hazardous Waste Disposal
 Facilities
 Recycling Collection Center
 Salvage / Scrap Yard
 Small Wind Energy System -
 Privately Owned

The Plan Commission, upon hearing a recommendation from the Zoning Administrator/Director, shall determine into which category any use shall be placed which is not specifically listed or defined herein.

R4 - Low Density Residential District
3.9 "R4" Development Standards

Section 3

<u>Lot & Yard Standards</u>	<u>Additional Development Standards</u>																																						
<p>Minimum Lot Area: .25 Acres (10,890 Square Feet)</p> <p>Minimum Lot Width: 100 feet</p> <p>Maximum Lot Coverage: 25%</p> <p>Minimum Front Yard Setback: 30 feet / Arterial Street 20 feet / Collector or Local Street</p> <p>Minimum Side Yard Setback: 10 feet Adjacent to PR, AR, RR 10 feet Adjacent to R4, R8, R10 15 feet Adjacent to HS, NB, CB, IND</p> <p>Minimum Rear yard Setback: 5 feet from the property line, or the edge of the street right-of-way or alley right-of-way.</p> <p>Maximum Height Regulation: 25 feet</p> <p>See Additional Development Standards That Apply</p>	<table> <tr><td>Accessory Uses & Structures</td><td>Page 4-2</td></tr> <tr><td>Miscellaneous Standards</td><td>Page 4-3</td></tr> <tr><td>Nonconforming Uses</td><td>Page 4-5</td></tr> <tr><td>Home Occupation</td><td>Page 4-8</td></tr> <tr><td>Highway Service Additional Standards</td><td>Page 4-11</td></tr> <tr><td>Central Business Additional Standards</td><td>Page 4-11</td></tr> <tr><td>Buffering Standards</td><td>Page 4-12</td></tr> <tr><td>Screening Standards</td><td>Page 4-14</td></tr> <tr><td>Landscaping Standards</td><td>Page 4-15</td></tr> <tr><td>Fences, Hedges and Walls</td><td>Page 4-17</td></tr> <tr><td>Sight Visibility Standards</td><td>Page 4-18</td></tr> <tr><td>Entrance and Driveway</td><td>Page 4-19</td></tr> <tr><td>Parking Standards</td><td>Page 4-20</td></tr> <tr><td>Industrial Standards</td><td>Page 4-23</td></tr> <tr><td>Loading Standards</td><td>Page 4-27</td></tr> <tr><td>Environmental Standards</td><td>Page 4-28</td></tr> <tr><td>Confined Feeding</td><td>Page 4-31</td></tr> <tr><td>Small Wind Energy System - Privately Owned</td><td>Page 4-32</td></tr> <tr><td>Wind Energy System - Commercial</td><td>Page 4-34</td></tr> </table>	Accessory Uses & Structures	Page 4-2	Miscellaneous Standards	Page 4-3	Nonconforming Uses	Page 4-5	Home Occupation	Page 4-8	Highway Service Additional Standards	Page 4-11	Central Business Additional Standards	Page 4-11	Buffering Standards	Page 4-12	Screening Standards	Page 4-14	Landscaping Standards	Page 4-15	Fences, Hedges and Walls	Page 4-17	Sight Visibility Standards	Page 4-18	Entrance and Driveway	Page 4-19	Parking Standards	Page 4-20	Industrial Standards	Page 4-23	Loading Standards	Page 4-27	Environmental Standards	Page 4-28	Confined Feeding	Page 4-31	Small Wind Energy System - Privately Owned	Page 4-32	Wind Energy System - Commercial	Page 4-34
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Additional Information

- 1. Signage Regulations:** See Section 8 of this Ordinance.
- 2. Corner Lots:** Corner lots are considered to have 2 front yards.
- 3. Conflicts:** All conflicts concerning lot/yard regulations specified in this section in existence prior to the time of adoption of this ordinance shall be considered legal nonconforming lots or structures and are subject to Section 4 of this Ordinance.
- 4. Setbacks:** No building or structure shall be erected, altered, enlarged, or reconstructed unless such improvement conforms to the yard regulations of the district in which it is located.
- 5. Orientation of Structures:** All new structures build on established lots or blocks shall be oriented as existing structures; (front doors must face the street). All new structures must blend with existing housing.

R8 - Medium Density Residential District
3.10 "R8" District Intent, Permitted Uses,
and Special Exception Uses

Section 3

District Intent

The Medium Density Residential (R8) District is established for medium density residential development with a density of five to eight dwelling units or less per gross acre. This district applies to a large portion of Portland's existing residential areas. It is the intent of the regulations applicable to this district to promote the development and redevelopment of housing which is supportive in character and proportion to existing residential development adjacent to downtown areas.

Permitted Uses

Residential Uses

Dwelling, Single Family
 Manufactured Home

Special Exception Uses

Residential Uses

Dwelling, Two-Family/Duplex
 Apartment House
 Group Home
 Nursing Home
 Retirement Community

Public Facilities

Bed & Breakfast/ 1-5 Rooms
 Church/Temple/Mosque

Uses NOT Permitted

Apartment Building(s)/
 Multi-Family Dwelling(s)
 Mobile Homes
 Hazardous Waste Disposal
 Facilities
 Recycling Collection Center
 Salvage / Scrap Yard
 Small Wind Energy System -
 Privately Owned

The Plan Commission, upon hearing a recommendation from the Zoning Administrator/Director, shall determine into which category any use shall be placed which is not specifically listed or defined herein.

<u>Lot & Yard Standards</u>	<u>Additional Development Standards</u>																																						
<p>Minimum Lot Area: .125 Acres (5,445 Square Feet)</p> <p>Minimum Lot Width: 60 feet</p> <p>Maximum Lot Coverage: 40%</p> <p>Minimum Front Yard Setback: 10 feet / Arterial Street 10 feet / Collector or Local Street</p> <p>Minimum Side Yard Setback: 5 feet Adjacent to PR, AR, RR 5 feet Adjacent to R4, R8, R10 10 feet Adjacent to HS, NB, CB, IND</p> <p>Minimum Rear yard Setback: 5 feet from the property line, or the edge of the street right-of-way or alley right-of-way.</p> <p>Maximum Height Regulation: 25 feet</p> <p>See Additional Development Standards That Apply</p>	<table> <tr><td>Accessory Uses & Structures</td><td>Page 4-2</td></tr> <tr><td>Miscellaneous Standards</td><td>Page 4-3</td></tr> <tr><td>Nonconforming Uses</td><td>Page 4-5</td></tr> <tr><td>Home Occupation</td><td>Page 4-8</td></tr> <tr><td>Highway Service Additional Standards</td><td>Page 4-11</td></tr> <tr><td>Central Business Additional Standards</td><td>Page 4-11</td></tr> <tr><td>Buffering Standards</td><td>Page 4-12</td></tr> <tr><td>Screening Standards</td><td>Page 4-14</td></tr> <tr><td>Landscaping Standards</td><td>Page 4-15</td></tr> <tr><td>Fences, Hedges and Walls</td><td>Page 4-17</td></tr> <tr><td>Sight Visibility Standards</td><td>Page 4-18</td></tr> <tr><td>Entrance and Driveway</td><td>Page 4-19</td></tr> <tr><td>Parking Standards</td><td>Page 4-20</td></tr> <tr><td>Industrial Standards</td><td>Page 4-23</td></tr> <tr><td>Loading Standards</td><td>Page 4-27</td></tr> <tr><td>Environmental Standards</td><td>Page 4-28</td></tr> <tr><td>Confined Feeding</td><td>Page 4-31</td></tr> <tr><td>Small Wind Energy System - Privately Owned</td><td>Page 4-32</td></tr> <tr><td>Wind Energy System - Commercial</td><td>Page 4-34</td></tr> </table>	Accessory Uses & Structures	Page 4-2	Miscellaneous Standards	Page 4-3	Nonconforming Uses	Page 4-5	Home Occupation	Page 4-8	Highway Service Additional Standards	Page 4-11	Central Business Additional Standards	Page 4-11	Buffering Standards	Page 4-12	Screening Standards	Page 4-14	Landscaping Standards	Page 4-15	Fences, Hedges and Walls	Page 4-17	Sight Visibility Standards	Page 4-18	Entrance and Driveway	Page 4-19	Parking Standards	Page 4-20	Industrial Standards	Page 4-23	Loading Standards	Page 4-27	Environmental Standards	Page 4-28	Confined Feeding	Page 4-31	Small Wind Energy System - Privately Owned	Page 4-32	Wind Energy System - Commercial	Page 4-34
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Additional Information

1. Additional Front Yard Requirements: Minimum front yard is 10 feet on all R-8 properties unless an existing setback is clearly established by adjacent properties on the block or street. In the latter case, the minimum front yard shall be equal to the average setback of the existing homes on the block or street. An established block (setback) can be computed as follows: All residences would be within 2 feet + or - of the median average of all residences within the block. If a median still cannot be obtained, strike the high and low distances. If an average +2 or -2 cannot be obtained, the block is not an established block. At least 50% of the residences should meet these requirements using the first formula, or 75% using the second formula.

2. Corner Lots: Corner lots are considered to have 2 front yards.

3. Conflicts: All conflicts concerning lot/yard regulations specified in this section in existence prior to the time of adoption of this ordinance shall be considered legal nonconforming lots or structures and are subject to Section 4 of this Ordinance.

4. Setbacks: No building or structure shall be erected, altered, enlarged or reconstructed unless such improvement conforms to the yard regulations of the district in which it is located.

5. Orientation of Structures: All new structures built on established lots or blocks shall be oriented as existing structures; (front doors must face the street). All new structures must blend with existing housing.

R10 - High Density Residential District
3.11 "R10" District Intent, Permitted Uses,
and Special Exception Uses

Section 3

District Intent

The High Density Residential (R10) District is established for relatively high density single-family, two-family, and multi-family residential development with a density of ten dwelling units or less per gross acre. The regulations applicable to this district are intended to facilitate a wide variety of multi-family housing opportunities.

Permitted Uses

Residential Uses

Dwelling, Single Family
Dwelling, Two-Family/Duplex
Apartment House
Apartment Building(s)/
Multi-Family Dwelling(s)
Manufactured Home

Special Exception Uses

Residential Uses

Group Home
Mobile Home Park
Nursing Home
Retirement Community

Public Facilities

Bed & Breakfast / 1-5 Rooms
Church/Temple/Mosque

Uses NOT Permitted

Hazardous Waste Disposal
Facilities
Recycling Collection Center
Salvage / Scrap Yard
Small Wind Energy System -
Privately Owned

The Plan Commission, upon hearing a recommendation from the Zoning Administrator/Director, shall determine into which category any use shall be placed which is not specifically listed or defined herein.

<u>Lot & Yard Standards</u>	<u>Additional Development Standards</u>																																						
<p>Minimum Lot Area: .125 Acres (5,445 Square Feet)</p> <p>Minimum Lot Width: 60 feet</p> <p>Maximum Lot Coverage: 40%</p> <p>Minimum Front Yard Setback: 20 feet / Arterial Street 10 feet / Collector or Local Street</p> <p>Minimum Side Yard Setback: 5 feet Adjacent to PR, AR, RR 5 feet Adjacent to R4, R8, R10 10 feet Adjacent to HS, NB, CB, IND</p> <p>Minimum Rear yard Setback: 5 feet from the property line, or the edge of the street right-of-way or alley right-of-way.</p> <p>Maximum Height Regulation: 35 feet</p> <p>See Additional Development Standards That Apply</p>	<table> <tr><td>Accessory Uses & Structures</td><td>Page 4-2</td></tr> <tr><td>Miscellaneous Standards</td><td>Page 4-3</td></tr> <tr><td>Nonconforming Uses</td><td>Page 4-5</td></tr> <tr><td>Home Occupation</td><td>Page 4-8</td></tr> <tr><td>Highway Service Additional Standards</td><td>Page 4-11</td></tr> <tr><td>Central Business Additional Standards</td><td>Page 4-11</td></tr> <tr><td>Buffering Standards</td><td>Page 4-12</td></tr> <tr><td>Screening Standards</td><td>Page 4-14</td></tr> <tr><td>Landscaping Standards</td><td>Page 4-15</td></tr> <tr><td>Fences, Hedges and Walls</td><td>Page 4-17</td></tr> <tr><td>Sight Visibility Standards</td><td>Page 4-18</td></tr> <tr><td>Entrance and Driveway</td><td>Page 4-19</td></tr> <tr><td>Parking Standards</td><td>Page 4-20</td></tr> <tr><td>Industrial Standards</td><td>Page 4-23</td></tr> <tr><td>Loading Standards</td><td>Page 4-27</td></tr> <tr><td>Environmental Standards</td><td>Page 4-28</td></tr> <tr><td>Confined Feeding</td><td>Page 4-31</td></tr> <tr><td>Small Wind Energy System - Privately Owned</td><td>Page 4-32</td></tr> <tr><td>Wind Energy System - Commercial</td><td>Page 4-34</td></tr> </table>	Accessory Uses & Structures	Page 4-2	Miscellaneous Standards	Page 4-3	Nonconforming Uses	Page 4-5	Home Occupation	Page 4-8	Highway Service Additional Standards	Page 4-11	Central Business Additional Standards	Page 4-11	Buffering Standards	Page 4-12	Screening Standards	Page 4-14	Landscaping Standards	Page 4-15	Fences, Hedges and Walls	Page 4-17	Sight Visibility Standards	Page 4-18	Entrance and Driveway	Page 4-19	Parking Standards	Page 4-20	Industrial Standards	Page 4-23	Loading Standards	Page 4-27	Environmental Standards	Page 4-28	Confined Feeding	Page 4-31	Small Wind Energy System - Privately Owned	Page 4-32	Wind Energy System - Commercial	Page 4-34
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- 3. Setbacks:** No building or structure shall be erected, altered, enlarged, or reconstructed unless such improvement conforms to the yard regulations of the district in which it is located.
- 4. Orientation of Structures:** All new structures built on established lots or blocks shall be oriented as existing structures; (front doors must face the street). All new structures must blend with existing housing.

NB - Neighborhood Business District
3.12 "NB" District Intent, Permitted Uses,
and Special Exception Uses

Section 3

District Intent

This Neighborhood Business (NB) District is established for promoting the responsible development and operation of small business establishments, located in predominately residential areas along major or high traffic arteries.

<u>Permitted Uses</u>	<u>Permitted Uses</u>	
<p><u>Residential Uses</u> Dwelling, Single-Family Dwelling, Two-Family/Duplex Apartment House Manufactured Home</p> <p><u>Public Facilities</u> Church/Temple/Mosque Funeral Home/Mortuary Government Office Police / Fire Station</p>	<p><u>Business Uses</u> Adult Day Care Facility Barber Shop Child Care Facility Hair Salon Nail Salon Photography Studio Seamstress / Shoe Repair Small Business Office Therapeutic Massage</p>	
<u>Special Exception Uses</u>	<u>Special Exception Uses</u>	<u>Uses NOT Permitted</u>
<p><u>Residential Uses</u> Group Home Nursing Home Retirement Community</p> <p><u>Public Facilities</u> Library Lodge or Private Club Museum Reception Hall School and/or College</p> <p><u>Communication/Utilities</u> Pipeline Pumping Station Utility Substation</p>	<p><u>Business Uses</u> Animal Clinic - Veterinarian Automotive Service & Repair Bank/Credit Union/ATM Bed & Breakfast / 1-5 Rooms Convenience Store Dry Cleaning Store Gasoline Filling Station Grocery Store Hospital/Medical Clinic Laundry, Self Service Liquor/Wine/Beer Store Medical Offices Printing/Design Shop Restaurant / Cafe Retail/Variety Store Small Engine Sales & Service Tanning Salon Thrift/Second-Hand Store Video Rental/Sales Store Welding Shop Wood Working Shop</p>	<p>Apartment Building(s)/ Multi-Family Dwelling(s) Mobile Home Adult Bookstore/Entertainment Automotive Sales Lot/New or Used Hazardous Waste Disposal Facilities Recycling Collection Center Salvage / Scrap Yard Small Wind Energy System - Privately Owned</p>

The Plan Commission, upon hearing a recommendation from the Zoning Administrator/Director, shall determine into which category any use shall be placed which is not specifically listed or defined herein.

<u>Lot & Yard Standards</u>	<u>Additional Development Standards</u>																																						
<p>Minimum Lot Area: .25 Acres (10,890 Square Feet)</p> <p>Minimum Lot Width: 60 feet</p> <p>Maximum Lot Coverage: 40%</p> <p>Minimum Front Yard Setback: 50 feet / Arterial Street 20 feet / Collector or Local Street</p> <p>Minimum Side Yard Setback: 10 feet Adjacent to PR, AR, RR 5 feet Adjacent to R4, R8, R10 15 feet Adjacent to HS, NB, CB, IND</p> <p>Minimum Rear yard Setback: 5 feet from the property line, or the edge of the street right-of-way or alley right-of-way.</p> <p>Maximum Height Regulation: 35 feet</p> <p>See Additional Development Standards That Apply</p>	<table> <tr><td>Accessory Uses & Structures</td><td>Page 4-2</td></tr> <tr><td>Miscellaneous Standards</td><td>Page 4-3</td></tr> <tr><td>Nonconforming Uses</td><td>Page 4-5</td></tr> <tr><td>Home Occupation</td><td>Page 4-8</td></tr> <tr><td>Highway Service Additional Standards</td><td>Page 4-11</td></tr> <tr><td>Central Business Additional Standards</td><td>Page 4-11</td></tr> <tr><td>Buffering Standards</td><td>Page 4-12</td></tr> <tr><td>Screening Standards</td><td>Page 4-14</td></tr> <tr><td>Landscaping Standards</td><td>Page 4-15</td></tr> <tr><td>Fences, Hedges and Walls</td><td>Page 4-17</td></tr> <tr><td>Sight Visibility Standards</td><td>Page 4-18</td></tr> <tr><td>Entrance and Driveway</td><td>Page 4-19</td></tr> <tr><td>Parking Standards</td><td>Page 4-20</td></tr> <tr><td>Industrial Standards</td><td>Page 4-23</td></tr> <tr><td>Loading Standards</td><td>Page 4-27</td></tr> <tr><td>Environmental Standards</td><td>Page 4-28</td></tr> <tr><td>Confined Feeding</td><td>Page 4-31</td></tr> <tr><td>Small Wind Energy System - Privately Owned</td><td>Page 4-32</td></tr> <tr><td>Wind Energy System - Commercial</td><td>Page 4-34</td></tr> </table>	Accessory Uses & Structures	Page 4-2	Miscellaneous Standards	Page 4-3	Nonconforming Uses	Page 4-5	Home Occupation	Page 4-8	Highway Service Additional Standards	Page 4-11	Central Business Additional Standards	Page 4-11	Buffering Standards	Page 4-12	Screening Standards	Page 4-14	Landscaping Standards	Page 4-15	Fences, Hedges and Walls	Page 4-17	Sight Visibility Standards	Page 4-18	Entrance and Driveway	Page 4-19	Parking Standards	Page 4-20	Industrial Standards	Page 4-23	Loading Standards	Page 4-27	Environmental Standards	Page 4-28	Confined Feeding	Page 4-31	Small Wind Energy System - Privately Owned	Page 4-32	Wind Energy System - Commercial	Page 4-34
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Additional Information

- 1. Corner Lots:** Corner lots are considered to have 2 front yards.
- 2. Conflicts:** All conflicts concerning lot/yard regulations specified in this section in existence prior to the time of adoption of this ordinance shall be considered legal nonconforming lots or structures and are subject to Section 4 of this Ordinance.
- 3. Setbacks:** No building or structure shall be erected, altered, enlarged, or reconstructed unless such improvement conforms to the yard regulations of the district in which it is located.
- 4. Orientation of Structures:** All new structures built on established lots or blocks shall be oriented as existing structures; (front doors must face the street). All new structures must blend with existing housing.

HS - Highway Service District
3.13 "HS" District Intent, Permitted Uses,
and Special Exception Uses

Section 3

District Intent

The Highway Service (HS) District is established for areas along major traffic arteries in order to promote responsible development of the appropriate shopping and service needs of such locations.

<u>Permitted Uses</u>	<u>Permitted Uses</u>	<u>Permitted Uses</u>
<u>Business Uses</u> Adult Day Care Facility Animal Clinic - Veterinarian Appliance Sales & Service Audio/Video Sales & Service Auto Parts Store Automotive Sales & Service Bank/Credit Union/ATM Barber Shop Bed & Breakfast / 1-5 Rooms Billiard Room Boarding/Lodging House Boat Sales & Service Bowling Alley Business Office Car Wash Child Care Facility Convenience Store Dance/Gymnastic Center Department Store Dry Cleaning Shop Electronic Sales & Service Farm Equip. Sales & Service Fitness Center	<u>Business Uses cont...</u> Gasoline Filling Station Grocery Store Hair Salon Hardware/Building Supply Health Spa Hotel / Motel / Inn Kennel/Pet Boarding Laundry, Self Service Liquor/Wine/Beer Store Meat Market/Butcher Shop Nail Salon Pet Shop Pharmacy Photography Studio Printing/Design Shop Professional Medical Services RV/Camper Sales & Service Restaurant / Cafe Retail/Variety Store Seamstress / Shoe Repair Small Engine Sales & Service Tanning Salon Theater, Indoor	<u>Business Uses cont...</u> Therapeutic Massage Thrift/Second hand Store Video Arcade <u>Residential Uses</u> Dwelling, Multi-Family/Apt. Group Home Nursing Home Retirement Community <u>Public Facilities</u> Church/Temple/Mosque Funeral Home/Mortuary Government Office Highway/Municipal Garage Library Police / Fire Station Public Park Public/Private Parking Area School and/or College <u>Communication/Utilities</u> Radio/TV Station
<u>Special Exception Uses</u>	<u>Special Exception Uses</u>	<u>Uses NOT Permitted</u>
<u>Public Facilities</u> Golf Course/Driving Range Lodge or Private Club Museum Reception Hall <u>Agricultural Uses</u> Agricultural Seed Sales Commercial Greenhouse Plant Nursery <u>Industrial Uses</u> Light Manufacturing Bottled Gas Storage &/or Distribution	<u>Business Uses</u> Adult Bookstore/Entertainment Auction House Bingo Parlor General Contracting Truck Stop Warehouse/Mini-Storage Bldg. Welding Shop Wood Working Shop <u>Communication/Utilities</u> Pipeline Pumping Station Small Wind Energy System - Privately Owned Utility Substation	Hazardous Waste Disposal Facilities Recycling Collection Center Salvage / Scrap Yard

The Plan Commission, upon hearing a recommendation from the Zoning Administrator/Director, shall determine into which category any use shall be placed which is not specifically listed or defined herein.

<u>Lot & Yard Standards</u>	<u>Additional Development Standards</u>																																						
<p>Minimum Lot Area: .5 Acres (21,780 Square Feet)</p> <p>Minimum Lot Width: 100 feet</p> <p>Maximum Lot Coverage: 75%</p> <p>Minimum Front Yard Setback: 50 feet / Arterial Street 40 feet / Collector or Local Street</p> <p>Minimum Side Yard Setback: 10 feet Adjacent to PR, AR, RR 10 feet Adjacent to R4, R8, R10 15 feet Adjacent to HS, NB, CB, IND</p> <p>Minimum Rear yard Setback: 5 feet from the property line, or the edge of the street right-of-way or alley right-of-way.</p> <p>Maximum Height Regulation: 35 feet Wind Energy Tower / Privately Owned 100 feet</p> <p>See Additional Development Standards That Apply</p>	<table> <tr><td>Accessory Uses & Structures</td><td>Page 4-2</td></tr> <tr><td>Miscellaneous Standards</td><td>Page 4-3</td></tr> <tr><td>Nonconforming Uses</td><td>Page 4-5</td></tr> <tr><td>Home Occupation</td><td>Page 4-8</td></tr> <tr><td>Highway Service Additional Standards</td><td>Page 4-11</td></tr> <tr><td>Central Business Additional Standards</td><td>Page 4-11</td></tr> <tr><td>Buffering Standards</td><td>Page 4-12</td></tr> <tr><td>Screening Standards</td><td>Page 4-14</td></tr> <tr><td>Landscaping Standards</td><td>Page 4-15</td></tr> <tr><td>Fences, Hedges and Walls</td><td>Page 4-17</td></tr> <tr><td>Sight Visibility Standards</td><td>Page 4-18</td></tr> <tr><td>Entrance and Driveway</td><td>Page 4-19</td></tr> <tr><td>Parking Standards</td><td>Page 4-20</td></tr> <tr><td>Industrial Standards</td><td>Page 4-23</td></tr> <tr><td>Loading Standards</td><td>Page 4-27</td></tr> <tr><td>Environmental Standards</td><td>Page 4-28</td></tr> <tr><td>Confined Feeding</td><td>Page 4-31</td></tr> <tr><td>Small Wind Energy System - Privately Owned</td><td>Page 4-32</td></tr> <tr><td>Wind Energy System - Commercial</td><td>Page 4-34</td></tr> </table>	Accessory Uses & Structures	Page 4-2	Miscellaneous Standards	Page 4-3	Nonconforming Uses	Page 4-5	Home Occupation	Page 4-8	Highway Service Additional Standards	Page 4-11	Central Business Additional Standards	Page 4-11	Buffering Standards	Page 4-12	Screening Standards	Page 4-14	Landscaping Standards	Page 4-15	Fences, Hedges and Walls	Page 4-17	Sight Visibility Standards	Page 4-18	Entrance and Driveway	Page 4-19	Parking Standards	Page 4-20	Industrial Standards	Page 4-23	Loading Standards	Page 4-27	Environmental Standards	Page 4-28	Confined Feeding	Page 4-31	Small Wind Energy System - Privately Owned	Page 4-32	Wind Energy System - Commercial	Page 4-34
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Additional Information

- 1. Planned Development:** Highway Service district may be rezoned to "PD", consistent with Section 6, Planned Developments, of this Ordinance.
- 2. Signage Regulations:** See Section 8 of this Ordinance.
- 3. Corner Lots:** Corner lots are considered to have 2 front yards.
- 4. Conflicts:** All conflicts concerning lot/yard regulations specified in this section in existence prior to the time of adoption of this ordinance shall be considered legal nonconforming lots or structures and are subject to Section 4 of this Ordinance.
- 5. Setbacks:** No building or structure shall be erected, altered, enlarged, or reconstructed unless such improvement conforms to the yard regulations of the district in which it is located.

CB - Central Business District
3.14 "CB" District Intent, Permitted Uses,
and Special Exception Uses

Section 3

District Intent

The Central Business (CB) District is established to promote and regulate a variety of urban uses within the downtown area, which will preserve and promote a level of vitality necessary for the regional attraction of commerce.

<u>Permitted Uses</u>	<u>Permitted Uses</u>	<u>Permitted Uses</u>
<u>Business Uses</u> Appliance Sales & Service Audio/Video Sales & Service Auto Parts Store Bank/Credit Union/ATM Barber Shop Billiard Room Business Office Convenience Store Dance/Gymnastic Center Department Store Dry Cleaning Shop Electronic Sales & Service Fitness Center Gasoline Filling Station Grocery Store Hair Salon Hardware/Building Supply Health Spa	<u>Business Uses cont...</u> Liquor/Wine/Beer Store Meat Market/Butcher Shop Medical Office Nail Salon Night Club/Bar/Tavern Pet Store Pharmacy Photography Studio Printing/Design Shop Restaurant Retail/Variety Store Seamstress / Shoe Repair Theater, Indoor Therapeutic Massage Thrift/Second-Hand Store Video Arcade	<u>Public Facilities</u> Church/Temple/Mosque Funeral Home/Mortuary Government Office Police / Fire Station Public/Private Parking Area
<u>Special Exception Uses</u>	<u>Special Exception Uses</u>	<u>Uses NOT Permitted</u>
<u>Residential Uses</u> Multi Family Apartment Single Family Apartment <u>Public Facilities</u> Hotel / Motel / Inn Lodge or Private Club Museum School and/or College	<u>Business Uses</u> Adult Bookstore/Entertainment Adult Day Care Facility Auction House Automotive Sales & Service Car Wash Child Care Facility Laundry, Self-Service Small Engine Repair Sidewalk Cafe	Hazardous Waste Disposal Facilities Recycling Collection Center Salvage / Scrap Yard Small Wind Energy System - Privately Owned

The Plan Commission, upon hearing a recommendation from the Zoning Administrator/Director, shall determine into which category any use shall be placed which is not specifically listed or defined herein.

<u>Lot & Yard Standards</u>	<u>Additional Development Standards</u>
<p>Minimum Lot Area: .25 Acres (10,890 Square Feet)</p> <p>Minimum Lot Width: N/A</p> <p>Maximum Lot Coverage: 100%</p> <p>Minimum Front Yard Setback: 0 feet / Arterial Street 0 feet / Collector or Local Street</p> <p>Minimum Side Yard Setback: 0 feet Adjacent to PR, AR, RR 10 feet Adjacent to R4, R8, R10 0 feet Adjacent to HS, NB, CB, IND *If residential lot is adjacent to a residential lot, the setback is 5 feet from property lines</p> <p>Minimum Rear yard Setback: 5 feet from the property line, or the edge of the street right-of-way or alley right-of-way.</p> <p>Maximum Height Regulation: 100 feet</p> <p>See Additional Development Standards That Apply</p>	<p>Accessory Uses & Structures Page 4-2</p> <p>Miscellaneous Standards Page 4-3</p> <p>Nonconforming Uses Page 4-5</p> <p>Home Occupation Page 4-8</p> <p>Highway Service Additional Standards Page 4-11</p> <p>Central Business Additional Standards Page 4-11</p> <p>Buffering Standards Page 4-12</p> <p>Screening Standards Page 4-14</p> <p>Landscaping Standards Page 4-15</p> <p>Fences, Hedges and Walls Page 4-17</p> <p>Sight Visibility Standards Page 4-18</p> <p>Entrance and Driveway Page 4-19</p> <p>Parking Standards Page 4-20</p> <p>Industrial Standards Page 4-23</p> <p>Loading Standards Page 4-27</p> <p>Environmental Standards Page 4-28</p> <p>Confined Feeding Page 4-31</p> <p>Small Wind Energy System - Privately Owned Page 4-32</p> <p>Wind Energy System - Commercial Page 4-34</p>

Additional Information

- 1. Signage Regulations:** See Section 8 of this Ordinance.
- 2. Corner Lots:** Corner lots are considered to have 2 front yards.
- 3. Conflicts:** All conflicts concerning lot/yard regulations specified in this section in existence prior to the time of adoption of this ordinance shall be considered legal nonconforming lots or structures and are subject to Section 4 of this Ordinance.
- 4. Setbacks:** No building or structure shall be erected, altered, enlarged, or reconstructed unless such improvement conforms to the yard regulations of the district in which it is located.

IND - Industrial District
3.15 "IND" District Intent, Permitted Uses,
and Special Exception Uses

Section 3

District Intent

The Industrial (IND) Districts are areas designated for the development and expansion of light industrial, manufacturing, and wholesale business establishments, which are clean, quiet, and free of hazardous or objectionable elements and operate primarily within enclosed buildings.

<u>Permitted Uses</u>	<u>Permitted Uses</u>	<u>Permitted Uses</u>
<u>Industrial Uses</u> Bottled Gas Storage &/or Distribution Concrete Operation Food Processing General Manufacturing Industrial/Commerce Park Light Manufacturing Product Assembly Warehouse/Distribution Center <u>Agricultural Uses</u> Agricultural Seed Sales Commercial Greenhouse Cropland and/or Orchard Farm Equip. Sales & Service Fertilizer Storage/Distribution Plant Nursery	<u>Communication/Utilities</u> Above Ground Water Tank Communication Relay Tower Pipeline Pumping Station Radio/TV Station Sewage Treatment Facility Utility substation Water Treatment Facility Wind Energy System - Commercial <u>Public Facilities</u> Public Park	<u>Business Uses</u> Automotive Sales & Service Bank/Credit Union/ATM Boat Sales & Service Gasoline Filling Station General Contracting Machine Shop Printing/Design Shop RV/Camper Sales & Service Small Engine Sales & Service Warehouse/Mini Storage Bldg. Welding Shop Wood Working Shop
<u>Special Exception Uses</u>	<u>Special Exception Uses</u>	<u>Uses NOT Permitted</u>
<u>Industrial Uses</u> Gravel/Sand/Mining Operation Incinerator Manufacturing of Explosives Salvage / Scrap Yard Slaughter House Storage of Explosives Recycling Collection Center <u>Business Uses</u> Adult Day Care Facility Auction House Child Care Facility	<u>Public Facilities</u> Airport Archery/Firearm Range-Indoor Correctional Facility Highway/Municipal Garage <u>Communication/Utilities</u> Small Wind Energy System - Privately Owned	Hazardous Waste Disposal Facility

The Plan Commission, upon hearing a recommendation from the Zoning Administrator/Director, shall determine into which category any use shall be placed which is not specifically listed or defined herein.

<u>Lot & Yard Standards</u>	<u>Additional Development Standards</u>
<p>Minimum Lot Area: 1 Acres (43,560 Square Feet)</p> <p>Minimum Lot Width: 100 feet</p> <p>Maximum Lot Coverage: 50%</p> <p>Minimum Front Yard Setback: 50 feet / Arterial Street 40 feet / Collector or Local Street</p> <p>Minimum Side Yard Setback: 10 feet Adjacent to PR, AR, RR 10 feet Adjacent to R4, R8, R10 15 feet Adjacent to HS, NB, CB, IND</p> <p>Minimum Rear yard Setback: 5 feet from the property line, or the edge of the street right-of-way or alley right-of-way.</p> <p>Maximum Height Regulation: 100 feet Wind Energy Tower / Privately Owned 100 feet</p> <p>See Additional Development Standards That Apply</p>	<p>Accessory Uses & Structures Page 4-2</p> <p>Miscellaneous Standards Page 4-3</p> <p>Nonconforming Uses Page 4-5</p> <p>Home Occupation Page 4-8</p> <p>Highway Service Additional Standards Page 4-11</p> <p>Central Business Additional Standards Page 4-11</p> <p>Buffering Standards Page 4-12</p> <p>Screening Standards Page 4-14</p> <p>Landscaping Standards Page 4-15</p> <p>Fences, Hedges and Walls Page 4-17</p> <p>Sight Visibility Standards Page 4-18</p> <p>Entrance and Driveway Page 4-19</p> <p>Parking Standards Page 4-20</p> <p>Industrial Standards Page 4-23</p> <p>Loading Standards Page 4-27</p> <p>Environmental Standards Page 4-28</p> <p>Confined Feeding Page 4-31</p> <p>Small Wind Energy System - Privately Owned Page 4-32</p> <p>Wind Energy System - Commercial Page 4-34</p>

Additional Information

- 1. Planned Development:** Industrial district may be rezoned to "PD", consistent with Section 6, Planned Developments, of this Ordinance.
- 2. Signage Regulations:** See Section 8 of this Ordinance.
- 3. Corner Lots:** Corner lots are considered to have 2 front yards.
- 4. Conflicts:** All conflicts concerning lot/yard regulations specified in this section in existence prior to the time of adoption of this ordinance shall be considered legal nonconforming lots or structures and are subject to Section 4 of this Ordinance.
- 5. Setbacks:** No building or structure shall be erected, altered, enlarged, or reconstructed unless such improvement conforms to the yard regulations of the district in which it is located.

3.16 AIRPORT OVERLAY DISTRICT

The Airport Overlay Zoning District (AO) shall include all zones as indicated on the Portland Municipal Airport Airspace Plan, dated May 6, 2013, which is a part of this ordinance and incorporated herein by reference. All land so indicated is hereby zoned and classified as the Airport Overlay Zoning District.

Purpose and Intent

It is hereby found that an airport hazard has the potential for endangering the lives and property of users of Portland Municipal Airport, and property or occupants of land in its vicinity; that an airport hazard may affect existing and future instrument approach minimums of Portland Municipal Airport; and that an airport hazard may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Portland Municipal Airport and the public investment therein. Accordingly, it is declared:

- A. that the creation or establishment of an airport hazard has the potential of being a public nuisance and may injure the region served by the Portland Municipal Airport;
- B. that it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented; and
- C. that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

3.16-1 Airport Zones

In order to carry out the provisions of the Airport Overlay District, there are hereby created and established certain zones which include all of the land lying within the approach zones, conical zone, horizontal zone, transitional zones, noise sensitive zone and wildlife attractant zones as they apply to the Portland Municipal Airport. Such zones are shown on the Portland Municipal Airport Airspace Plan consisting of two sheets, dated May 6, 2013, which is attached to this Ordinance and made a part thereof. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation as defined in Section 3.16.2. The various zones are hereby established in accordance with FAR Part 77 and defined as follows:

- A. **Runway 9-27 Approach Zones, with Precision Instrument Approaches** — The inner edge of this approach zone coincides with the width of the primary surface which is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline being the continuation of the centerline of the runway.
- B. **Conical Zone** — The conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet. The conical zone does not include the precision instrument approach zone and the transitional zones.
- C. **Horizontal Zone** — The horizontal zone is hereby established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of runway 9-27, and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- D. **Transitional Zones** — These zones are hereby established as the area beneath the transitional surfaces. These surfaces extend outward and upward perpendicular to the runway centerline and the runway extended centerline.

- E. **Noise Sensitive Zone** — This zone is hereby established as the areas lying 1,500 feet on either side of the centerline and extended centerline of the runways for a distance of one (1) nautical mile from the point of which the extended runway centerline crosses the airport boundary.
- F. **Wildlife Attractant Zone A-** This zone is hereby established within a distance of 10,000 feet from the farthest edge of the airport's air operations area (AOA).
- G. **Wildlife Attractant Zone B-** This zone is hereby established beyond 10,000 from the farthest edge of the airport's air operations area (AOA) and within five (5) statute miles from the farthest edge of the airport's AOA,

3.16-2 Airport Overlay District Height Limitations

Within the Airport Overlay District, the following height limitations apply.

- A. Nothing in this Ordinance shall be construed as prohibiting the planting, growth, construction or maintenance of any tree or structure to maximum height of 50 feet above the ground, Except as otherwise provided in this Ordinance, no structure or tree shall be erected, altered, or maintained, or be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height limits herein established for such zone. The applicable height limitations are hereby established for each of the zones in question as follows:
 - 1. Runway 9-27 Approach Zones, with Precision Instrument Approaches** — Slopes upward thirty-four (34) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
 - 2. Conical Zone** — Slopes upward and outward twenty (20) feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at one hundred and fifty (150) feet above the airport elevation and extending to a height of three hundred and fifty (350) feet above the airport elevation.
 - 3. Horizontal Zone** — Elevated one hundred and fifty (150) feet above the airport elevation at a height of 1076.11 feet above mean sea level.
 - 4. Transitional Zones** — Slopes upward and outward seven (7) feet horizontally for each foot vertically, beginning at the sides of and at the same elevation as the primary surface and the approach surfaces and extending to a height of one hundred and fifty (150) feet above the airport elevation which is 1076.11 feet above mean sea level.
- B. Additional Height Limitations-Except as otherwise provided in the Airport Overlay District, no structure or tree shall be erected, altered, or maintained, or be allowed to grow in any zone created by the Airport Overlay District to a height in excess of the additional height limits herein established by I.C. 8-21-10-7 and defined as follows:
 - 1. A height that is five hundred (500) feet above ground level or 1426.11 feet above mean sea level at the site of the object.
 - 2. A height that is two hundred (200) feet above ground level or 1126.11 feet above mean sea level, within three (3) nautical miles of the established reference point of the airport, and that height increases in the proportion of one hundred (100) feet for each additional nautical mile of distance from the airport up to a maximum of five hundred (500) feet.

3.16-3 Noise Sensitive Zone

Except as provided below, the underlying district land usage specified in this Section of this Ordinance shall be met in the Noise Sensitive Zone.

- A. Schools, libraries and hospitals are prohibited.
- B. New residential uses are subject to written acknowledgement which must be recorded for the subject property prior to the issuance for an Improvement Location Permit.

"The owners of subject property shall be aware that they are in the vicinity of the Portland Airport. They are hereby made known by this notification that there are activities at this Airport which produce noise, vibration, light, glare and odor at all hours of the day and night and which are used or intended to be used for the taking off and landing of aircraft and any appurtenance areas which are used or intended to be used for airport buildings or facilities, including runways, taxiways, hangars and tie- downs areas that go on during the operation of an airport. Each owner and their heirs, assigns, and successors in interest shall not initiate or support any action in any court or before any governmental agency and are precluded from protest, objection, interference with, restriction of or reduction of the operation of the airport, complaining, seeking damages and/or attempting to enjoin the use of property (land) for such purpose. This condition and agreement shall also run with the land as is irrevocable".

3.16-4 Wildlife Attractant Zones

The following standards apply to Wildlife Attractants zones.

- A. **Wildlife Attractant Zone A-** In accordance with AC 150/5200-33A and notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create a wildlife attractant hazard within a distance of 10,000 feet from the farthest edge of the airport's air operations area (AOA). These wildlife attractant hazards include, but are not limited to, the construction of municipal solid waste landfills, trash transfer stations not fully enclosed, underwater waste discharges, construction and demolition debris facilities co-located with another waste disposal operations, fly ash disposal from general incinerators, wastewater treatment facilities, artificial marshes, wetlands, dredge spoil containment areas, livestock production, aquaculture, and golf courses
- B. **Wildlife Attractant Zone B-** In the event the above mentioned wildlife attractants are considered for construction beyond 10,000 from the farthest edge of the airport's air operations area (AOA) and within five (5) statute miles from the farthest edge of the airport's AOA, they may be restricted if the wildlife attractant could cause hazardous movement into or across the approach or departure surface from the airport. The application for the wildlife attractant shall be submitted to the Airport Authority for review and comment within 15 days prior to granting a permit for construction. In the event the Airport Authority finds the wildlife attractant objectionable because it is a hazard to air navigation, appropriate mitigation would be required prior to approving a permit. In the event the mitigation required creates an undo financial hardship on the applicant, the applicant may ask for financial assistance through the Airport Authority. In the event the Airport Authority is unable to grant financial assistance for .the mitigation, the requirements maybe forgone and a permit granted with no further action required on the part of the applicant. These wildlife attractant hazards include, but are not limited to, the construction of municipal solid waste landfills, trash transfer stations not fully enclosed, underwater waste discharges, construction and demolition debris facilities co-located with another waste disposal operations, fly ash disposal from general incinerators, wastewater treatment facilities, artificial marshes, wetlands, dredge spoil containment areas, livestock production, aquaculture, and golf courses.

3.16-5 Relation to Underlying Zoning

This district is created as a special overlay district to be superimposed on underlying primary zoning districts. Development standards provided herein are intended to supplement those permitted in the underlying primary zoning district and in some cases may be more restrictive than those of the underlying zoning district. When the requirements of the underlying zoning district and the overlay district appear to be in conflict, the more restrictive shall apply.

- A. Except as specified by Section 3.16.3 above, all uses which are permitted by right or are permitted by special exception in the underlying primary zoning districts are permitted by right or by special exception, as applicable, in the Airport Overlay District.
- B. Uses which are prohibited in the underlying primary zoning district are prohibited in the Airport Overlay District.

3.16-6 Communication and Visibility Interference Prohibited

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within the established Airport Overlay District in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way create a hazard, endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

3.16-7 Miscellaneous Provisions

The following miscellaneous provisions apply to the Airport Overlay District.

- A. **Regulations Not Retroactive** — The regulations prescribed in the Airport Overlay District shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of adoption of the Airport Overlay District, or otherwise interfere with the continuance of a non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of adoption of the Airport Overlay District, and is diligently prosecuted.
- B. **Existing Uses-** No permit shall be granted that would allow the establishment or creation of an obstruction or permit a non-conforming use or structure to become a greater hazard to air navigation, than it was on the effective date of adoption of the Airport Overlay District or any amendments thereto or than it is when the application for a permit is made.

3.16-8 Administration and Enforcement

It shall be the duty of the Portland Building Inspector to administer and enforce this ordinance as specified in Section 9 of this Zoning Ordinance. No material change shall be made in the use of land, no structure shall be erected, altered or otherwise established in any zone hereby created unless a permit shall have been applied for and granted by the Building Inspector. Prior to issuance of the permit, the Airport Authority shall be notified on a form approved by the Plan Commission and Airport Authority.

3.16-9 Variances

The Portland Board of Zoning Appeals shall consider variance request from the provisions of this section according to the procedures in Section 10 of this Ordinance. In addition to the requirements of Section 10 the application for a variance shall be accompanied by a determination from the Airport Authority as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.

3.16-10 Obstruction Marking and Lighting

Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Aviation Commissioners, this condition may be modified to require the owner to permit the City of Portland Municipal, at its own expense, to install, operate, and maintain the necessary markings and lights.

3.16-11 DEFINITIONS:

Aircraft

Any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

Airport

The Portland Municipal Airport, together with all of its structures, services, and improvements.

Airport Authority

The Portland, Indiana Board of Aviation Commissioners.

Airport Boundary

The property line existing in fee simple and depicted on the Airport Facilities Plan.

Airport Elevation

The highest point of an airport's usable landing area measured in feet from mean sea level, and established to be 925 feet above mean sea level (MSL).

Airport Hazard

Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport which obstructs the airspace required for the ascent, descent or glide path of aircraft in landing or takeoff at the airport or is otherwise hazardous to such landing or takeoff of aircraft.

Approach, Horizontal, and Conical Zones

These zones are set forth in Article III of this Ordinance.

Geographical Reference Point

The airport referent point (ARP) established as a point having equal relationship to all existing and proposed landing and takeoff points, as defined in AC 150/5300-4B, as amended, and having Latitude 40° 27.1'N and Longitude 084-59.3'W.

Height (Airport Overlay District)

The purpose of determining the height limits in the Airport Overlay District, the datum shall be mean sea level elevation unless otherwise specified.

Heliport

Any airport designed and designated for the exclusive use of rotary wing and vertical takeoff and landing (VTOL) aircraft.

Larger Than Utility Runway

A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

Non-conforming Use (Airport Overlay District)

Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of the Airport Overlay District standards.

Non-precision Instrument Runway

A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on an FAA planning document or military service's military airport planning document

Obstruction (Airport Overlay District)

Any structure, growth, or other object, including a mobile object, which exceeds a limiting height in the Airport Overlay District.

Person (Airport Overlay District)

An individual, firm, partnership; corporation, company, association, joint stock association or government entity; includes any trustee, receiver, assignee, or a similar representative thereof

Precision Instrument Runway

A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a precision approach using the Global Positioning System (GPS) Wide Area Augmentation System (WAAS) with Localizer like with Precision Vertical guidance (LPV). It also means a runway for which a precision approach system is planned and is so indicated on approved airport layout plan or any other planning document.

Primary Surface

A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Article III of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Runway

A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Structure (Airport Overlay District)

An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

Tree

Any object of natural growth.

Utility Runway

A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

Visual Runway

A runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on an FAA approved airport layout plan, a military service approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

Zones

The zones established in the Airport Overlay District are imaginary horizontal or inclined surfaces in compliance with Federal Aviation Regulation, the Portland Comprehensive Plan and LC. 8-21-10 as amended by the State of Indiana.

Section 4

Development Standards

4.0 INTRODUCTION AND APPLICATION

A. Introduction

All structures, land uses, land use changes, structural alterations, structural relocations, structural additions, and structural enlargements that are constructed, created, established, or occur after the effective date of this Ordinance (except as may otherwise be provided within this Ordinance) shall be subject to all Development Standards and regulations applicable to the zoning district in which they are located.

B. Expansion or Modification of Existing uses and Structures

No structure, parking area, or other site feature regulated by this Ordinance shall be enlarged, altered, or expanded unless the minimum improvements required by this Section are provided on the property in a manner equal to the extent of its alteration or expansion.

C. Requirements for Non-conforming Uses and Uses Permitted by Special Exception or by Variance

Any use that is non-conforming in the zoning district in which it is located or is permitted by special exception or variance shall be consistent with the standards for the zoning district in which the use is permitted by this Ordinance. The Board of Zoning Appeals may specify the appropriate standards for all uses permitted by special exception or variance.

4.1 **ACCESSORY USES**

Accessory uses such as the following are authorized in all districts subject to the provisions of any and all recorded restrictive covenants running with the land:

- A. Accessory Buildings, Garages, Carports ***Note 1 & 2 & 3**
- B. Driveways, Curbs and Sidewalk ***Note 4**
- C. Fences, Hedges and Retaining Walls ***Note 5 & 6**
- D. Lamp Posts, Mail boxes, Name plates
- E. Parking Spaces ***Note 7**
- F. Private Swimming Pools enclosed by a 5-foot high fence or 5-foot vertical enclosure integral with an above ground pool, or a horizontal pool cover approved as per the specifications and requirements of the Indiana Swimming Pool Code.
- G. Public utility installations for local service (such as poles, lines, hydrants, and telephone booths)
- H. Trees, Shrubs, Plants, and Flowers ***Note 6**

Note 1: All accessory buildings, garages and carports must comply with the Indiana Building Code requirements. All Accessory structures must be subordinate to the primary structure. Prohibited structures include, but are not limited to, truck boxes, buses, and/or miscellaneous vehicle bodies.

Note 2: A building, structure, or use which:

1. is subordinate to and serves a principal building, structure, or use in area, extent, or purpose; and
2. contributes to the comfort, convenience, or necessity of occupants of the principal buildings, structures, or principal uses served; and
3. does not alter or change the character of the premises; and
4. is located on the same zoning lot as the principal building, structure, or use; and
5. conforms to the setback, height, bulk, lot coverage, and other requirements of this Ordinance unless otherwise provided for by this Ordinance; and
6. may not be constructed prior to the time of construction of the principal building or structure; and
7. is not designed for human occupancy as a dwelling or commercial use.

Note 3: See Accessory Building/Structure Standards, Section 4.4

Note 4: See Entrance & Driveway Standards, Section 4.10

Note 5: See Fence Standards, Section 4.8

Note 6: See Sight Visibility Standards, Section 4.9

Note 7: See Parking Standards, Section 4.11

4.2 **MISCELLANEOUS RESTRICTIONS**

A. **Through-Lots**

In the case of a through-lot, the area at each end of the lot between the setback line and the right-of-way line shall be considered as if it were a part of the front yard.

B. **Access to Public Streets**

Every principal building hereafter erected shall be on a zoning lot or parcel of land which adjoins a public street or a permanent easement of access to a public street; such easement to be at least twenty (20) feet wide unless a lesser width was duly established and received prior to the effective date of this ordinance.

C. **Residential Home Requirements**

1. All residential homes hereafter constructed shall be larger than 950 square feet of occupied space, shall be placed on a permanent foundation as described herein, and shall have a roof pitch and roofing materials as described herein.
2. All dwelling units must be at least 23 feet in width, with the front entrance facing the street or roadway, as per the designed floor plan of the home.
3. All residential homes shall have a roof composed of a material customarily used on site-built residential dwellings, such as asbestos, fiberglass, shake asphalt, or tile, which shall be installed onto a surface appropriately pitched for the materials used and not having a roof pitch of less than 2 ½ to one.

D. **Specific Standards for Manufactured Homes**

The establishment, location, and use of manufactured homes which have been constructed and manufactured after January 1, 1981 as scattered site residences shall be permitted in any zone permitting installation of a dwelling unit, subject to requirements and limitations applying generally to that residential use in the district and providing such homes meet the following requirements and limitations.

1. The home shall meet all requirements applicable to single-family dwellings and possess all necessary improvement location, building, and occupancy permits and other certificates required by the Code.
2. The home shall be larger than 950 square feet of occupied space as defined in IC 36-7-4-1106(a) or meet the minimum square footage requirements for the appropriate zone.
3. All dwelling units must have an underfloor space enclosure that serves as the foundation or weight-bearing and supporting foundation for the dwelling unit, and which totally encloses said underfloor space and removes from exterior view all underfloor space of the dwelling unit and which must be of continuous exterior masonry or concrete.
4. The home shall be attached and anchored to a permanent foundation conformance with the regulation in the Indiana One and Two Family Dwelling Code and with manufacturer's installation specifications.
5. The home shall be covered with an exterior material customarily used on site-built residential dwellings, and this material shall extend over the top of the foundation (or meet the community's site-built residential dwelling home standards).
6. The home shall be located on the site with the front entrance door facing the street or roadway, as per the designed floor plan of the home.

E. Pond Requirements

If a pond is maintained on the property, either a retaining pond or a recreational pond, there shall be a setback of 50' from the property line to the edge of the dam and 50' from the road right-of-way, if applicable. If there is no dam or levee then the water must be 50' from the property line and 50' from the road right-of-way if applicable. All ponds must comply with the Jay County Drainage Ordinance.

F. Satellite and Digital Dish Systems

1. All satellite and digital dish receiving systems, having a diameter greater than four (4) feet, shall be located within the rear or side yard of any residential zoned lot.
2. In the case of a corner lot, the satellite receiving system shall not be placed in either yard adjacent to a street.
3. All satellite receiving systems shall be placed a minimum of five (5) feet inside the property line of the owner's lot. No system shall be placed in any right-of-way.
4. No satellite system, if elevated, shall exceed a height of 20 feet.
5. If affixed to a structure, digital dish systems shall be attached to a side or rear of the structure when possible.
6. A permit shall be obtained prior to the placement of any satellite dish system and a fee paid as specified in the official fee schedule maintained in the Office of the Zoning Administrator/Director.

G. Awnings

Fixed awnings conforming to the provisions of this section shall be permitted on all buildings.

1. Every fixed awning shall be located as to not interfere with the operation of any exterior standpipe, stairway, or exit from any building.
2. No fixed awning shall be used as a landing for any fire escape or exterior stair.
3. Fixed awnings, including supporting frames, arms, brackets, and other devices shall be constructed throughout of incombustible material, except that glass or fragile material shall not be used in any part of the awning.
4. No part of a fixed awning projecting over a public way shall be less than seven (7) feet above the existing or finished grade under that awning where pedestrian traffic is a consideration.
5. No part of a fixed awning projecting over a public way shall be less than fourteen (14) feet above the existing grade where vehicular traffic is a consideration.
6. The Zoning Administrator/Director shall have the right to compel the removal of any awning erected, altered, or repaired in violation of this section.
7. Awnings on buildings or structures located in the Downtown Historic Preservation District must comply with the Portland Historic Preservation Commission Ordinance and Guidelines.
8. For awning signage regulations, see Section 8.
9. All awnings shall require a permit prior to installation.

H. Accessory Building/Structure

Accessory building/structure shall not be located less than five (5) feet from any property line. Accessory building/structure shall be permitted on any lot provided said building/structure is zoning compliant. Any building/structure that is 100 square feet or larger in area, whether temporary or permanent, shall require a permit.

I. Mobile Homes

Mobile Homes are not permitted in the City of Portland or in the two-mile jurisdictional area, unless placed in an established mobile home park.

4-3 NON-CONFORMING USES AND STRUCTURES

A. Intent

Within the districts established by this ordinance or by amendments that may later be adopted, there may exist:

1. Non-conforming lots;
2. Non-conforming structures;
3. Non-conforming uses of land;
4. Non-conforming uses of land and structures in combination; and
5. Non-conforming characteristics of use.

These were lawful before this ordinance was passed or amended, but they are prohibited, regulated or restricted under the terms of this ordinance or may be under future amendments hereto. It is the intent of this ordinance to permit these non-conforming uses to continue until they are removed but not to encourage their survival. It is further the intent of this ordinance that non-conforming uses shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses which are prohibited elsewhere in the same district. (Note: Illegal uses existing at the time this ordinance is enacted shall not be validated by virtue of its enactment.)

B. Incompatibility of Non-conforming Uses

Non-conforming uses are declared by this ordinance to be incompatible with permitted uses in the districts in which such use is located. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land in combination shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.

C. Avoidance of Undue Hardship

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building or development on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that the work shall be carried on diligently. Actual construction is hereby defined as work done which is beyond the preparation stage and into that stage where the changes or additions are made permanent.

D. Single Non-conforming Lots of Record

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record after the effective date of adoption or amendment of this ordinance notwithstanding limitations imposed by other provisions of this ordinance. Such lots must be in separate ownership or included in a subdivision of record in the office of the County Recorder at the time of passage of this ordinance. This provision shall apply even though such lots fail to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying area or width, or both, of the lots shall conform to the regulations for the district in which such lots are located. (Also see Section 4.6). Variances of requirements listed in Section 4 of this ordinance, other than lot area or lot width shall be obtained only through action of the Board of Zoning Appeals as provided in Section 10.3. (Note: This section shall apply only to single-family residences.)

E. Non-conforming Lots of Record in Combination

If two or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance and no portion of said parcel shall be used or sold in a manner which diminishes compliance with the lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

F. Non-conforming Uses of Land

Where, at the time of adoption of this ordinance, lawful uses of land exist which would not be permitted by the regulations imposed by this ordinance, the uses may be continued so long as they remain otherwise lawful, provided:

1. No such conforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
2. No such non-conforming uses shall be moved in a whole or in part to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this ordinance.
3. If any such non-conforming uses of land are discontinued or abandoned for more than one year (except when government action impedes access to the premises), any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
4. No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such non-conforming use of land.

G. Non-conforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not now be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, bulk, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming structure may be enlarged or altered in a way, which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.
2. Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to the extent of more than 50 percent of the fair market value of the building immediately prior to the damage, it shall not be reconstructed except in conformity with the provisions of this ordinance.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

H. Non-conforming Uses of Structures and Land in Combination

If a lawful use involving individual structures, or if a structure and land in combination, exists at the effective date of adoption or amendment of this ordinance that would not now be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. A non-conforming use may be extended throughout any parts of a building, which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
3. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.
4. When a non-conforming use of a structure, or structure and land in combination is discontinued or abandoned for more than six (6) months (except when government action impedes access to the premises), the structure or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
5. Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

I. Repairs and Maintenance

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent of the current replacement cost of the non-conforming structure and market value of real estate, or non-conforming portion of the structure, whichever the case may be, provided that the cubic content existing when it became non-conforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official. If a non-conforming use becomes physically unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

4.4 HOME OCCUPATION

- A. **Purpose and Intent** – It is the purpose and intent of this Section to provide for certain types of home occupations to be conducted within a dwelling unit or accessory structure on the resident's premises. Two classes of home occupations are established based on the type and intensity of the home occupation. Accordingly, minimum standards have been established for each class of home occupation in order to assure compatibility of home occupations with other uses permitted in the applicable district and to preserve the character of residential neighborhoods.
- B. **Home Occupations** – Home occupations shall not be permitted except in compliance with this section and other applicable law.
- C. **Application for Home Occupation** – An application for an administrative Permit for a Type I Home Occupation or Special Exception for a Type II Home Occupation shall be signed by all owners and adult residents of the property in question and filed with the Department on forms provided by the Department. The Zoning Administrator/Director shall review the application and classify the proposed Home Occupation as a Type I or Type II based upon:
1. The established standards for Type I and Type II Home Occupations described in D and E herein, and
 2. General planning and zoning standards established by the Zoning Code.

4.4-1 **Type I Home Occupation**

The following standards are applicable to all Type I Home Occupations:

1. No person other than the residents of the dwelling unit on the subject premises named in the application shall be engaged in such home occupation.
2. No more than fifteen (15) percent of the total gross floor area of the said dwelling unit shall be used for such home occupation. The home occupation may not utilize more than fifty (50) percent of any one floor of the dwelling unit.
3. No outdoor storage or display of products, equipment, or merchandise is permitted.
4. No retail sales shall be conducted on the premises.
5. No publication or advertising shall use the residential address of the home occupation.
6. No outdoor signage. Exterior evidence of the conduct of a home occupation is not permitted.
7. The home occupation shall be conducted exclusively within the dwelling unit or accessory structure.
8. No equipment, process, or activity shall be used in a home occupation which creates noise, vibration, glare, fumes, odors, or electrical or television interference which is detectable to the normal senses outside the dwelling unit or accessory structure.
9. No traffic shall be anticipated by a home occupation in substantially greater volumes than would normally be expected by one (1) dwelling unit in a residential neighborhood. No vehicle or delivery truck shall block or interfere with normal traffic circulation.
10. No specific outside entrance or exit for the home occupation shall be permitted.
11. No use, storage, or parking of tractor trailers, semi-trucks, or heavy equipment (e.g. construction equipment) shall be permitted on or about the premises.

The following uses are examples of home occupation, which may be classified as a Type I:

- a. Telephone answering and solicitation
- b. Home crafts, but no home sales.
- c. Computer programming, desktop publishing
- d. Typing or secretarial service
- e. Painting, sculpturing or writing
- f. Dressmaking, sewing, or tailoring
- g. Consulting services
- h. Internet or Mail order business, not including retail sales from site
- i. Sales representative, office only
- j. In-Home Child Day-Care

4.4-2 Type II Home Occupation

The following standards are applicable to all Type II Home Occupations:

- 1. One (1) person other than the residents of the dwelling unit on the subject premises named in the application may be engaged in such home occupation.
- 2. No more than FIFTEEN (15) percent of the total gross floor area of the said dwelling unit shall be used for such home occupation. Inventory and supplies shall not occupy more than fifty (50) percent of the area permitted to be used as a home occupation.
- 3. No outdoor storage or display of products, equipment or merchandise is permitted.
- 4. Retail sales are permitted only as an accessory use to the primary home occupation (e.g. beauty salon can sell shampoo and beauty products).
- 5. Exterior evidence of the conduct of a home occupation is not permitted except one (1) non-illuminated sign not to exceed eight (8) square feet.
- 6. The home occupation shall be conducted exclusively within the dwelling unit or accessory structure.
- 7. No equipment, process, or activity shall be used in a home occupation which creates noise, vibration, glare, fumes, odors, or electrical or television interference which is detectable to the normal senses outside the dwelling unit or accessory structure.
- 8. No traffic shall be anticipated by a home occupation in substantially greater volumes than would normally be expected by one (1) dwelling unit in a residential neighborhood. No vehicle or delivery truck shall block or interfere with normal traffic circulation.
- 9. A minimum of two (2) off-street parking spaces, in addition to those required for the dwelling unit, shall be provided for use by patrons of the home occupation. The Board of Zoning Appeals may require additional off-street parking based upon the use and location of the property.
- 10. No use, storage, or parking of tractor trailers, semi-trucks, or heavy equipment (e.g. construction equipment) shall be permitted on or about the premises.

The following uses are examples of home occupation which may be classified as a Type II:

- a. Carpentry, cabinet makers
- b. Ceramics which involve the use of a kiln
- c. Catering or food preparation
- d. Pet grooming service
- e. Barber or Beauty shop
- f. Nail Salon

D. General Provisions

All home occupations shall conform to the following standards:

1. Approval of a home occupation is not transferable to a location other than that which was approved.
2. In no case shall a home occupation be open to the public at times earlier than 7:00 a.m. nor later than 9:00 p.m.
3. All home occupations shall be subject to periodic inspections. Reasonable notice shall be provided to the permittee prior to the time requested for an inspection.
4. The Zoning Administrator/Director, in the case of an Administrative Permit for a Type I Home Occupation, or the Board of Zoning Appeals in the case of a Special Exception Permit for a Type II Home Occupation, may impose reasonable conditions necessary to protect the public health, safety, and welfare, or to protect against a possible nuisance condition.
5. Administrative Permits issued by the Zoning Administrator/Director, or Special Exception Permits issued by the Board of Zoning Appeals may be revoked by the issuing authority for cause after reasonable notice to the permittee and an opportunity for hearing on the matter.
6. Home occupations shall commence only after the receipt of an Administrative Permit if classified as a Type I, or Special Exception Permit if classified as a Type II.

E. Permit Review Process

Applications for a home occupation shall be reviewed as follows:

1. Application filed, with authorization from property owner.
2. Review of application by the Zoning Administrator/Director to determine classification as a Type I or Type II.
3. If classified as a Type I:
 - a. Zoning Administrator/Director can approve or deny the application.
 - b. If approved, an Administrative Permit for the home occupation shall be issued.
 - c. Zoning Administrator/Director may impose reasonable conditions as part of the approval.
 - d. Applicant may appeal to the Board of Zoning Appeals if application is denied or if conditions are unacceptable. On appeal of a condition(s), appeal must be filed within fourteen (14) days of the date of the Zoning Administrator/Director's approval of the Administrative Permit.
4. If classified as a Type II, the application shall be reviewed and treated as a Special Exception request.
5. The standards set forth in this section shall be incorporated as minimum conditions of approval.

F. Enforcement

In the event the Zoning Administrator/Director determines that the operation of any home occupation is in violation of this Section or any permit condition, notice shall be provided to the permittee setting forth a description of the violation, corrective action required, and a date by which such corrective action must be accomplished. The permit may be revoked if not corrected in the manner and by the date specified in the notice in accordance with the revocation procedures applicable to Special Exceptions. In addition, violations of this Section are subject to the penalties provided for in this Ordinance.

Additional Development Standards In Highway Service (HS) and Central Business (CB) Districts

Section 4

4.5 ADDITIONAL DEVELOPMENT STANDARDS IN “HS” AND “CB” DISTRICTS

PURPOSE & INTENT: The purpose of this Section is to address the unique characteristics of the properties adjacent to the major transportation corridors in the City of Portland. These corridors have unique traffic management needs, development pressures, and aesthetic characteristics that require the establishment of additional development standards to meet the goals of the Comprehensive Plan and fulfill the purpose of this Ordinance.

The intent is to require development along the City's corridors that is aesthetically consistent, responsive to development pressures, and proportional to the area's traffic management issues.

- A. Boundaries & Exemptions:** The Additional Development Standards shall apply to all properties as indicated on the Official Zoning Map of the City of Portland. All agricultural, industrial, and single and two-family residential uses shall be exempt from the requirements of these standards.
- B. Uses:** All uses permitted in Highway Service (HS) and Central Business (CB) districts are permitted. All uses that are special exceptions in the Highway Service (HS) and Central Business (CB) districts are special exceptions.
- C. Development Standards:** All development within the boundaries of the HS and CB district(s) shall comply with the following development standards.
 - 1. Roofs:** Roof features should add interest to the area and compliment the character of adjoining neighborhoods.
 - a. Mechanical equipment located on the roof shall be completely screened by a parapet or other building feature.
 - b. Sloped roofs shall not exceed the average height of the supporting walls.
 - c. Sloped roofs shall have overhanging eaves that extend past the supporting walls.
 - d. Sloped roofs shall either be of architectural standing seam metal, tile, slate, or dimensional shingles.
 - 2. Building Materials:** Exterior building materials and colors shall generally be aesthetically pleasing and compatible with materials and colors used in adjoining neighborhoods.
 - a. The exterior materials shall be a combination of brick; wood; stone; tinted and textured concrete masonry units; architectural precast concrete, architectural metal; and other products that replicate the appearance and durability of these materials. The use of smooth faced concrete block, un-textured smooth faced tilt-up concrete panels, and standing seam steel panels shall be prohibited. The Zoning Administrator/Director shall approve or deny the use of all composite and alternative materials.
 - b. Facade colors shall be low reflectance, subtle, neutral, or earth tone colors. Building trim and accent areas may feature brighter colors, including primary colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited on all building exteriors.

4.6-1 BUFFERING STANDARDS

PURPOSE: The general purpose of buffering and screening is to soften the potential conflicts between the potential uses in one zoning district and the potential uses in another, adjacent district by using setbacks and landscaping. The potential degree (or intensity) of conflict (or potential conflict) between two zoning districts determines the extent of the buffer yard required.

These Buffering Standards apply to the following districts:

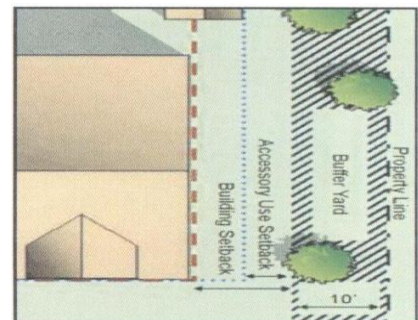
Residential Districts – R4, R8, R10, RR // Business Districts – NB, HS, CB

Industrial District – IND // Agricultural Residential District – AR // Parks & Recreation District – PR

A. Buffer Yard Required: The matrix in the Buffer Yard Requirements table determines the type of buffer yard that shall be installed by the subject development entirely on the subject property. The required buffer yards shall meet the following minimum requirements:

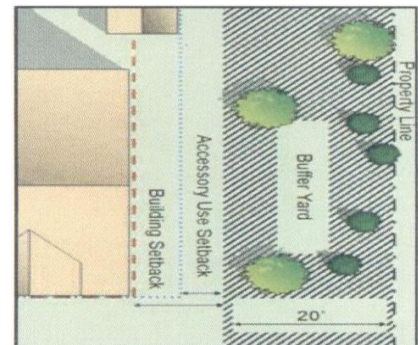
Buffer Yard Type 1:

Buffer yard type 1 shall be a minimum width of 10 feet in addition to the yard setback required by this Ordinance. In addition, 1 deciduous canopy tree must be planted in the buffer yard for every 30 feet of contiguous boundary between the subject and adjoining properties.



Buffer Yard Type 2:

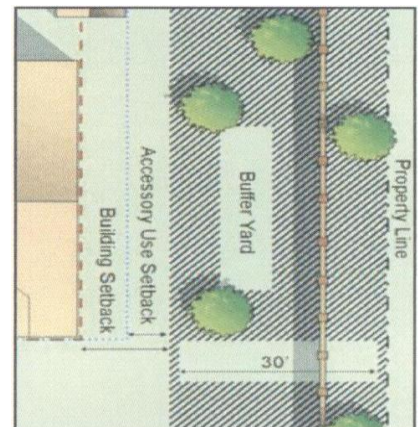
Buffer yard type 2 shall be a minimum width of 20 feet in addition to the yard setback required by this Ordinance. In addition, 1 deciduous canopy tree and 2 evergreen trees shall be planted in the buffer yard for every 35 feet of contiguous boundary between the subject and adjoining properties.



Buffer Yard Type 3:

Buffer yard type 3 shall be a minimum width of 30 feet in addition to the yard setback required by this Ordinance. In addition, a row of deciduous canopy trees shall be planted parallel to the property line within the buffer yard with 1 tree placed every 30 feet along the boundary between the subject and adjoining properties. Also, a 6 foot tall opaque wooden fence or brick or stone wall, a 4 foot tall undulating mound planted with shrubs, or a row of evergreen trees shall be placed parallel to the property line along the boundary between the subject and adjoining properties.

If an undulating mound is used to fulfill the requirements, 1 shrub for every 5 feet of continuous boundary shall be planted on the mound. If a row of evergreen trees is used to meet the requirements, 1 tree shall be placed every 15 feet along the property boundary



B. Buffer Yard Standards: The following general buffer yard standards will apply to all buffer yards.

1. The buffer yard standards only apply along the property lines where the two conflicting zoning districts meet as specified in the Buffer Yard Requirement table. The required buffer yards shall be installed despite the presence of streets, alleys, streams and other features separating property lines in conflicting zoning districts.
2. The developer or owner of the subject property is responsible for installing the buffer yard at the time the property is developed. The adjacent property owner shall not have to participate in installing the buffer yard.
3. No buffer yard or required landscape materials shall be placed within any right-of-way, or septic field.
4. All required buffer yard areas shall be provided entirely on the subject property and shall be in addition to setbacks required by this Ordinance.
5. Required buffer yard trees may be placed either at regular intervals or in irregular patterns representing a natural landscape unless otherwise specified. However, no 2 buffer yard canopy trees shall be placed within 10 feet of one another.
6. All plantings in the buffer yard shall meet the planting standards provided in Section 4.7, Landscaping Standards.
7. All portions of the buffer yard not planted with trees, shrubs or other landscaped materials shall be covered with grass or other ground covering vegetation. Landscaping stone or other non-vegetative surfaces may not be substituted for vegetation.
8. No landscaping required by this Section may be used to satisfy the minimum requirements of any other provisions of this Ordinance.
9. All landscape materials must be properly maintained, kept in a neat and orderly appearance, and be free from all debris and refuse. All landscaping materials shall be maintained consistent with the maintenance requirements of Section 4.7, Landscaping Standards.

BUFFER YARDS REQUIRED GRID

The Buffer Yard type indicated on the table below shall be provided on the subject property when...											
the zoning district for the subject property is...	... and adjoining property is zoned...										or is the right-of-way of an Arterial
	PR	AR	RR	R4	R8	R10	NB	HS	CB	IND	
PR, Parks & Rec.		3	1	2	2	2	3	3	3	3	
AR, Agricultural Res.	3		1	2	2	2	3	3	3	3	
RR, Rural Residential				1	1	2	3	3	3	3	
R4, Low Residential	1	1	1			3	3	3	3	3	3
R8, Med. Residential	1	1	1			2	2	3	2	3	3
R10, High Residential	1	1	1	3	2		1	3	1	3	3
NB Neighborhood Bus.	1	1	1	1	1	1		2		2	
HS, Highway Service	2	2	2	3	3	3	2		2	1	
CB, Central Business	3	3	3	3	2	1		2		2	
IND, Industrial	3	3	3	3	3	3	2	1	2		

Buffering & Screening Standards cont...

4.6-2 SCREENING STANDARDS

These Screening Standards apply to the following district(s):

Business Districts – NB, HS, CB // Industrial Districts – IND

- A. Ground Level Requirements:** All outdoor storage areas, dumpsters and waste container areas, and mechanical equipment areas located on the ground shall be screened consistent with the following requirements:
- 1. Outdoor Storage of Items for Sale:** Permanent outdoor storage areas shall be enclosed on all but 1 side by a 100% opaque fence or wall that provides screening from the view of all adjacent streets and residentially zoned properties.
 - a. Temporary Seasonal Sales:** Temporary seasonal areas shall be exempt from this requirements.
 - b. Enclosure Standards:** The enclosure shall not exceed 8 feet in height and no stored materials shall exceed the height of the enclosure. The enclosure shall either be constructed of wood, masonry, composite material, vinyl, or a storage system structure that screens the items. All screening devices shall be complimentary to the color of the exterior material of the primary structure on the property.
 - 2. Outdoor Storage of Manufactured Products, Production Materials, and/or Equipment:** Outdoor storage areas shall be screened from view of any adjacent residentially zoned properties by a 100% opaque fence or wall. The enclosure shall not exceed 8 feet in height and no stored materials shall exceed the height of the enclosure. The enclosure shall either be constructed of wood, masonry, or a storage system structure that screens the items. All screening devices shall be complimentary to the color of the exterior material of the primary structure on the property.
 - 3. Dumpsters, Waste Container, and/or Mechanical Equipment Areas:** Ground level locations for dumpsters, waste containers, and/or mechanical equipment, that are visible from a residentially zoned area or a public street, shall meet the following standards:
 - a. Fencing:** A 6 foot tall, 100% opaque fence of wood, brick, stone, composite material, or vinyl construction, consistent with the exterior of the primary structure, shall completely enclose the area. Opaque, 6 foot tall wooded gates shall be provided to access the facility. The gates shall generally remain closed, except when immediate access to the area is required. Air conditioning condensers shall be exempt from this fencing requirements, but shall comply with the landscaping requirements of Section 4.6-2(A)(3)(b).
 - b. Landscape Screening:** Evergreen planting shall be provided around the exterior perimeter of the area, outside of any required fencing.
 - i.** If evergreen shrubs are used they shall be planted at a minimum of 4 feet on center.
 - ii.** If evergreen trees are used they shall be planted at a minimum of 8 feet on center.
- B. Roof-Top Requirements:** All roof-top equipment, including all HVAC units, shall be screened from the view of all adjacent residentially zoned properties by parapets, dormers, or other architectural mechanical screens. The material of all such screens shall be consistent with the exterior materials used on the facade of the structure.

4.7 LANDSCAPING STANDARDS

PURPOSE: Landscaping is an essential part in the design and development of a site. Such plantings are directly related to the general welfare of the community as well as the reduction of storm water runoff, glare, and heat buildup.

These Landscaping Standards apply to the following districts:

Business Districts – NB, HS, CB // Industrial District – IND

A. Planting Standards: Under no circumstances shall any artificial plant be installed and/or counted as part of the required plantings. All plant materials shall be living plants and shall meet the following requirements.

1. **Applicable Requirements:** In no instance shall any landscaping required by this Section, or by any other Section of this Ordinance, be used to meet the requirements of a different Ordinance provision. In all cases the landscaping required by any Section of this Ordinance shall be considered as being in addition to any other requirements.
2. **General Requirements:** All plant materials required by this Section shall be free of disease, insects and/or damage at the time of the final inspection by the Zoning Administrator Director.
3. **Prohibited Locations:** No landscaping materials, vegetation, plants, shrubs, trees, retaining walls, bedding, lighting, or mounds may extend into any existing or proposed right-of-way without written permission from the right-of-way holder.
4. **Existing Vegetation:** Any existing vegetation on site which is retained may be counted towards any applicable minimum landscaping requirements.
5. **Measurement Standards:** All new trees required to be planted by this Ordinance shall be measured as follows unless otherwise specified:
 - a. All deciduous and ornamental tree plantings shall have a minimum trunk size of 2 inches in diameter at the time of planting, measured at 6 inches above the rootball.
 - b. All evergreen trees shall be 5 feet in height at the time of planting, measured from the top of the rootball.
 - c. All shrubs shall be 18 inches in height at the time of planting, measured from the top of the rootball.
6. **Earth Mounds:** Earth mounds and berms shall be physical barriers that block or screen the view similar to a hedge, fence or wall. Mounds shall be constructed with proper and adequate plant material to prevent erosion. A difference in elevation between areas requiring screening does not constitute an existing earth mound and shall not be considered as fulfilling any mound requirement.
7. **Grass:** Species of grass normally grown as permanent lawns in Central Indiana shall be planted and may be sodded or seeded. In swales or other areas subject to erosion solid sod, erosion reducing net, or suitable mulch shall be used.

B. Design Standards: All proposed landscape materials should complement the form of the existing trees and plantings. Light, water, soil conditions, and on-going maintenance requirements should be considered in selecting plant materials.

1. **Vehicle Overhang:** Wheelstops or curbs shall be required to prevent parked vehicles from hanging over any required landscaped area.
2. **Groundcover:** All areas not landscaped with hedges, walls, or trees shall be provided with grass or other vegetative ground cover. In no case shall any required landscaping area be covered with rock, mulch, or other non-living landscape material. In no instance shall this provision be interpreted as prohibiting the placement of mulch around the base of plantings.

Landscaping Standards cont...

- C. **Maintenance Requirements:** Trees, vegetation, irrigation systems, fences, walls and other landscape elements are considered elements of a project in the same manner as parking and other site details. The owner of the property shall be responsible for the continuous and proper maintenance of all landscaping materials, and shall keep them in a proper, neat and orderly appearance, free from refuse and debris, and in good repair at all times.
1. All unhealthy or dead plant material shall be replaced by the next planting season. Other defective landscape material shall be replaced or repaired within 3 months of the occurrence of the defect.
 2. Landscape materials are intended to grow, spread and naturally mature over time. Landscaping materials used to fulfill requirements of this Section may not be pruned or otherwise treated so as to reduce overall height or level of opacity. Pruning, limbing-up, topping, and other inhibiting measures including removal may only be practiced to insure the public safety and to preserve the relative health of the material involved.
- D. **Foundation Requirements:** A landscaped area shall be provided around the foundation of each primary structure. For industrial uses, the landscaped area shall only be required around portions of the building used for offices and other locations where visitors typically enter the structure.
- E. **Parking Lot Perimeter Requirements:** all parking lots shall be separated from all planned public rights-of-way by a landscaping area. Lots include parking spaces, interior drives, and loading areas. The landscape area shall be planted with either 1, or a combination of the following options:
1. **Option 1 - Trees & Shrubs:** A minimum of 1 tree shall be provided for every 600 square feet of landscaped area, with a maximum of 1 tree for every 400 square feet. The trees may be a combination of ornamental and deciduous canopy trees, however no more than 60% of the required trees may be ornamental. In addition, 1 shrub shall be provided for every 100 square feet of landscaped area.
 2. **Option 2 - Landscape Berm:** A landscape berm that is a minimum of 3 feet in height shall be established along the entire length of the landscaped area. A minimum of 1 shrub shall be provided for every 4 linear feet of berm. All required shrubs shall be planted on the berm. No permanent or temporary signs or other non-landscaping objects shall be placed upon the berm.
- F. **Parking Lot Interior Requirements:** To help reduce excessive heat build-up and emissions from large areas of hard surfacing, landscape areas must be provided within parking lots.
1. **Landscaped Areas Required:** Landscape islands with a combined surface area equal to 5% of the area of the parking lot (including all parking spaces and interior drives beyond the right-of-way, but excluding all loading docks and truck maneuvering areas) shall be provided in all parking lots with more than 50 parking spaces.
 2. **Landscaped Area Standards:** The required landscape areas shall meet the following requirements:
 - a. All required landscaped areas shall consist of curbed islands or peninsulas that are surrounded on at least two sides by pavement. Landscaping on the perimeter of the parking lot shall not be counted toward this requirement.
 - b. all landscape islands shall be a minimum of 180 square feet in area.
 - c. The required landscaping areas shall generally be grouped together and coordinated for the following purposes:
 - i. establishing an entry aisle to the property,
 - ii. separating interior drives from parking aisles, and
 - iii. indicating the ends of aisles of parking spaces.

4.8 FENCES, HEDGES AND WALLS

PURPOSE: This Section is intended to provide for the regulation of the height and location of fences, hedges, and walls in order to provide adequate light, air, and privacy, and to protect the public welfare by preventing visual obstructions along public ways.

These General Fence, Hedge, & Wall Standards apply to the following districts:

Residential – RR, R4, R8, R10 // Business – HS, CB, NB // Industrial – IND

- A. Setbacks:** Fences, latticework, screens, hedges, or walls shall be set back to the front line of the house. All district rear yard setbacks shall apply. *This restriction shall also apply to corner lots that are considered to have two front yards.* Such fences or hedges shall be placed a minimum of 3 feet inside the property line of the Owner's lot. All setbacks are subject to the Sight Visibility Standards Requirement (Section 4.9).

If a fence or hedge is to be placed closer than 3 feet or centered on the property line, an agreement must be signed by all adjoining property owner's affected by the fence placement. This form must then be filed in the office of the Jay County Clerk prior to any permit being issued. If a fence or hedge is to be cost-shared with the adjoining property owner, then written statements from each of the property owners declaring the intent to cost share the fence must be submitted with the application for the permit. A cost-shared fence or hedge may be centered on the property line.

- B. Height Measurements:** In any residential district, ornamental fences and hedges shall not exceed 3 feet in height in the required front yard or 7 feet in height in the required side or rear yard, except that open chain link fences may be erected to 4 feet in height in the front yard.
- C. Prohibited Fences:** No residential fence may be constructed of metal siding, barbed wire, nor may it be electrified. These restrictions do not apply in regard to construction or maintenance of a fence of any height in connection with an agricultural use. In no instance shall this be interpreted as prohibiting the use of invisible fences.
- D. Permitting:** All fences or hedges which serve the same purposes as a fence, require a permit prior to installation. Applications for a permit to construct or install a fence or hedge, which serves the same purposes as a fence, shall be submitted to the Zoning Administrator/Director.

4.8-1 AGRICULTURAL FENCES

In areas zoned Agricultural Residential (AR), fences used for the purposes of animal grazing and/or pasture land shall be setback 1 foot from the property line unless it is a joint fence, in which case the fence shall be placed on the property line. Such fencing does not require a permit.

4.9 SIGHT VISIBILITY STANDARDS

PURPOSE: The intent of this Section is to provide for a safe vehicular and pedestrian transportation system. The visibility at intersections, driveways, curb cuts, and entrances are particularly important for the safe movement of vehicles and pedestrians.

A. Sight Visibility Requirements:

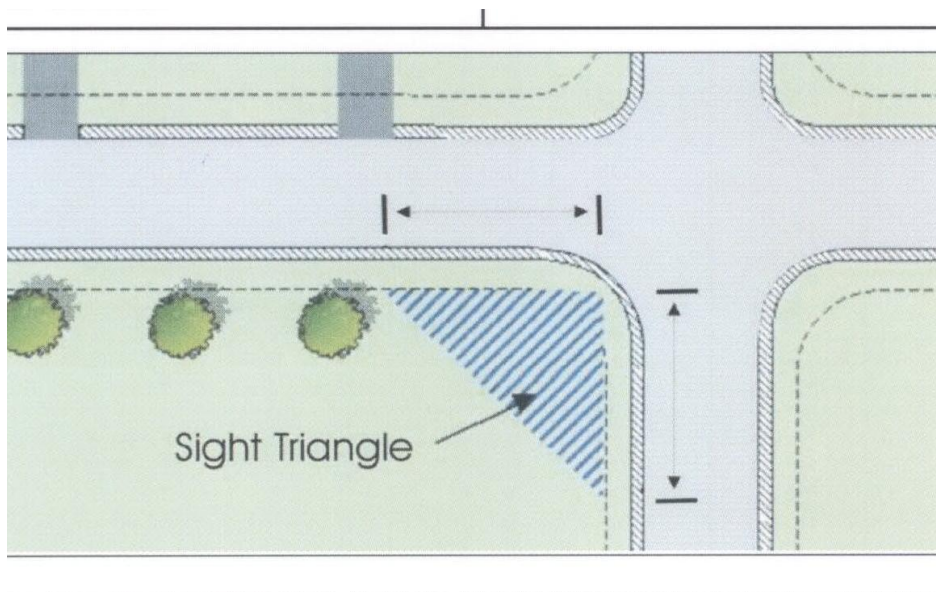
All intersections must maintain an area (Sight Visibility Triangle) where primary or accessory structures, fences, trees, vegetation (other than agricultural crops), or signs, (other than road signs), are not allowed to be placed or to project over a height of 2.5 feet measured from the nearest top-of-curb or edge of pavement where curbs are not present.

B. Sight Visibility Triangle Dimensions:

The Sight Visibility Triangle shall be established by connecting points located along the intersecting rights-of-way at the distances from the point of intersection required by the Sight Triangle Dimensions table.

Sight Triangle Dimensions

When the following type of street intersects any other type of street..	...the distance from the point of intersection shall be...
Arterial	25 ft.
Collector / Local	25 ft.
Alley	10 ft.



4.10 ENTRANCES & DRIVEWAYS

A. Spacing

Entrances and driveways must be spaced away from intersections for vehicular and pedestrian safety and to reduce traffic congestion. Spacing should be as follows in Table G (see Figure 5.1 for reference).

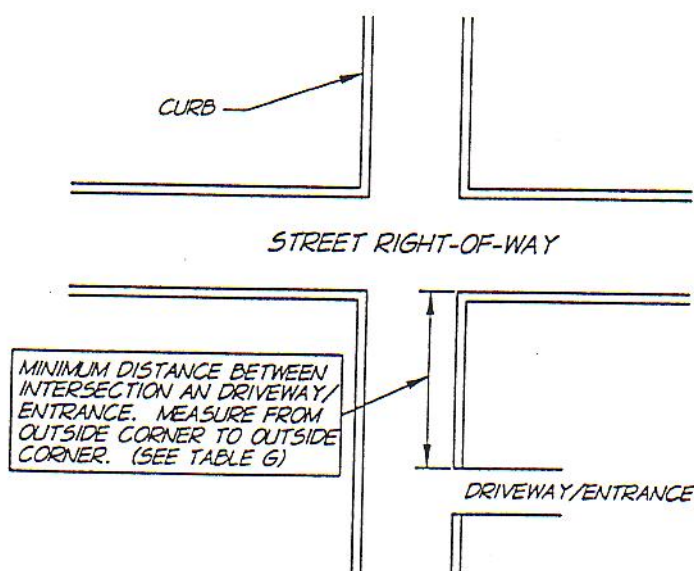
**TABLE G
DRIVEWAY / ENTRANCE TO INTERSECTION REQUIREMENTS**

ROAD CLASS. / DISTRICT	PR	AR / RR	R4	R8	R10	NB	HS	CB	IND
ARTERIAL	60 FT	60 FT	60 FT	60 FT	60 FT	60 FT	70 FT	70 FT	80 FT
COLLECTOR (FEEDER)	40 FT	40 FT	40 FT	40 FT	40 FT	40 FT	50 FT	50 FT	60 FT
LOCAL STREET	30 FT	30 FT	30 FT	30 FT	30 FT	30 FT	40 FT	40 FT	50 FT

B. Width

Driveway width shall be a minimum of twenty-four (24) feet for commercial and multi-family housing uses and thirty-four (34) feet for industrial uses. There are no minimum driveway widths for single-family residential uses.

FIGURE 5.1



4.11 PARKING

A. General

To reduce traffic problems and hazards by eliminating unnecessary on-street parking, every use of land must include on-premises parking sufficient for the needs normally generated by the use, as provided by this Section. Parking spaces or bays contiguous to the street, required by subdivision or other ordinances, are in addition to and not in place of the spaces so required.

B. Parking Spaces

As used in this Section, the term “parking space” means an area, not including any part of a street or alley, designed or used for the temporary parking of a motor vehicle.

1. Each parking space laid out in each of the following designs having the following minimum dimensions:

a.	Handicapped	As per ADA and Indiana Accessibility Standards*
b.	Parallel	10 feet wide by 20 feet long
c.	Right Angle (90 ⁰)	9 feet wide by 18 feet long
d.	Sixty degree (60 ⁰)	9 feet wide by 18 feet long
e.	Forty-five degree (45 ⁰)	9 feet wide by 22 feet long

The length for the right angle, sixty degree, and forty-five degree parking space shall be measured at right angles to the edge of usable parking area forming the angles, exclusive of passageway.

2. All uses which are required to provide handicapped parking areas shall be required to (a) provide the minimum number of handicapped parking spaces required for said use, with each parking space conforming to the dimensions shown above. (b) show the proposed dimensions and location of all such handicapped parking spaces on all site plans, plats, and other plans which will be reviewed by the Commission or BZA; and (c) comply with all appropriate parking, traffic, safety, and handicapped accessibility codes.
3. Except for providing for the minimum number of off-street parking spaces required in this Section for residential uses (exclusive of any commercial or lodging operations associated with residential uses), parking spaces shall not be located in required front yards except in business and industrial districts.
4. Parking spaces for any commercial or lodging operations associated with a residential use shall be provided either in one of the side yards or the rear yard of such dwelling, substantially out of public view from (a) the street fronting the front yard or an interior lot (or both street frontages on a through-lot), and (b) both streets which front the side and front yards on a corner lot (or all street frontages on corner lots which run the entire length of a block).
5. Off-street parking shall be provided as shown in Table F.

C. Parking Areas

As used in this Section, “parking area” means a group of parking spaces or an open area not including any part of a street or alley, designed or used for the temporary parking of motor vehicles.

1. Parking areas prescribed in this section for commercial and industrial uses must be located either on the premises of such commercial or industrial use or on a site approved by the Commission. Said off-street parking, however, must be located within three hundred (300) feet of the respective commercial or industrial site.

2. Businesses with parking and driveways in Neighborhood Business (NB) Districts must be paved with an impervious hard surface, if the driveway and parking area is more than 1,000 square feet in area. If less than 1,000 square feet, the area must have a dust control solution applied and be kept clear of all vegetation (weed free).
3. All parking lots and driveways in Highway Service (HS), Central Business (CB), and Industrial (IND) Districts for commercial, industrial, business, public and private employee parking, offices, and places of assembly, and all interior drives for commercial and light industrial developments must be paved with an impervious hard surface. In addition, all parking lots must also conform to all the following requirements:
 - a. Be striped so as to show each parking space;
 - b. Meet all of the parking space requirements in Table F;
 - c. Be constructed to allow proper drainage;
 - d. Be designed to prevent vehicles from having to back into public streets; and
 - e. Entrances must meet all ingress or egress requirements in Section 4.10, Table G.
4. A group of business and/or industrial uses may provide a joint parking area if the number of spaces required for all uses is adequate, and at least eighty percent (80%) of the total sum required for each use. The Zoning Administrator/Director shall approve aggregate parking lots such as mentioned above.
5. A church or temple or like uses may request to the Commission a down-sizing of parking requirements if adequate parking is located near the use and which is available during the times of use by the church or temple.
6. All parking areas are encouraged to be located in the rear and side yards for all uses of property. The Commission shall hear requests for variations from this Section's requirements only if the parking areas are located in the side or rear lots; front lot parking shall have no flexibility.

Parking Standards: Table F - Minimum Parking Requirements

Residential Required Parking Spaces

4 spaces	Per Single-Family Dwelling
2 spaces	Per Household in a Two-Family Dwelling or Duplex
2 spaces	Per Household in a Multi-Family Dwelling or Apartment
2 spaces	Per Household in a Mobile Home Park or Retirement Community

Parking Standards Table F – Non-Residential Parking Requirements

Spaces Required: The minimum number of parking spaces required per property shall be determined by **adding** up the spaces required for each applicable statement in the table that follows:

Non-Residential Required Parking Spaces (sq. ft. indicates square feet of gross floor area)	
The following number of parking spaces is required...	...for every...
1 space	employee working on the largest shift
1 space	business vehicle stored on-site
...in addition to...	...for every
1 space	3 seats in a restaurant, auditorium, gymnasium, church or movie theater
1 space	500 sq. ft. in all auto/boat/RV or farm implement sales facility show rooms
1 space	item on display at an auto/boat/RV or farm implement dealership (to be used for each display item)
1 space	400 sq. ft. of gross floor area in all hardware home improvement, furniture, and large appliance stores
1 space	200 sq. ft. of gross floor area in all medical or dental office or clinic
1 space	200 sq. ft. of gross floor area in any fitness center, health spa, or entertainment center
1 space	250 sq. ft. in any administrative or professional business office, library, museum, or art gallery
1 space	200 sq. ft. in any car wash, repair, or modification center
1 space	300 sq. ft. of gross floor area in all convenience stores, banks, gas stations, grocery stores, department stores, and other retail facilities
1 space	6 children permitted by capacity in any day care facility
1 space	sleeping unit in a hotel, motel, and bed and breakfast
20 spaces	nine holes at any golf course
2 spaces	classroom in elementary and middle schools or high schools with a gym or auditorium
1 space	4 students for which a high school without an auditorium or gym is designed
1 space	20 student for which a high school with an auditorium or gym is designed
1 space	4 students for which a community college, business, vocational, trade, or commuter-based school is designed
1 space	2 on-campus residents of a resident-student based college or university
1 space	100 sq. ft. of recreational area at a swimming pool or skating rink
20 spaces	field or court at a sports facility
1 space	3 patient beds at a hospital or nursing home
1 space	200 sq. ft. in a personal service business, beauty or barber shop, or dry cleaners
5 spaces	lane at a bowling alley
1 space	5000 sq. ft. at a self-storage facility
1 space	for every 5 hanger or tie-down spaces at an airport or heliport

4.12 INDUSTRIAL PERFORMANCE STANDARDS

A. General

No Light Industrial use shall be located within the jurisdiction of the Portland Advisory Plan Commission which is injurious to the health or safety of humans or animals, injurious to vegetation, or which is noxious or offensive, by reason of the omission of smoke, particulate matter, dust, odor, gas and fumes, glare, vibration or noise and sound beyond the confines of the building in which such industry is conducted.

B. Exceptions

The restrictions of this section shall not apply to:

1. The activities of site preparation or construction, maintenance, repair, alteration, modification or improvement of buildings.
2. The operation of motor vehicles or other facilities for the transportation of personnel, materials or products.
3. Conditions beyond the control of the user such as fire, explosion, accidents, failure or breakdown or equipment or facilities of emergencies.
4. Safety or emergency warning signals or alarms necessary for the protection of life, limb or property, or
5. Processes for which there are no known means of control. Research shall be promptly conducted to discover methods of control leading to installation of corrective equipment.

C. Interpretation

For the purpose of this section, certain terms and words shall be interpreted and defined as follows:

DECIBEL - A unit of measurement of the intensity or loudness of sound. Sound level meters are used to measure such intensities and are calibrated in decibels.

FLASH POINT - The lowest temperature at which a combustible liquid under prescribed conditions will give off a flammable vapor which will burn momentarily using the closed cup method.

FREE BURNING - A rate of combustion described by a material which burns actively and easily supports combustion.

INTENSE BURNING - A rate of combustion described by a material that burns with a high degree of activity and is consumed rapidly.

MODERATE BURNING - A rate of combustion described by a material which supports combustion and is consumed slowly as it burns.

PARTICULATE MATTER - Finely divided liquid or solid material which is discharged and carried along in the air.

RINGELMANN NUMBER - The number of the area on the Ringelmann chart that most nearly matches the light-obscuring capacity of smoke. The Ringelmann chart is described in the U.S. Bureau of Mines Information Circular 6888, on which are illustrated graduated shades of gray for use in estimating smoke density. Smoke below the density of Ringelmann No. 1 shall be considered no smoke or Ringelmann No. 0.

SLOW BURNING OR INCOMBUSTIBLE - Materials which do not in themselves constitute an active fuel for the spread of combustion. A material which will not ignite nor actively support combustion during an exposure for five (5) minutes to a temperature of 1,200 degrees F.

SMOKE - Small gas-borne particles resulting from incomplete combustion, consisting predominantly of carbon and other incombustible material, excluding metallurgical fume and dust, and present in sufficient quantity to be observable independently or the presence of other solids.

VIBRATION - Oscillatory motion transmitted through the ground.

D. Application

The following general performance standards shall apply to all Light Industrial uses:

1. **SMOKE** - In any 24-hour period, visible emissions and malfunctions shall not exceed forty percent (40%) of No. 2 of the Ringelmann's Scale for more than an accumulated fifteen (15) minutes.
2. **DUST** - No dust of any kind produced by the industrial operations shall be permitted to escape beyond the confines of the building in which it is produced.
3. **ODOR** - No noxious odor of any kind shall be permitted to extent beyond the lot lines.
4. **GASES AND FUMES** - No gases or fumes, toxic to persons or injurious to property shall be permitted to escape beyond the building in which they occur.
5. **GLARE** - No bright dazzling light produced by the industry shall be seen from any street or any residential area.
6. **WATER POLLUTION** - No industrial operation or activity shall discharge, or cause to be discharged, liquid or solid wastes into public waters unless in conformance with the provisions of the Stream Pollution Control Law of the State of Indiana (Chapter 214, Acts of 1943, as amended) and the regulations promulgated thereunder. Plans and specifications for proposed sewage and industrial waste treatment and disposal facilities shall be submitted to and approval obtained from the Stream Pollution Control Board of the State of Indiana.
7. **FIRE HAZARDS** - The storage, utilization or manufacture of solid materials or products ranging from incombustible to moderate burning is permitted. The storage, utilization or manufacture of flammable liquids or gases which produce flammable or explosive vapors, shall be permitted in accordance with State and Federal statutes and regulations.
8. **PARTICULATE MATTER** -
Boiler-Generated - No particulate matter from a flue or stack leading from a boiler shall exceed .8 pounds per million BTU's.

Foundry-Generated - No particulate matter resulting from a foundry process shall exceed the following:

<u>Rate of Process</u> (Pounds Per Hour)	<u>Pounds of Particulate Matter Per Hour</u>
1,000	3.00
2,000	4.70
3,000	6.35
4,000	8.00
5,000	9.65
6,000	11.30
7,000	12.90
8,000	14.00
9,000	15.50
10,000	16.65
12,000	18.70
16,000	21.60
18,000	22.80
20,000	24.00
30,000	30.00
40,000	36.00
50,000	42.00
60,000	48.00
70,000	49.00
80,000	50.50
90,000	51.60
100,000	52.60

Incinerator-Generated - No particulate matter resulting from an incinerator with a capacity to process 200 or less pounds per hour shall exceed .3 pounds per thousand pounds of dry gas at standard conditions. All other incinerators shall not exceed five (5) pounds per thousand pounds of dry gas at standard conditions. Further, all incinerators shall have a primary and secondary combustion chamber.

All other processes - For all other processes, no particulate matter from any stack or flue shall exceed a level determined by the following formulae:

Process under 60,000 pounds per hour

$$E = \frac{.67}{4.1P}$$

Process over 60,000 pounds per hour

$$E = \frac{.11}{55P - 4P}$$

Where:

E = Rate of emissions in pounds per hour

P = Rate of process in pounds per hour

9. EXPLOSIVE MATERIALS - No activity involving the storage, utilization or manufacture of materials or products which decompose by detonation shall be permitted unless specifically licensed by the Council... Such activity shall be conducted in accordance with the rules promulgated by the State Fire Marshal and the State Administrative Building Council. Such materials shall include, but are not limited to, all primary explosives such as lead azide, lead styphnate, fulminated, and tetracene; all high explosives such as TNT, RDX, HMX, PETN, and picric acid; propellants and components thereof; such as nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate, and potassium nitrate; blasting explosives such as dynamite and nitroglycerine; unstable organic compounds such as acetylides, tetrazoles, and ozonides; strong oxidizing agents such as liquid oxygen, perchloric acid, perchlorates chlorates, and hydrogen peroxide in concentrations greater than thirty-five percent (35%); and nuclear fuels fissionable materials and products, and reactor elements such as Uranium 235 and Plutonium 239.
10. If the State or Federal government shall adopt more restrictive environmental controls, those requirements shall apply to the provisions of this ordinance.

4.13 LOADING

A. General

There shall be provided off-street loading berths not less than the minimum requirements specified in this Section in connection with any building or structure which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles.

B. Location

All required off-street loading berths shall be located on the same lot as the use to be served, and no portion of the vehicle shall project into a street or alley. No permitted or required loading berth shall be located within twenty-five (25) feet of the nearest point of intersection of any two streets, nor shall it be located in a required front yard, or side yard adjoining a street.

C. Size

Off-street loading berths for over-the-road tractor-trailers shall be at least fourteen (14) feet in width by at least sixty (60) feet in length with a sixty (60) foot maneuvering apron, and shall have a vertical clearance of at least fifteen (15) feet. For local pick-up and delivery trucks, off-street loading berths shall be at least twelve (12) feet in width by at least thirty (30) feet in length with a thirty (30) foot maneuvering apron, and shall have a vertical clearance of at least fourteen (14) feet.

D. Access

Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements.

E. Surfacing

All open off-street loading berths shall be improved with a compacted base not less than six (6) inches thick, or equal, surfaced with not less than two (2) inches of asphalt, concrete, or some comparable all-weather, dustless material.

F. Space Allowed

Space allowed to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements of any off-street parking areas or portions thereof.

G. Off-Street Loading Berth Requirements

<u>Minimum Number Required</u>	<u>Gross Floor Area</u>
1	up to 40,000 sq. ft.
2	40,000 to 80,000 sq. ft.
3	80,000 to 120,000 sq. ft.
4	120,000 to 160,000 sq. ft.
5	160,000 to 240,000 sq. ft.
6	240,000 to 320,000 sq. ft.

One additional off-street loading space shall be required for each additional 80,000 square feet after 320,000 square feet.

4.14 ENVIRONMENTAL REGULATIONS

A. General

No land shall be used or structure erected where the land is unsuitable for such use or structure due to slopes greater than ten percent (10%), adverse soil or rock formation, erosion susceptibility, low percolation rate or bearing strength, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of the community. In addition, the following standards must be met:

B. Surface Water

It shall be the responsibility of the owner of any lot or parcel of land developed for any use other than for agriculture to provide for adequate surface water drainage. When possible, existing natural surface drainage may be utilized. Whenever the evidence available indicates that the natural surface drainage is inadequate, the owner shall provide the parcel with an adequate surface water system, which shall be integrated into the drainage pattern of surrounding properties. When the surface drainage is adequate, easement for such surface drainage shall be provided. On-site detention shall be required where necessary to prevent harm to adjoining properties.

C. Drainage

Drainage swales (ditches) along dedicated roadways and within the right-of-way or on dedicated drainage easements are not to be altered, except for maintenance as originally constructed and as approved by the County Highway Department, the Jay County Drainage Board, City Street Department, or Indiana Department of Transportation. Driveways may be constructed over these or other approved structures as permitted by the appropriate agency. All Class 1 Commercial or Industrial structures must have the approval of the Jay County Drainage Board, before a permit can be issued.

D. Permanent Structures

No permanent structures other than a fence may be erected, and if erected in violation of this section, no such structure may be used if the location is within seventy-five feet of the centerline of any legal tile ditch or within seventy-five feet of the existing top edge of any legal open ditch or tile unless approved by the Jay County Drainage Board and the Portland Plan Commission.

E. Preservation of Natural/Historic Features

Existing natural and historic features which would add value to development of natural or manmade assets of the county such as trees, streams, vistas, lakes, historical landmarks, and similar irreplaceable assets, shall be preserved through harmonious and careful design. Land to be developed shall be designed and improved as far as practical in conformity to existing topography in order to minimize storm water runoff, and conserve the natural cover and soil.

F. Landscaping

Any part or portion of non-farm parcel which is not used for structures, loading or parking spaces, sidewalks and accessory uses shall be landscaped or left in a natural state. If landscaped, they shall be planted with an all-season ground cover and shall be landscaped with trees and shrubs in accordance with the Development Plan and/or site plan and shall be in keeping with natural surroundings. All live landscaping required by this code shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded areas mowed, fertilized and irrigated on a regular basis.

- G. Cut/Fill Grade**
No cut or fill grade shall exceed a slope of 3:1 or 33 1/3 percent. This provision shall apply to all cuts and fills exceeding 100 square feet in exposed surface area, including cuts or fills on land naturally exceeding 3:1 in slope.
- H. Erosion Prevention**
All land, regardless of slope, from which structures or natural cover has been removed or otherwise destroyed, shall be appropriately graded and seeded within a reasonable time of such activity to prevent erosion.
- I. Alterations to Shoreline**
No alteration of the shoreline or bed of a river or public lake shall be made until written approval is obtained from the Indiana Department of Natural Resources, and the provisions of this ordinance are complied with. Alterations include, among other things, filling of a river or wetlands, dredging of a riverbed, and ditch excavation within one-half mile of a water body.
- J. Code Compliance/Hazardous Waste**
All development must be in compliance with Title 7 of the Indiana Code, as amended, as it relates to hazardous waste, low level nuclear waste, underground storage tanks, waste tires, and other applicable chapters of said Title.
- K. Code Compliance/Environmental Quality**
All development must be in compliance with Title 13 of the Indiana Code, as amended, as it relates to air pollution control, water pollution control, solid waste management, and other applicable chapters of said Title.
- L. Waste Disposal (Including Hazardous Waste Disposal)**
No waste materials such as garbage, rubbish, gasoline, oil, flammables, soils, tars, chemicals, greases, industrial or agricultural waste, or any other material of such nature, quantity, obnoxiousness, toxicity, or temperature so as to contaminate, pollute, or harm the waters shall be deposited, located, stored, or discharged on any lot in a way that would be likely to run off, seep, or wash into surface or groundwater's.
- M. Fuel Storage**
No highly flammable or explosive liquids, solids, or gases specified by the State Fire Marshal shall be stored in bulk above ground, except tanks or drums of fuel connected directly with energy devices or heating appliances located and operated on the same lot as the tanks or drums of fuel and except for permitted agricultural uses and permitted uses in an I District.
- N. Debris/Refuse**
Debris and refuse shall not accumulate on any property, in any zoning district. Properties located within the city limits of Portland, Indiana will be subject to the City of Portland Code of Ordinances, Title 9, chapters 94 and 95.
- O. Treatment of Fill**
Bricks, concrete, lumber, and other material used for fill where permitted by this ordinance and/or by the IDEM, DNR, or other governmental agency, shall be promptly covered and seeded.
- P. View Requirements**
Where a proposed structure will eliminate more than fifty percent of an adjacent structure's view or exposure to the sun, an additional yard area setback may be required by the Zoning Administrator/Director so that the fifty percent (50%) view or exposure may be maintained.

Q. Improvement Location Permit Requirements

Requirements for Improvement Location Permits can be found in Section 10 of this Ordinance. The following activities are permitted, however, with no Improvement Location Permit required, provided all other applicable standards are met:

1. Normal plowing and preparing the land for gardens and yards.
2. Normal trimming and/or removal of trees and shrubs for maintenance and/or site preparation.
3. Earth movements related to farming and other agricultural activity, including sod farming.
4. Public and private road construction.
5. Drain tile laying and ditch cleaning.
6. Top soil removal, other than Mineral Extraction.

R. Health and Safety

No use shall be permitted which is injurious in health and safety of humans, animals, or vegetation, or which is noxious by reason of the emission of odor, visual pollution, or other undesirable nuisances which effects extend beyond the lot line where the use exists. For purposes of this ordinance, any junkyard, whether a non-conforming use, or a conforming use, contained or existing on any lot or lots adjacent to or within five hundred (500) feet of a public street, road, highway or right-of-way is deemed to be noxious, constitutes visual pollution, and shall be abated, terminated, removed and evacuated within one year from the date of signing of this amendatory ordinance unless such junk yard shall be fenced or screened on each side visible from any public street, road, highway or right-of-way with natural objects, plantings, fences, or other appropriate means, the top of which shall be not less than eight (8) feet and which fence shall be sufficient to remove the junk yard and all contents of the junk yard from sight so as not to be visible from the main-traveled way of any street, road, highway or right-of-way. If the fencing cannot be completed within one year, the owner may obtain a one year extension by filing specifications and a surety bond sufficient to guarantee the completion of said fencing within one year after the Board of Zoning Appeals approves said specifications and surety bond.

Confined Feeding Standards

4.15 CONFINED FEEDING STANDARDS

A Confined Feeding Operation cannot be established in the two (2) mile jurisdictional area of the City of Portland. Any existing Confined Feeding Operation wishing to increase in size or expand the operation must first apply for a public hearing with the Portland Board of Zoning Appeals. If approved, the Board of Zoning Appeals may apply any reasonable conditions to the approval of the application in order to minimize adverse effects of its use on neighboring properties including the Confined Feeding Regulations set forth in the Jay County Zoning Ordinance, Section 216.

4.15-1 Confined Feeding/Intensive Livestock Definition

- A.** The confined feeding of animals for foods, fur, or pleasure purposes on lots, pens, ponds, sheds, or buildings where:
1. Animals are confined, fed and/or maintained for at least 4t days during any 12 month period; and
 2. Ground cover or vegetation is not sustained over at least 50% of the animal confinement area
 - a. where animals are assembled from at least 2 sources to be publicly auctioned or privately sold on a commission basis;
 - b. that is under state or federal supervision.
 - c. Does not include a livestock sale barn or auction market where animals are kept for not more than 10 days.
- B.** An intensive livestock operation is further defined for the purpose of this section and of this Ordinance as:
1. Any existing or proposed livestock operation or an expansion of an existing livestock operation regardless of acreage on which there are livestock numbers exceeding:
 - a. 200 Cattle or Horses
 - b. 400 Swine or Sheep
 - c. 5,700 Fowl or Ducks, dry
 - d. 5,500 Ducks, wet
 2. Any operation using a waste lagoon or holding pit
 3. Any animal feeding operation facility where the owner and/or operator elects to be under Indiana Department of Environmental Management (IDEM).
 4. Any animal feeding operation causing a violation of IC 13-18-10 or IC 13-18-4 as determined by the Water Pollution Control Board or its successors.
 5. Where a livestock operation involves less than 200 cattle or horses, 400 swine or sheep, 5,700 fowl or ducks dry, or 5,000 ducks wet, but there is more than one species of animal, the total number of animals in each category shall be divided by 200 in the case of cattle or horses, 400 in the case of swine or sheep, 5,700 in the case of fowl or ducks dry, 5,000 in the case of ducks wet. The resulting percentages shall be added together. If the total of such percentages equals or exceeds 100, then the operation is an intensive livestock operation as defined herein, and as such, shall be subject to the provisions of this Ordinance.

4.16 SMALL WIND ENERGY CONVERSION SYSTEMS - PRIVATELY OWNED

PURPOSE: It is the purpose of this regulation to allow the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.

FINDINGS: The City of Portland finds that wind energy is an abundant, renewable, and nonpolluting energy resource and that its conversion to electricity will reduce our dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. Distributed small wind energy systems will also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the State's energy supply portfolio. Small wind systems also make the electricity supply market more competitive by promoting customer choice.

4.16-1 DEFINITIONS:

SMALL WIND ENERGY SYSTEM: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kilowatts (kW) and which is intended to primarily reduce on-site consumption of utility power.

TOWER HEIGHT: The height above grade of the fixed portion of the tower, excluding the wind turbine itself.

TOWER EXTENDED HEIGHT: The height above grade to a blade tip at its highest point of travel.

4.16-2 REGULATIONS AND STANDARDS:

- A. **Allowed Use:** Small wind energy systems shall be allowed as a permitted use in areas zoned Agricultural Residential (AR) and a Special Exception use in Rural Residential (RR), Highway Service (HS), and Industrial (IND) districts; subject to the Site Development Plan Requirements. Not allowed in Parks & Recreation (PR), R4 Residential, R8 Residential, R10 Residential, or Neighborhood Business (NB) districts.
- B. **Setback:** The base of the tower shall be set back from all property lines, public right-of-ways, and public utility lines a distance equal to the total extended height. Turbines shall be allowed closer to a property line than its total extended height if the abutting property owner(s) grants written permission and the installation poses no interference with public utility lines or public road and rail right-of-ways.
- C. **Tower Height:** So long as the total extended height meets sound and set-back requirements, there shall be no specific height limitation, except as imposed by Federal Aviation Administration regulations as stated in 4.16(H).
- D. **Sound:** For wind speeds in the range of 0-25 mph, small wind turbines shall not cause a sound pressure level in excess of 60 dB(A), or in excess of 5 dB(A) above the background noise, whichever is greater, as measured at the closest neighboring inhabited dwelling. This level, however may be exceeded during short-term events such as utility outages and severe wind storms.
- E. **Wind Turbine Equipment:** Small wind turbines must have been approved under the state public benefits program or any other small wind certification program recognized by the American Wind Energy Association.

- F. **Requirement for Engineered Drawings:** Building permit applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure and engineered drawings of the tower, base, footings, and/or foundation as provided by the manufacturer. Wet stamps shall not be required.
- G. **Soil Studies:** For standard soil conditions (not including gravel, sand, or muck), foundations developed by the wind turbine manufacturer shall be acceptable for turbine installations of 20kW or less and will not require project-specific soils studies or an engineer's wet stamp.
- H. **Compliance with FFA Regulations:** No WEC shall be constructed, altered or maintained so as to project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection.
- I. **Compliance with National Electric Code:** Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components, as supplied by the manufacturing, in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
- J. **Utility Notification:** No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- K. **Insurance:** Additional insurance beyond homeowners' coverage shall not be required.
- L. **Abandonment:** If a wind turbine is inoperable for six consecutive months the owner shall be notified that they must, within six months of receiving the notice, restore their system to operation condition. If the owner(s) fails to restore their system to operating condition within the six-month time frame, then the owner shall be required, at his expense, to remove the wind turbine from the tower for safety.
- M. **Signage:** All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road shall be prohibited.
- N. **Lighting:** No illumination of the turbine or tower shall be allowed unless required by the FAA.
- O. **Access:** Any climbing foot pegs or rungs below 12 feet of a freestanding tower shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood may be fastened to the bottom tower section such that it cannot readily be climbed.
- P. **Improvement Location Permit:** The applicant shall apply to the Zoning Administrator/Director for an Improvement Location Permit prior to construction of a privately owned wind energy system.

4.17 WIND FARM STANDARDS - COMMERCIAL

PURPOSE: This Section is adopted to assure that any development and production of wind-generated electricity under the jurisdiction of City of Portland is safe and effective, to facilitate economic opportunities for local residents, and to provide a regulatory scheme for the construction and operation of Wind Energy Facilities in the jurisdiction of the City of Portland, subject to reasonable restriction, this will preserve the public health and safety.

4.17-1 DEFINITIONS:

WIND ENERGY CONVERSION SYSTEMS (WECS) - COMMERCIAL - All necessary devices that together convert wind energy into electricity and deliver that electricity to a utility's transmission lines, including but not limited to the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS Tower, the substations, switching stations, meteorological towers, communications facilities and other required facilities and equipment, as related to the WECS project.

SUBSTATION (WECS) - An apparatus that connects the electrical collection system of the WECS and increases the voltage for connection with the utility's transmission lines.

SWITCHING STATION (WECS) - An apparatus / structure in the system similar to a substation but not necessarily increasing voltage into the grid.

WECS PROJECT - The collection of WECS (as defined) as specified in the siting approval application pursuant to this ordinance.

WECS TOWER - The support structure to which the nacelle and rotor are attached, freestanding or guyed structure that supports a wind turbine generator.

WECS TOWER HEIGHT - The distance from the rotor blade at its highest point to the top surface of the WECS foundation.

APPLICANT - The entity or person who submits to the City, an application for the siting of any WECS or Substation or thereafter operates or owns a WECS.

FINANCIAL ASSURANCE - Means reasonable assurance from a credit-worthy party, examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit or combinations thereof.

OPERATOR - Means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third party subcontractors.

OWNER - Means the entity or entities with an equity interest in the WECS(s), including their respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS (unless the property owner has an equity interest in the WECS; or (ii) any person holding a security interest in the WECS(s) solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS(s) within one year of such event.

PRIMARY STRUCTURE - Means, for each property, the structure that one or more persons occupy the majority of time on that property for either business or personal reasons. Primary Structure includes structures such as residences, commercial buildings, hospitals, and day care facilities. Primary Structure excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages and barns.

PROFESSIONAL ENGINEER - Means a qualified individual who is licensed as a professional engineer in any state in the United States.

4.17-2 APPLICABILITY: This Section governs the siting of WECS(s) and Substations that generate electricity to be sold to wholesale or retail markets, except that owners of WECS(s) with an aggregate generating capacity of 3MW or less who locate the WECS(s) on their own property must obtain a variance to this section. WECS may be sited in any area under the jurisdiction of the City of Portland Zoning Ordinance.

4.17-3 PROHIBITION: No entity shall construct or operate a wind energy conversion system (WECS) without having fully complied with the provisions of this Ordinance.

4.17-4 APPLICATION REQUIREMENTS:

Prior to the construction of a WECS, the Applicant shall obtain approval for the following:

- A. An Application for the rezoning of the project properties to Industrial.
- B. An Application for variances or special exceptions for any variances anticipated on the WECS Project.
- C. An Improvement Location Permit from the Zoning Administrator/Director.

4.17-5 APPLICATION FOR REZONING:

- A. A WECS Project summary, including, to the extent available:
 - 1. A general description of the project, including its approximate name plate generating capacity; the potential equipment manufacturer(s), types(s) of WECS(s), number of WECS(s), and name plate generating capacity of each WECS; the maximum height of the WECS Tower(s) and maximum diameter of the WECS(s) rotor(s); the general location of the project; and
 - 2. A description of the Applicant, Owner, and Operator, including their respective business structures.
- B. The names(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s) with WECS on their properties, if known.
- C. A topographic map of the project site and the surrounding area which shall encompass an area at least a quarter mile radius from the proposed project site with contours of not more than five foot intervals
- D. A site plan at an appropriate scale showing (standard sheet of 36 inches by 24 inches and individual tower site not greater than 1 inch equals 20 feet); the proposed location of the wind energy facility (including planned locations of each WECS tower, guy lines and anchor bases (if any); WECS access roads; substations; electrical cabling; and ancillary equipment). In addition, the site plan shall show: primary structures within one quarter of one mile of any WECS; property lines, including identification of adjoining properties; setback lines; public roads; location of all above-ground utility lines within a distance of two (2) time the WECS tower height of any WECS tower; location of all existing underground utility lines associated with the WECS site; recognized historic or heritage sites as noted by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources; and any wetlands based upon a delineation prepared in accordance with the applicable U.S. Army Corps of Engineer requirements and guidelines.
- E. Location of all existing underground utility lines associated with the WECS site.
- F. The fee applicable to the Application for Rezoning shall be payable at the time of submission of the application, and such fee shall be \$20,000.00. The Application fee shall be used to defray the costs associated with the Application for Rezoning, including professional fees and expenses

4.17-6 APPLICATION FOR VARIANCES AND SPECIAL EXCEPTIONS:

Application for Variances or Special Exceptions shall include the above information and the stated Variances or Special Exception desired. An application for special exception approval may be a combined application provided all property owners where the WECS facilities are to be located are co-applicants. The applicant may also submit a joint application for any variances that are needed for the project area.

4.17-7 APPLICATION FOR IMPROVEMENT LOCATION PERMIT:

The Applicant shall apply to the Zoning Administrator/Director for an Improvement Location Permit. In addition to the information required on the Improvement Location Permit Application, the Applicant shall provide the following information to the Zoning Administrator/Director prior to the issuance of an Improvement Location Permit:

- A. Location of all above-ground utility lines within a radius equal to two (2) times the height of the proposed WECS.
- B. Location of all underground utility lines associated with the WECS site.
- C. Dimensional representation of the structural components of the tower construction including the base and footings.
- D. Schematic of electrical systems associated with the WECS including all existing and proposed electrical connections.
- E. Manufacturer's specifications and installation and operation instructions or specific WECS design information.
- F. Certification by a registered professional engineer that the tower design is sufficient to withstand wind load requirement for structure as defined by International Code Council.
- G. All turbines shall be new equipment commercially available. Used, experimental or prototype equipment still in testing shall be approved by the BZA as per the normal special exception process.
- H. Necessary recorded access easements and necessary recorded utility easements, copies of which shall be submitted to the Zoning Administrator/director.
- I. No appurtenances other than those associated with the wind turbine operations shall be connected to any wind tower except with express, written permission by the BZA.
- J. A transportation plan showing how vehicles would access the site and describing the impacts of the proposed energy project on the local and regional road system during construction and operation.
- K. A re-vegetation plan for restoring areas temporarily disturbed during construction.
- L. A fire protection plan for construction and operation of the facility.
- M. Any other item reasonably requested by the Zoning Administrator/Director.
- N. A drainage plan for construction and operation must be developed and approved by the Jay County Drainage Board.
- O. An erosion control plan must be developed in consultation with the Indiana Department of Environmental Management Department (Rule 5).

Each WECS Tower shall require an Improvement Location Permit. The fee for each improvement Location Permit shall be \$2,500.00, which shall be used to defray the costs of professional services, as well as other expenses associated with the issuance of Improvement Location Permits

4.17-8 DESIGN AND INSTALLATION - WIND ENERGY CONVERSION SYSTEM (WECS) COMMERCIAL

Design Safety Certification - A Wind Energy Conversion System shall meet the following standards:

- A. WECS shall conform to applicable industry standards. Applicant shall submit certificates of design compliance that wind turbine manufactures have obtained from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energie, or and equivalent third party.
- B. Following the granting of siting approval under this Ordinance, a Professional Engineer shall certify, as part of the building permit application that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

- 4.17-9 Controls and Brakes:** All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.
- 4.17-10 Electrical Components:** All electrical components of the WECS shall conform to applicable local, state, and national codes, and relevant national and international standards. All WECS electrical collection cables between each WECS shall be located underground unless they are located on public or utility rights-of-way or with prior City and County approval. All transmission lines that are buried should be at a depth consistent with or greater than local utility and telecommunication underground line standards or as negotiated with the land owner or the land owner's designate until the same reach the property line or a substation adjacent to the property line.
- 4.17-11 Color:** Towers and blades shall be painted with non-reflective white or gray color. The applicant shall comply with all applicable FAA requirements.
- 4.17-12 Warnings:** A visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of not more than 15 feet from the ground.
- 4.17-13 Climb Prevention:** All WECS tower designs must include features to deter climbing or be protected by anti-climbing devices such as: 1) fences with locking portals at least 6 feet high, 2) anti-climbing devices 15 feet vertically from the base of the WECS tower, and/or 3) locked WECS tower doors.
- 4.17-14 Blade Clearance:** The minimum distance between the ground and any protruding blade(s) utilized on a WECS shall be 15 feet, as measured at the lowest point of the arc of the blades. The minimum distance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.
- 4.17-15 Noise and Vibration Standards:** At no point within 200 feet of a primary residence may the sound pressure levels from a wind turbine exceed the following sound levels. Sound levels shall be measured with an octave band analyzer or sound level meter and associated filter manufactured in compliance with standards prescribed by American National Standards Institute (ANSI). This standard shall supersede any noise standard(s) set forth in any section of the Portland Zoning Ordinance.

Octave Bands for The City of Portland in Hertz (Hz), per ANSI	Maximum Permitted Sound Level (in decibels) measured 200 feet from edge of any Primary Structure.
63	75
125	70
250	65
500	59
1000	53
2000	48
4000	44
8000	41

- 4.17-16 Utility Interconnection:** The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operate as set forth in the electrical utility's then-current service regulations applicable to WECS.
- 4.17-17 Waste Management:** All solid waste whether generated from supplies, equipment, parts, packaging, or operation or maintenance of the facility, including old parts and equipment, shall be removed from the site in a timely manner. All HAZARDOUS WASTE generated by the operation and maintenance of the facility, including but not limited to lubrication materials, shall, be handled in a manner consistent with all local, state and federal rules and regulations.
- 4.17-18 Lighting:** All lighting shall also be in compliance with applicable FAA regulations. All lighting shall be shielded so that no glare extends substantially beyond the boundaries of the wind farm facilities.
- 4.17-19 Compliance with Additional Regulations:** Any WECS thereof declared to be unsafe by the Zoning Administrator/Director by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal. Nothing in this Ordinance is intended to preempt other applicable state and federal laws and regulations.
- 4.17-20 Setbacks:** Setbacks shall be as follows:
- A.** No WECS shall be constructed in any setback, dedicated public easement or dedicated public right-of-way without prior written authorization from the county.
 - B.** Installation of any WECS may not be nearer than 350 feet or 1.1 times the height of the WECS tower. Whichever is greatest to any property lines, dedicated roadway, railroad right-of-way or overhead electrical transmission or distribution lines. Distance shall be measured from the center of the foundation at the base of the tower. New structures build adjacent to wind power facilities shall maintain these same minimum setback requirements. Participating landowners within the area comprising the WECS may waive side and rear property line setbacks with written approval from the landowners sharing such property line.
 - C.** Except as provided herein the setback distance for all turbines with a rated capacity of 1.0 MW or less shall be 1,000 feet or more from any existing or occupied residence and turbines with a greater rated capacity shall be set back 1,000 feet or more from any existing or occupied residence or from the boundary of any to which as of the date of approval of the WECS is in a platted subdivision and shall be setback from a property line 1.1 times the height of the turbine with the blade tip at its highest point. Distance shall be measured at the time of application for building permit from the center of the foundation at the base of the tower. A turbine with a capacity of 1.0 MW or less may be placed as near as 600 feet from an occupied residence with the prior written approval of the owner. The setback distance will be followed except in specific instances allowed by The City of Portland Planning Commission.
 - D.** The setback distance from the WECS will be 1,500 feet from any platted community. Distance shall be measured from the center of the foundation at the base of the WECS to the closest Corporate Limit Boundary line.

4.17-21 Use of Roads/Services: An applicant, owner, or operator proposing to use any County or City road for the purpose of transporting WECS or substation parts and/or equipment for construction, operation, or maintenance of the WECS or substations, shall prior to construction:

- A.** Identify all such public roads and services.
 - 1.** Any proposed routes that will be used for construction and maintenance purposes shall be identified. If the route includes a public road, it must be approved by the Jay County Highway Supervisor, or the City of Portland Street Department. The Supervisor or Department shall conduct a pre-construction baseline survey to determining existing road conditions for assessing potential future damage.
 - 2.** Any road damage caused by the construction of the WECS project equipment, the installation of same, or the removal of same, must be repaired to the satisfaction of the Jay County Highway Supervisor or the City of Portland Street Department. The Supervisor or Department may choose to require either remediation of road damage upon completion of the project or is authorized to collect fees for oversized load permits. Further, a corporate surety bond in an amount to be fixed by a Professional Engineer may be required by the Departments Supervisor to insure the City or County that future repairs are completed to the satisfaction of the city or county. The cost of bonding is to be paid by the applicant.
 - 3.** Newly constructed WECS access roads may not impede the flow of water and shall comply with the County Drainage Ordinance.
- B.** Requirements of the Indiana Department of Environmental Management Rule 5 will be required during construction of the WECS.
- C.** Any facility shall comply with existing septic and well regulation as required by the Jay County Health Department and the Indiana Department of Public Health.
- D.** All damages to waterways, drainage ditches, field tiles, or any other infrastructures caused by the construction or maintenance of the WECS, must be completely repaired to original or better condition, and so as not to impede the flow of water. All repairs must be completed within a reasonable amount of time.

4.17-22 Operation, Maintenance, and Inspection: The Owner or Operator of the WECS must submit, on an annual basis, a summary of the operation and maintenance reports to the City. In addition to the above annual summary, the Owner or Operator must furnish such operation and maintenance reports as the City reasonably requests. The following operation, maintenance and inspection standards shall be met.

- A. Maintenance:** Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification. Like-kind replacements shall not require re-certification. Prior to making any physical modifications (other than a like-kind replacement), the owner or operator shall confer with the Building Inspector to determine whether the physical modification requires re-certification

WIND POWER ENERGY GENERATION REGULATIONS

- B. **Inspection:** The Portland Building Inspector, along with licensed 3rd party professionals retained by the City for the specific purpose of conducting inspections of the WECS shall have the right, at any reasonable time and with sufficient prior notice, to accompany the owner or operator, or his agent, on the premises where a WECS has been constructed, to inspect all parts of said WECS installation and to require that repairs or alterations be made. The owner or operator of a WECS may retain a licensed 3rd party professional engineer familiar with WECS systems to prepare and submit to the Portland Building Inspector which addresses the repairs or alterations requested and which suggest alternate methods for addressing the concerns or provides evidence that said repairs or alterations are unnecessary, within thirty (30) days after receiving notice from the Portland Building Inspector that repairs or alterations are requested, or within a longer period of time mutually acceptable to both parties. The Portland Building Inspector will consider any such written report and determine whether the repairs or alterations should be made as originally requested or as suggested in the written report. In the event of a dispute between the Portland Building Inspector and the owner or operator, or a 3rd party professional engineer retained by them, as to the repairs or alterations which are required, the decision of the Building Inspector shall be final. Inspections, at a fee to be determined from time to time by the Portland City Council and paid by the applicant, may be made by the Zoning Administrator/Director, or by a qualified inspector for equipment of this type selected by the Zoning Administrator/Director, no more than once annually to certify the safety and maintenance of the WECS and accessory structures.
- C. **Interference:** If, after construction of the WECS, the owner or operator receives a written complaint related to interference with local broadcast residential television, telecommunication, communication or microwave transmissions, the owner or operator shall take reasonable steps to respond to minimize the complaint.
- D. **Coordination with Local Fire Department:** The applicant, owner or operator shall submit to the local fire department, the owner or operator shall cooperate with the local fire department to develop the fire department's emergency response plan. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.
- E. **Materials Handling, Storage and Disposal:**
1. All solid wastes related to the construction, operation and maintenance of the WECS shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.
 2. All hazardous materials or waste related to the construction, operation and maintenance of the WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.
- 4.17-23 **Liability Insurance:** The owner or operator of the WECS shall maintain a current general liability policy covering bodily injury and property damage and name the City of Portland as an additional insured with limits of at least \$2 million per occurrence and \$5 million in the aggregate with a deductible of no more than \$5,000.

4.17-24 Decommissioning Plan: Prior to receiving siting approval under this section, the City and the applicant, owner and/or operator must formulate a Decommissioning Plan to ensure that the WECS Project is properly decommissioned. The Decommissioning Plan shall include:

- A.** Assurance that the facilities are properly decommissioned upon the end of the project life or facility abandonment. Applicant's obligations with respect to decommissioning shall include removal of all physical material pertaining to the project improvements to a depth of 48" beneath the soil surface, and restoration of the area occupied by the project improvements to the same or better condition that existed immediately before construction of such improvements. The property will then be returned from Industrial (I) to its original zoning designation. Prior to issuance of a building permit, the applicant shall provide a contractor cost estimate for demolition and removal of the WECS facility and will provide financial assurance in an amount at least equal to said demolition and removal contractor cost estimate, through the use of a bond, letter of credit or other security acceptable to the City, the cost of decommissioning each tower to be constructed under the building permit, which security shall be released when such tower is properly decommissioned as determined by the Portland Building Inspector. In the event of abandonment by the owner or operator, the Applicant will provide an affidavit to the Zoning Administrator/Director representing that all easements for wind turbines shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within twelve (12) months of expiration or earlier termination of the project.
- B.** The applicant's, owner's or operator's failure to comply with any of the above provisions shall constitute a default under this Ordinance.
- C.** Prior to implementation of the existing city procedures for the resolution of each default, the appropriate city body shall first provide written notice to the owner and operator, setting forth the alleged default. Such written notice shall provide the owner and operator a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default.
- D.** If the City determines, in its discretion, that the parties cannot resolve the alleged default within the good faith negotiation period, the existing City Ordinance provisions addressing the resolution of such default shall govern.

4.17-25 Waiving Requirements: Requirements of this Section may be waived by the City of Portland Board of Zoning Appeals upon application and after public hearings.

Section 5

Planned Developments

5.1 INTENT OF PLANNED DEVELOPMENT DISTRICTS

The purposes of these regulations are to provide greater design flexibility in the development of land when consistent with the Comprehensive Plan and intent of the Unified Zoning Ordinance. The use of Planned Development zoning classifications shall be encouraged when the use of such regulations promotes a harmonious variety of uses, and/or provides for an economy of shared services and facilities, and/or are compatible with surrounding areas and/or foster the creation of attractive, healthful, efficient and stable environments for living, shopping or working.

The Planned Development regulations and procedures may apply to the development of existing developed lands, or vacant lands, and may apply to small and large scale parcels and their relationship with other surrounding uses and the overall characteristic of the area in which it is located.

Planned Development regulations are intended to encourage innovations in land development techniques so that the growing demands of the community may be met with greater flexibility and variety in type, design and layout of sites and buildings and by the conservation and more efficient use of open spaces and other amenities generally enhancing the quality of life.

Planned Development projects should also encourage a more efficient use of land, which reflects the changes in the technology of land development, so that resulting economies may accrue to the benefit of the community at large. Examples of this concept would include the preservation of existing trees and the inclusion of recreation areas within new subdivisions.

5.2 CLASSIFICATIONS OF PLANNED DEVELOPMENTS

A. PD-R Planned Development - Residential

Any development consisting of not less than five (5) acres in which more than eighty percent of the interior floor area of all buildings to be included in the development is used for residential purposes or those accessory purposes customarily related to residential use.

B. PD-B Planned Development - Business

Any development consisting of not less than four (4) acres in which eighty percent of the interior floor area of all buildings to be included in the development is to be used for commercial purposes.

C. PD-I Planned Development - Industrial

Any development consisting of not less than ten (10) acres in which eighty percent of the total interior and exterior area of all sites and structures be used for manufacturing, warehousing, or other light to medium intensity industrial use.

D. PD-E Planned Development - Extraordinary

A development not otherwise distinguishable under any previous classification, containing less than the minimum land area and/or less than the stated minimum proportions of any single dominant use or function, and in which the proposed uses of interior and exterior spaces require unusual design flexibility to achieve a completely logical and complementary conjunction of uses and functions.

5.3 ORIGINATION OF PROPOSALS

Any person or group of persons united in interest, acting jointly, and in pursuance to an agreement to carry out a proposal may propose a Planned Development District in accordance with the procedures hereinafter established. Such person or group of persons making such proposal, however, must demonstrate the requisite capabilities to carry out such a proposal.

A parcel or site proposed for Planned Development need not be under single ownership where the proposed development consists of a group of structures or improvements capable of being developed separately but in accordance with a single, unitary plan, and in which the separate owners have given their expressed intentions to enter into such private agreements between or among themselves as will facilitate their mutual enterprise, and assure its completion as planned to the satisfaction of the Commission.

5.4 FILING PROCEDURE

The authorization of a Planned Development (PD) shall be subject to the following procedures:

A petition for rezoning to an appropriate PD classification shall be submitted, which shall be signed by the owner or owners of all real estate involved in the petition for the Planned Development, which petition shall have attached thereto letters of consent of all such owners prior to the filing of such petition, and to the change to a PD classification of the real estate included.

The petition, which shall include a Preliminary Development Plan and plat for any area proposed for development, as a Planned Development shall be filed with the Plan Commission.

5.5 PRELIMINARY DEVELOPMENT PLAN

The following shall be included in the Preliminary Development Plan.

- A. Proposed layout of streets, open space and other basic elements of the plan;
- B. General description of, location of, and types of structures on the site;
- C. Proposals for handling traffic, parking, sewage disposal, drainage, tree preservation and removal, lighting, signage, landscaping, and other pertinent development features;
- D. A separate location map, to scale, shall show the boundary lines of adjacent land and the existing zoning of the area proposed to be developed as well as the adjacent land;
- E. A general statement of the covenants to be made a part of the Planned Development as well as the order and estimated time of development;
- F. A statement of the proposed order of development of the major elements of the project, including whether the development will be in phases, and, if so, the order and content of each phase;
- G. The use categories within the area, including proposed densities of said uses.

- H. The preliminary plan shall be presented in triplicate and to a scale ratio not to exceed 100'=1". The preliminary plan may include any additional graphics which will explain the features of the development. It shall also be provided to the following checkpoint agencies for their review and comment:

- Technical Review Committee
- Director of Public Works and Safety
- Portland Police Department
- Portland Fire Department
- Jay County Soil and Water Conservation District
- Jay County Drainage Board

Within twenty-five (25) days after filing, the Zoning Administrator/Director shall meet with the petitioner regarding the preliminary plan and checkpoint agency comments. Checkpoint agency personnel may attend this meeting to provide comments. After such consultation, the petitioner may make modifications to the petition.

After the meeting described above and after making any modifications to the proposed preliminary plans, the petitioner shall file in triplicate a "Final Proposed Preliminary Plan" which shall:

1. Include all documents included in the preliminary plan.
2. Include an index identifying all documents included in the preliminary plan.
3. Include a cover sheet indicating that it is the Final Proposed Preliminary Plan and indicating the date and zoning case number.
4. Be bound or stapled together and all documents therein reduced to a size no larger than 8 ½ x 14 inches except for the maps, sketches and plat (if any).

Such final proposed preliminary plan shall be filed with the Zoning Administrator/Director at least ten (10) days prior to the preliminary plan hearing.

5.6 PRELIMINARY PLAN HEARING

- A. The petition, if and as modified, shall then be heard by the Plan Commission as a petition for zoning map amendment and subject to the procedures applicable thereto. The Plan Commission may recommend approval or disapproval of the plan and may impose any reasonable condition(s) with its affirmative recommendation. If disapproval is recommended, the application shall not be certified to the Council of the City of Portland. If approval is recommended, the preliminary plan shall be stamped "Approved Preliminary Planned Development" and be signed by the President and Secretary of the Plan Commission. One copy shall be permanently retained in the office of the Plan Commission, one copy shall be returned to the petitioner, and one copy and all conditions shall be certified as described in (B) below.
- B. The approved preliminary Planned Development shall then be certified to the Council of the City of Portland for adoption as a Planned Development District pursuant to the laws governing proposals to change zoning maps. Upon adoption by the legislative body, the petitioner shall prepare the final detailed plan.

5.7 APPROVAL OF FINAL DETAILED PLAN

- A.** Before any development takes place, the petitioner shall file with the Plan Commission a minimum of seven sets of the final detailed plan specifying the location, composition, and engineering features of all lots, storm drainage, sanitary sewage, water supply facilities, public or private streets, recreation facilities, site perimeter treatment, landscaping, plat and other site development features including locations of buildings. The petitioner shall also file the original of all signed and notarized documents pertaining to restrictive covenants, condominium declaration and/or the creation of a homeowners' association, along with financial assurance for the satisfactory installation of all public improvements in the form of bonds or such other assurances as are required in the normal procedures of platting pursuant to the provisions of Section VIII of this Ordinance. The Plan Commission shall then approve said final detailed plans by resolution duly adopted, upon an affirmative finding that the final detailed plan is consistent with the approved Preliminary Planned Development as adopted and passed by the Council of the City of Portland upon rezoning. Having so once approved the final detailed plan, the Plan Commission shall have no further authority to review or act thereon, except as to enforcement, except as to an amendatory ordinance, and except as hereafter provided for.
- B.** The approved Preliminary Plan may provide for development of the property involved in phases. If such phasing is included as a part of the approval of the preliminary plan, the petitioner may submit partial final detailed plans which correspond to the phases involved. Such partial final detailed plans, when approved, shall be treated in the same manner as approved final detailed plans for an entire Planned Development.
- C.** The approved final detailed plan or phase thereof shall be stamped "Approved Final Detailed Planned Development" and be signed by the President and Secretary with one copy permanently retained in the office of the Plan Commission following recordation as specified in Section 5.9.
- D.** Unless extended by the Plan Commission pursuant to Section 5.12, approval of the first phase of the final detailed plan shall be obtained within two (2) years and approval of the balance of the final detailed plan shall be obtained within five (5) years after adoption of the Planned Development District by the Council of the City of Portland.
- E.** In the event that approval of a final detailed plan is not timely obtained, the Plan Commission may initiate an amendment to the zoning map relating to said land.
- F.** In the exercise of continuing jurisdiction, the Zoning Administrator/Director may from time to time approve only minor modifications of the approved Final Detailed Planned Development in a manner consistent with the approved Preliminary Planned Development. Such modifications shall not include any increase in density, any lessening of aesthetic treatments, any alteration of frontage or building location, any change in type of use, or any change in access points.
- G.** Approval of a final detailed plan shall expire after a period of five (5) years from the approved phasing of the preliminary plan unless the development is fifty percent (50%) completed in terms of public improvements including streets, parks, walkways, utility installations and sanitary sewers. Determination of the amount of completion shall be made by the Plan Commission upon a recommendation of the Zoning Administrator/Director. Following expiration of the final detailed plan, the City of Portland shall declare the bond to be in default and cause all public improvements to be installed according to the final detailed plans.

5.8 COVENANTS AND MAINTENANCE

- A.** All covenants, when required by the Plan Commission, shall be set forth in detail and shall provide for a provision for the release of such restriction by execution of a document so stating and suitable for recording, signed by the Plan Commission President and Secretary upon authorization by the Plan Commission and all of the owners of property in the area involved in the petition for whose benefit the covenant was created. Such covenants shall provide that their benefits run to the Plan Commission and shall be specifically enforceable by the Plan Commission in addition to the property owners.
- B.** The Plan Commission may require the recording of covenants for any reasonable public or semi-public purpose, including, but not limited to, the allocation of land by the petitioner for public thoroughfares, parks, schools, recreational facilities, and other public and semi-public purposes. Such covenants shall provide that if a governmental unit or agency thereof does not proceed with acquisition of the allocated land within a specified period of time, the covenants shall automatically terminate. If such termination occurs, the petitioners shall then submit for approval by the Plan Commission a modified final detailed plan for such land, otherwise consistent with the approved Preliminary Planned Development.
- C.** The Commission may require the recording of covenants for any other reasonable purpose, including, but not limited to, imposing standards for development of property in a Planned Development. Such development standards may include, but are not limited to, requirements as to the following:

 - 1. Lot area
 - 2. Floor area
 - 3. Ratios of floor space to land space
 - 4. Area in which structures may be built ("build able area")
 - 5. Open space
 - 6. Setback lines and minimum yards
 - 7. Building separations
 - 8. Height of structures
 - 9. Signs
 - 10. Off-street parking and loading space
 - 11. Design standards (including landscaping requirements)
 - 12. Phasing of development
- D.** Adequate provision shall be made for a private organization with direct responsibility to, and control by, the property owners involved to provide for the operation and maintenance of all common facilities including private streets jointly shared by such property owners if such facilities are a part of the Planned Development, and, in such instance legal assurances shall be provided and recorded which show that the private organization is self-perpetuating.
- E.** Common facilities which are not dedicated to the public shall be maintained to standards assuring continuous and adequate maintenance. Common facilities not dedicated to the public shall be operated and maintained at no expense to any governmental unit.
- F.** All private streets shall be maintained by the aforementioned private organization in such a manner that adequate access is provided at all times to vehicular traffic so that fire, police, health, sanitation, and public utility vehicles can serve the properties contiguous or adjacent thereto, and so that said vehicles will have adequate turning area. All streets and roadways not dedicated to the public shall be operated and maintained at no expense to any governmental unit.

5.9 RECORDING

All approved Final Detailed Planned Development Plans and Plats and modifications thereof shall be recorded in the Office of the Jay County Recorder within two (2) years after approval, but before any development takes place. Failure to so record shall automatically void the approval of the Final Detailed Planned Development.

Where upon completion of all development, the exact measurements, as to the location of buildings or structures erected during the development, are deemed desirable for public record by recording thereof, the developer may submit a copy of the approved Final Detailed Planned Development to the Zoning Administrator/Director as an amended approved Final Detailed Planned Development with the exact measurements thereon shown, and upon being satisfied that the measurements are substantially the same as indicated on the original approved Final Detailed Planned Development, shall reapprove, date and sign said amended approved Final Detailed Planned Development, which the developer shall then record.

5.10 PERMIT

An Improvement Location Permit shall be issued for a Planned Development District upon full compliance with the approved Final Detailed Planned Development.

5.11 CONSTRUCTION

- A. No construction or installation work shall be done on any public improvements until the petitioner has, at least twenty-four (24) hours in advance, notified the appropriate Governmental Inspector(s) of his intention to begin such work, in order that inspections may be made as the work progresses.
- B. All development shall be in conformity with the approved and recorded Final Detailed Planned Development and any material deviations from the approved and recorded Final Detailed Planned Development shall be subject to appropriate enforcement action as provided for in this Ordinance.

5.12 EXTENSIONS, ABANDONMENT, AND EXPIRATION

- A. Extensions of the time for accomplishing any matters set forth herein may be granted by the Plan Commission at a public hearing for good cause shown.
- B. Upon the abandonment of a development authorized under this section (abandonment shall be deemed to have occurred when no improvements have been made pursuant to the approved Final Detailed Planned Development for twenty-four [24] consecutive months), or upon the expiration of five (5) years from the approval of a Final Detailed Planned Development for a development which has not been completed, an amendment may be initiated as provided by law to the zoning map so that the land will be zoned into a category or categories which most nearly approximate its then existing use or such other zoning category or categories which the legislative body deems appropriate.

5.13 RULES OF PROCEDURE

All proceedings brought under this section shall be subject to the Rules of Procedure of the Plan Commission, where not inconsistent with the procedure otherwise stated herein.

5.14 LIMITATION OF REZONING

The Plan Commission shall not initiate any amendments to the zoning map concerning the property involved in a Planned Development before completion of the development as long as the development is in conformity with the approved Final Detailed Planned Development and is proceeding in accordance with the time requirements imposed herein.

Section 6

Site Development Plans

6.1 AUTHORITY & PROCESS OUTLINE

INTENT: The intent of this Section is to provide for the adequate, consistent review of new development to ensure consistent review of new development to ensure consistency with the Comprehensive Plan; accommodate traffic and utility systems; and address the unique characteristics of certain areas of development. Site Development Plan review is provided for by the IC 36-7-4-1400 series. The Site Development Plan review process is not intended to provide an alternative to rezoning, variance, special exception, platting, or other established procedures; but rather to allow for the administrative review of site conditions and plans for consistency with applicable requirements prior to the issuance of Improvement Location Permits.

Generally, Site Development Plan review shall involve individual lots and shall occur after rezoning and plat approvals. Site Development Plan review may occur before or after any necessary Board of Zoning Appeals applications based on the characteristics of each application.

- A. Site Development Plan Required:** Site Development Plan approval shall be required for all developments (1) for which an Improvement Location Permit is required by this Ordinance and (2) are located in any of the following zoning districts:

NB – Neighborhood Business
HS – Highway Service
CB – Central Business
IND – Industrial
PUD – Planned Unit Development
Subdivision Districts

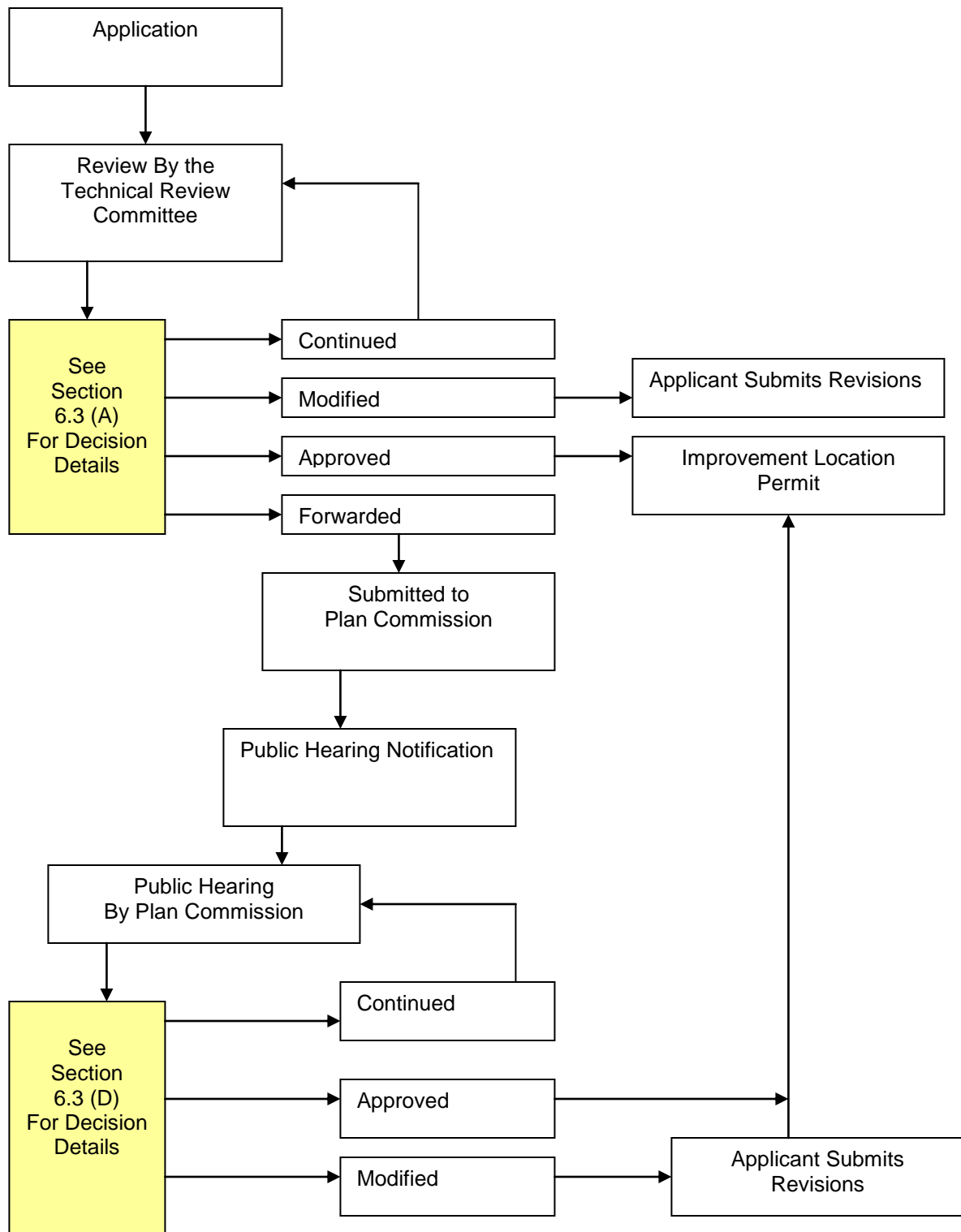
- B. Exemptions:** The following types of development shall be exempt from the requirements of this Section, but shall be required to obtain an Improvement Location Permit and/or any other permit or approval otherwise required by this Ordinance:

1. **Sign Installation:** The replacement or installation of any sign(s) not occurring as part of an improvement to any other aspect of the property;
2. **Parking Lot Expansion:** The expansion of an existing parking lot that does not result in (1) a greater than 25% or 2,000 square feet (whichever is greater) increase in the surface area of the parking previously available on the property (2) the demolition of any structure or (3) the need for modifications to street accesses; or
3. **Structural Expansion:** The expansion of an existing structure or the construction of an accessory structure that does not result in a greater than 25% increase in the floor area of the structures that were previously existing on the property and does not require the provision of additional landscaping, parking, or other improvements regulated by this Ordinance.

- C. Review and Approval Authority:** The Technical Review Committee, in its role as staff for the Plan Commission, shall have the authority to review and approve Site Development Plans required by this Section consistent with the Technical Review Committee provisions of this Section and Section 9.3.

1. **Waiver of Requirements:** Neither the Technical Review Committee nor the Plan Commission shall have the authority to waive any requirement of this Ordinance in the review of a Site Development Plan. All variances from the terms of this Ordinance shall be subject to the approval of the Board of Zoning Appeals.
2. **Revision Process:** The procedure for the review of proposed amendments or revisions to previously approved Site Development Plans shall follow the process for the initial approval of Site Development Plans outlined in this Section.

6.1 Authority & Process (cont.)



6.2 APPLICATION MATERIALS

- A. **General Requirements:** All applications may be obtained from the Zoning Administrator/Director. Fees shall be paid to the Zoning Administrator/Director at the time the application is submitted.
1. **Application Forms:** All applications shall be made on forms provided by the Zoning Administrator/Director. All applicants shall submit original applications that are completed in their entirety either in ink or typed.
 2. **Copies Required:** All applicants shall submit copies of applications and necessary attachments as required by the adopted policies of the City and the applicable Rules and Procedures of the Plan Commission.
 3. **Review Schedule:** All applications shall be assigned reference and/or docket numbers by the Zoning Administrator/Director. Applications shall be scheduled by the Zoning Administrator/Director for the appropriate meeting and/or public hearings based on the completeness of the application consistent with the requirements of this Section and appropriate adopted Calendar of Filing and Meeting Dates for the Plan Commission.
- B. **Application:** The applicant shall submit an application for Site Development Plan review, an affidavit and consent of property owner (if the property owner is someone other than the applicant), a copy of the deed of the property involved, the required filing fee, and required supporting information to the Plan Commission Director.
1. **Application Material Format:** All drawings shall be provided in both hard copy and electronic format in a manner specified by the Zoning Administrator/Director (the Zoning Administrator/Director may waive the requirement that an electronic version of any or all drawings be provided).
 2. **Supporting Information:** Supporting information shall include, but not be limited to, that described by 6.2(C) (the Zoning Administrator/Director, Technical Review Committee, and/or Plan Commission may request additional supporting information, which shall be provided by the applicant).
- C. **Required Materials:** The following materials shall be submitted with all Site Development Plan applications, unless otherwise waived by the Zoning Administrator/Director.
1. **Summary Statement:** A summary statement of the characteristics and operation of the development, including the population densities, presence of any adult uses, and number of potential employees. The statement shall include any written commitments being made regarding the Site Development Plan.
 2. **Site Description:** A general description of the site and its ownership including:
 - a. the name, street address, e-mail address, and telephone number of the applicant,
 - b. the name, street address, e-mail address, and telephone number of any land surveyors, engineers, or other professionals responsible for the Site Development Plan design,
 - c. the name, street address, e-mail address, and telephone number of the primary contact individual for the application (it shall be indicated if the primary contact person is the applicant or a contracted design professional),
 - d. the legal description of the subject property and common address of the site, and
 - e. the proposed name of the development (if applicable).
 3. **Vicinity Map:** A vicinity map showing and clearly identifying the subject property and identifying the current zoning and use of all property within 500 feet of the subject property.
 - a. The vicinity map shall also show all property that is contiguous to the subject property that is owned and/or otherwise controlled by the owner or developer of the subject property.
 - b. A conceptual drawing describing the future development of all contiguous holdings described above shall be provided by the applicant upon the request of the Zoning Administrator/Director, Technical Review committee, and/or Plan Commission. At a minimum the conceptual drawings shall include a description of the general street access points, general land uses, and general drainage conditions and plans.

SITE DEVELOPMENT PLANS

4. **Property Survey:** A property survey, drawn to an appropriate scale, bearing the seal of a land surveyor registered in the State of Indiana, and showing the following existing features for the subject property and all land within 100 feet of the property lines of the subject property:
 - a. the boundary lines and dimensions of the subject property;
 - b. all structures (specifically indicating any structures recognized as outstanding, notable, or contributing in the *Indiana Historic Sites and Structures Inventory*; and those listed in the *National Register of Historic Places*; and/or the *Indiana Register of Historic Sites & Structures*);
 - c. topography interpolated from USGS sources and/or otherwise meeting the requirements of the Jay County Drainage Board. (topographic information shall tie into horizontal and vertical control points);
 - d. significant wooded areas and other isolated trees and wetlands;
 - e. 100-year floodplain and 100-year floodway boundaries (including elevations);
 - f. public and private streets (including street names), sidewalks and other pedestrian paths, rights-of-way, and easements;
 - g. required building setbacks and any build-to lines and buffer yards;
 - h. all known drainage areas, tiles, pipes and structures;
 - i. utility services (including fire hydrants) and easements;
 - j. street accesses; and
 - k. any other paved or otherwise improved areas.
5. **Site Plan:** A site plan, drawn to an appropriate scale, bearing the seal of a professional engineer or land surveyor registered in the State of Indiana, clearly showing all proposed aspects of the property and all features relevant to the Site Development Plan, including:
 - a. all setbacks and buffer yards;
 - b. topography (including elevation contour lines at 2 foot intervals, or otherwise meeting the requirements of the Jay County Drainage Board);
 - c. preserved wooded areas and isolated trees and wetlands;
 - d. structures (including buildings, fences, and walls);
 - e. all structure heights, dimensions, and floor areas;
 - f. areas of outdoor storage;
 - g. permanent dumpsters and trash areas;
 - h. locations, dimensions and design features (including all curb radii, tapers, and parking space dimensions) of road accesses, interior drives, parking lots, loading docks or areas, intersection sight visibility triangles, and interior sidewalks;
 - i. open spaces and specific landscaped areas;
 - j. locations and capacities of public and private utilities;
 - k. the location, width, and purpose of all easements;
 - l. the use of each structure and the amount of parking allocated for the uses(s);
 - m. any public improvements including sidewalks, street trees, and right-of-way dedications;
 - n. locations for temporary uses, such as seasonal sales areas.
6. **Landscaping Plan:** A landscaping plan, drawn to an appropriate scale, showing the following:
 - a. proposed landscaping, buffer yards, and street trees;
 - b. topography (including elevation contour lines at 2 foot intervals, or otherwise meeting the requirements of the Jay County Drainage Board);
 - c. 100-year floodplain and 100-year floodway boundaries (including elevations);
 - d. existing and proposed public and internal sidewalks and other pedestrian ways;
 - e. the size and spacing of the plantings at the time of installation and the species proposed to be used to meet the requirements of this Ordinance; and
 - f. all existing trees and vegetation to be preserved, and the drip-lines for such trees (in which no construction activity shall occur).
7. **Sign Plan:** A sign plan showing the location, height method of illumination (if any) and dimensions of all permanent signs and indications of appropriate locations, heights, and sizes of any temporary signs.

8. **Drainage Plan:** A site drainage plan, bearing the seal of a professional engineer or land surveyor registered in the State of Indiana, including all calculations required by the Jay County Drainage board. The drainage plan shall include the location of the following:
 - a. all natural streams, regulated drains, and watercourses,
 - b. 100-year floodways and 100-year floodplains (including elevations),
 - c. all marshes, wetlands, and wooded areas, and
 - d. all drainage area features as described in the drainage calculations.
9. **Lighting Plan:** A site lighting plan, drawn to an appropriate scale, showing the type and location of all exterior lighting fixtures.
10. **Construction Plan:** A site construction plan, drawn to an appropriate scale, showing:
 - a. proposed erosion and sediment control measures;
 - b. the location of any proposed construction trailer and worker parking;
 - c. the location, height, and dimensions of any temporary construction-related signs;
 - d. any temporary site accesses to be used during construction;
 - e. all traffic control signs and devices;
 - f. any temporary utility connections; and
 - g. the location of any stockpiles of dirt, construction materials, and construction waste dumpsters or storage areas.

6.3 REVIEW PROCESS

- A. **Technical Review Committee Review:** The Technical Review Committee shall review the Site Development Plan, including all supporting information.
 1. **Representation:** The applicant and/or a representative of the applicant must be available to address any questions the Committee may have.
 2. **Considerations:** In reviewing the Site Development Plan, the Committee shall consider whether or not the proposed Site Development Plan is consistent with requirements and intent of this Ordinance, any other applicable adopted requirements of the City of Portland, and the standards of the local utility providers.
 3. **Possible Action:** The Committee may approve, approve with modifications, deny, continue, or forward to the Plan Commission the Site Development Plan.
 - a. **Approve:** the Committee shall approve the Site Development Plan if it complies with all applicable requirements of this Ordinance.
 - b. **Approve with Modifications:** The Committee shall approve the Site Development Plan with modifications, if it requires minor modifications, to be completely in compliance with the requirements and intent of this Ordinance. The applicant shall revise the Site Development Plan proposal consistent with the committee comments and supply revisions for review by the Zoning Administrator/Director prior to the release of any Improvement Location Permit.
 - c. **Deny:** The Committee shall deny the Site Development Plan if it is found to be inconsistent with the requirements and intent of this Ordinance.
 - d. **Continue:** The Committee may continue the Site Development Plan if requested by the applicant, if a determination has been made by the Zoning Administrator/Director that sufficient information has not been provided.
 - e. **Forward to Plan Commission:** The Committee shall forward Site Development Plans that are generally consistent with the requirements and intent of this Ordinance to the Plan Commission for a public hearing if the proposal:
 - I. includes any improvement to be dedicated to the public (if that improvement has not previously been shown on a recorded plat or otherwise dedicated),
 - II. includes proposed written commitments, or
 - III. requires the imposition of conditions in order to be completely consistent with the considerations for approval.

- B. **Plan Commission Preparation:** If Plan Commission review is required, the Site Development Plan shall be placed on the agenda for the next meeting of the Plan Commission consistent with the adopted Calendar of Meeting and Filing Dates. The applicant shall revise the Site Development Plan proposal consistent with any Committee comments prior to review by the Plan Commission and shall provide such revision for review.
- C. **Public Meeting Notification (if necessary):** Notification for the scheduled public hearing regarding the Site Development Plan shall be completed consistent with the requirements of Indiana State Code, the Rules and Procedures of the Plan Commission, and the provisions of Section 10.2.
- D. **Plan Commission Review (if necessary):** The Plan Commission shall review the Site Development Plan and any supporting information.
1. **Representation:** The applicant and/or a representative of the applicant must be present at the public hearing to present the Site Development Plan and address any questions from the Commission.
 2. **Presentations:** The Commission shall consider a report from the Zoning Administrator/Director describing the findings of the Technical Review Committee and any testimony from the applicant and any interested parties in making its decision.
 3. **Possible Action:** The Plan Commission shall approve, approve with modifications, deny, or continue the Site Development Plan application.
 - a. **Approve:** The Plan Commission shall approve the Site Development Plan if it is consistent with all applicable requirements of this Ordinance.
 - b. **Approve with Modifications:** The Plan Commission shall approve the Site Development Plan with modifications if it is generally consistent with all applicable requirements of this Ordinance. The Plan Commission may impose conditions on the approval of a Site Development Plan if the conditions are necessary to satisfy the requirements and intent of this Ordinance. Any accepted conditions shall become written commitments of the applicant.
 - c. **Deny:** The Plan Commission shall deny the Site Development Plan if it is not consistent with the applicable requirements of this Ordinance. Site Development Plan applications that have been denied shall not be re-filed for a period of 1 year from the date of the denial, unless a different design, that addresses the reasons for denial, is submitted.
 - d. **Continue:** The application may be continued based on a request by the Zoning Administrator/Director, the applicant, a remonstrator, or an interested party; an indecisive vote; a determination by the Commission that additional information is required prior to action being taken on the request; or if the applicant or an appropriate representative of the applicant fails to appear at the public hearing.
 - I Additional legal notice shall not be required unless specified by the Plan Commission.
 - II. The continuing of all applications shall be consistent with the adopted Rules and Procedures of the Commission.
 4. **Assurance of Completion of Improvements:** The Plan Commission may approve a Site Development Plan with the condition that a surety be provided that guarantees the timely completion of any proposed public improvements included in the development. The surety shall be in a form acceptable to the Plan Commission, the Zoning Administrator/Director, and the City Attorney, and consistent with surety provision of the City of Portland Zoning and Subdivision Control Ordinance.

- E. **Findings of Fact:** The Zoning Administrator/Director shall prepare and sign written findings of fact documenting the action taken by the Technical Review Committee and the Plan Commission (if Plan Commission review is necessary). The Zoning Administrator/Director shall make copies of the written findings of fact available to the applicant within 5 business days of the date of the decision.
- F. **Permits:** Prior to any construction activity, the applicant shall be required to obtain the appropriate Improvement Location Permit and any other required permits specified by this Ordinance.

6.4 WRITTEN COMMITMENTS

The applicant in any Site Development Plan application may make written commitments regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence on, the subject property consistent with IC 36-7-4-613.

- A. **Origin of Commitments:** Written commitments may be proposed by the applicant as an element of the initial submittal of application materials, as a response to comments made by the Technical Review Committee, or in response to any modifications requested by the Plan Commission.
- B. **Consideration of Commitments:** Any commitments shall be considered by the Technical Review Committee and/or the Plan Commission at the time of their review of the application.
- C. **Filing of Commitments:** Following final action being taken on the Site Development Plan application, the written commitments shall be documented by the Zoning Administrator/Director. A copy of the commitments shall be maintained by the Zoning Administrator/Director for the records of the Plan Commission.
- D. **Enforcement of Commitments:** The written commitments shall be considered part of this Zoning Ordinance binding on the subject property.
 - 1. **Successors in Interest:** The written commitments shall be binding on the owner of the subject property, any subsequent owners of the subject property, and any person or entity that acquires an interest in the subject property or any portion of the subject property.
 - 2. **Enforcement:** The written commitments shall be enforceable by the Plan Commission as if they are a part of this Ordinance, consistent with the provision of Section 12 Enforcement & Penalties.
 - 3. **Modification:** The written commitments may be modified by the Plan Commission only through the Site Development Plan process described in this Section.

6.5 APPEALS

Any applicant or interested party may appeal a determination made by the Technical Review Committee to the Plan Commission through the procedure described below:

- A. **Application:** The person making the appeal shall submit to the Zoning Administrator/Director a letter giving notice of the appeal and required supportive information within 30 days of the decision that is subject to the appeal. Supportive information shall include, but not be limited to, the following:
 - 1. **Finding of Fact:** Copies of any written decisions or findings of fact that are the subject of the appeal.
 - 2. **Description:** A letter describing the reasons for the appeal noting specific sections of this Ordinance, Indiana State Code, or other standards applicable to the City of Portland and the application upon which the appeal is based.
- B. **Public Meeting Notification:** Notification for a scheduled public hearing regarding the Site Development Plan shall be completed consistent with the requirements of Section 9.2 of this Ordinance.

- C. **Plan Commission Meeting:** The Plan Commission will then, in a public hearing scheduled consistent with the adopted Calendar of Filing and Meeting Dates review the appeal and supportive information.
1. **Representation:** Either the entity initiating the appeal or the representative must be present at the public hearing to present the appeal and address any questions from the Commission.
 2. **Presentations:** The Commission shall consider a report from the Zoning Administrator/Director, testimony from the entity making the appeal, and testimony from any interested parties at the public hearing.
 3. **Proceedings:** The presentation of reports and testimony and all other aspects of the meeting shall be consistent with the requirements of the Rules and Procedures of the Commission.
 4. **Possible Action:** Upon hearing the appeal, the Plan Commission may approve, approve with modifications, deny, or continue the Site Development Plan application consistent with the approval procedure for the applications referred to the Commission by the Technical Review Committee as described in Section 6.3 (D)(3).

Section 7

Subdivision Regulations

7.1 GENERAL PROVISIONS

A. Title

This Section of the Portland Unified Zoning and Subdivision Control Ordinance shall be known, cited, and referred to as the "Subdivision Control Regulations for the City of Portland, Indiana."

B. Intent and Purposes

The purposes of these subdivision regulations are to protect and promote the public health, safety, and general welfare, and to provide for:

1. Guidance of future growth and development in accordance with the Comprehensive Plan and other applicable City policies and ordinances.
2. Protection of the character, the social, and the economic stability of all parts of the area, and to encourage the orderly and beneficial development of all parts of the jurisdiction.
3. Protection and conservation of the value of land, buildings, and other improvements upon the land, and to minimize the conflicts among the uses of land and buildings.
4. Avoidance of scattered and uncontrolled subdivisions of land that would result in the unnecessary imposition of an excessive expenditure of public funds for the supply of services that are a part of community infrastructure.
5. Establishment of reasonable standards and procedures for subdivisions and re-subdivisions, in order to further the orderly layout and use of land; and to ensure proper legal descriptions and monumenting of subdivided land.
6. Prevention of the pollution of air and water; provision of drainage facilities and safeguarding of the water table; and the encouragement of wise use and management of natural resources in order to preserve the integrity, stability, natural beauty, topography, and the value of land.
7. To guide public and private policy and action to provide adequate and efficient public and private facilities, the most aesthetically pleasing and beneficial interrelationship between land uses, conserve natural resources such as natural beauty, woodlands, open spaces, and energy, both during and after development.
8. To cause the cost of design and installation of improvements in new, platted subdivisions to be borne by the persons purchasing the lots rather than by any direct or indirect burden upon existing property owners beyond the limits of the subdivision who have already paid for the improvements servicing their property.

C. Jurisdiction

This ordinance, which was enacted pursuant to Indiana home rule and planning enabling legislation (Indiana Code, titles Section 36-1-3-4 and the Section 36-7-4-700 series, as amended), authorizes the Portland Plan Commission to review and approve or disapprove plats for subdivisions within the Jurisdictional area of the City of Portland Indiana Unified Zoning and Subdivision Control Ordinance. The Plan Commission is hereby authorized to waive any or all requirements of this section when a literal enforcement of this section would result in unnecessary hardships and when such waiver will not be contrary to the public interest.

D. Policy and Interpretation

1. No owner, or agent of the owner, of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a plat of such subdivision has been approved by the Commission, in accordance with the provisions of these regulations, and filed with the Jay County Recorder.

2. The division of any lot or any parcel of land into a subdivision, as defined in this ordinance, by the use of metes and bounds description for the purpose of sale, transfer, or lease resulting in the creation of one (1) or more new building sites shall not be permitted. All such described divisions shall be subject to all of the appropriate requirements of this ordinance.
3. Land to be subdivided shall be of such a character that it can be developed without peril to health, flood, fire, or other menace; and land shall not be subdivided until access to available existing public facilities, improvements, and proper provisions have been made for drainage, water, sewerage, other necessary new public improvements such as schools, parks, recreation facilities, and transportation facilities adequate for serving the subdivision.
4. No plat or re-plat of a subdivision of land located within the jurisdiction of the Commission shall be recorded until it has been approved by the Commission, and such approval shall have been entered in writing on the plat by the President and Secretary of the Commission.
5. No land shall be subdivided unless the intended use of the individual lot is in conformance with all provisions of this Ordinance and the Comprehensive Plan, now or hereafter adopted.
6. In all subdivisions, due regard shall be given to the preservation of historical sites and natural features such as large trees, watercourses, and scenic views.
7. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
8. **Conflict with Public and Private Provision:**
 - a. **Public Provisions:** The regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule, regulations, statute, or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule, regulations, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.
 - b. **Private Provisions:** These regulations are not intended to abrogate any easement, covenant, or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirement of these regulations, or the determinations of the Commission in providing a subdivision or in enforcing these regulations, and such private provisions are not inconsistent with these regulations or determinations there under, then such private provisions shall be operative and supplemental to these regulations and determinations made there under. (Note: Private Provisions can only be enforced privately, unless a public agency has been made party to such agreements.)
9. No Improvement Location Permit or Certificate of Compliance shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of these subdivision regulations; and, no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with the regulations contained herein and in conformity with construction standards adopted by City Ordinance 1985-12.

10. These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations.
11. These regulations shall not apply to the following:
 - a. An adjustment of lot lines as shown on a recorded plat which does not reduce the area, frontage, width, depth, or building setback lines of each building site below the minimum zoning requirements, and does not change the original number of lots in any block of the recorded plat.
 - b. A division of land into two (2) or more tracts for an agricultural use.
 - c. An allocation of land in the settlement of an estate of a decedent or a court decree for the distribution of property.
 - d. The unwilling sale of land as a result of legal condemnations as defined and allowed in the Indiana State Law.
 - e. Widening of existing streets to conform to the Comprehensive Plan, Thoroughfare Plan, or Capital Improvement Plan.
 - f. The acquisition of street rights-of-way by a public agency in conformance with the Comprehensive Plan or Thoroughfare Plan.
 - g. The exchange of land for the purpose of straightening property boundary lines which does not result in the change of the present land usage.

E. Re-plats

For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, area reserved thereon for public use, any lot line, or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions, such change shall be approved by the Plan Commission by the same procedure, rules, and regulations as for a subdivision.

7.2 ADMINISTRATION AND DEFINITIONS

A. Inspections and Permits

1. The developer shall notify the Zoning Administrator/Director twenty-four (24) hours prior to the planned installation of improvements with the development. The Zoning Administrator/Director will notify the City Engineer who shall have the responsibility for inspecting and testing street curbs, sub bases, pavement depth and quality, sewer lines, water lines, utilities, and drainage improvements to see that they conform to the specifications of this Ordinance and to City Ordinance 1985-12.
2. The City of Portland shall reserve the right to withhold Improvement Location Permits for the remaining ten percent (10%) of undeveloped lots in a final subdivision plat if the developer has failed to install all of the improvements shown on the Secondary Plat and Final Construction Plans, except for sidewalks. Individual builders upon development of individual lots may install sidewalks on each lot.
3. All fees and costs of the City Engineer in review of plats, plans, specifications, field inspection of improvements, and any other aspects of subdivision review, shall be paid by the sub divider.
4. Disagreements shall be settled by the Commission by majority vote.
5. Fees shall be paid on a monthly billing cycle unless authorized otherwise by the Commission, in accordance with the official fee schedule.

B. Definitions

All terms used in this Section, not otherwise defined herein, shall have the definitions provided in Section 2 of this Ordinance.

SUBDIVISION CONTROL ORDINANCE

Section 7

7.3 PROCEDURE

A. General

In the development of subdivisions, the capacity of City utilities may be used to restrict the number of developable lots in any given subdivision proposal.

B. Application for Subdivision

1. The sub divider shall consult informally with the Zoning Administrator/Director and the City Engineer for advice and assistance before filing the application for a primary, secondary, or minor subdivision plat. At this meeting, the developer should submit a conceptual layout of the plat for review.
2. No application shall be accepted until all items detailed below have been completed and executed by the person proposing the subdivision, or his designee.
3. When the developer wishes to pursue the plat before the Plan Commission, he shall complete the requirements of Section 7.3 D and submit eight (8) copies of the proposed plat, and application to the Zoning Administrator/Director along with the appropriate fees as specified in the official fee schedule. The Zoning Administrator/Director shall have twenty-five (25) days in which to review the documents and to determine if there are any deficiencies of the proposed plat. The deficiencies, if any, shall be submitted to the developer in writing.
4. All deficiencies shall be corrected and four (4) copies of amended plat shall be submitted to the Zoning Administrator/Director fifteen (15) days prior to the next regularly scheduled meeting of the Plan Commission or it will not be heard at that meeting.
5. Street names shall be proposed, but the final decision of the street names shall be determined by the Commission.
6. Upon placement on the agenda, and prior to the date of a public hearing, the City Engineer shall review the proposal and prepare a written report to the Commission and applicant indicating a recommendation with regard to the subdivision being proposed.
7. The applicant shall pay all fees of the City Engineer incurred in review of the application and inspection of the development of the subdivision.

C. Notice of Public Hearing

1. The Zoning Administrator/Director, upon receipt of the proper documents, shall set a date for a public hearing before the Commission. The Zoning Administrator/Director shall assist the developer in the preparation of a Notice of Public Hearing to be published in a local newspaper of general circulation. The legal notice shall appear in the newspaper ten (10) days prior to the date of the public hearing and the cost of the notice shall be borne by the developer. A proof of publication shall be retained by the Zoning Administrator/Director.
2. A notice of Public Hearing to Interested Parties shall be sent by the developer, at the expense of the developer, to all interested parties adjacent to the proposed subdivided property ten (10) days before the date of the public hearing on the primary plat. The interested parties shall be notified by Certified Mail with Return Receipts Requested. An alternative method of notification would consist of an affidavit or proof of mailing, which the developer certifies that he has personally delivered the Notice of Public Hearings to interested parties and has obtained the signatures of each interested party to be notified. This affidavit shall be properly notarized.

3. Legal notices shall include the following:
 - a. The general location of the proposed subdivision and a legal description of the land contained therein.
 - b. That the primary plat is available for examination at the office of the City Clerk-Treasurer and the Zoning Administrator/Director.
 - c. That a public hearing will be held giving the date and hour of the hearing.
 - d. Written comments on the plat will be accepted prior to the public hearing and may be submitted to the Zoning Administrator/Director for the Plan Commission.
4. Legal notices shall comply with IC 5-3-1.
5. Proofs of publication, receipts of mailing, or proofs of mailing shall be submitted to the City Clerk-Treasurer and the Zoning Administrator/Director two (2) days prior to the date of the public hearing.

Names and addresses of interested parties adjacent to the subdivision site shall be presented to the Zoning Administrator/Director at the time the primary plat application is filed.

D. Primary Plat Procedures

1. The plat shall be drawn at a scale of one hundred (100) feet to one (1) inch. Sheets shall not exceed twenty-four (24) inches by thirty-six (36) inches in size. Other scales and/or sheet sizes are permitted if the Commission grants prior approval.
2. The primary plat shall be prepared and certified by a land surveyor registered by the State of Indiana.
3. The plat shall include a vicinity map showing the following:
 - a. Location of proposed subdivision.
 - b. Existing subdivisions and parcels of land adjacent to the proposed subdivision, including the names of the property owners.
 - c. Existing schools, parks, playground, or other similar public facilities that will serve the proposed subdivision.
 - d. All public thoroughfares/rights-of-way adjacent to the site.
 - e. Location and size of all utilities adjacent to the subdivision site, including sanitary and storm sewers, gas lines, electric lines, telephone lines, water mains fire hydrants, cable television lines, etc.
 - f. Existing zoning of the tract and all contiguous tracts surrounding the proposed subdivision.
 - g. All section and municipal corporate boundaries lying within or contiguous to the tract.
 - h. The location of any streets and alleys in the proposed subdivision showing the relationship of said streets to any existing or proposed streets in contiguous subdivisions or undeveloped property to produce the most advantageous development of the entire neighborhood.

The vicinity map may be prepared by indicating the data by notation on available maps of an appropriate scale.

4. Two copies of a primary subdivision plat shall be submitted showing the following:
- a. The proposed name of the subdivision.
 - b. Names and addresses of the owner, sub divider, consulting engineer, land surveyor, or planning firm who prepared the plat.
 - c. Legend and notes, including a graphic scale, north point, and date.
 - d. Tract boundary lines showing dimensions, bearings, angles, and references to section, township, range lines or corners, and existing benchmarks.
 - e. Topographic contours at typical intervals of two (2) feet if the general slope of the tract is less than 10 percent (10%), or intervals of five (5) feet if the slope is in excess of 10 percent (10%). Said contours shall be referenced to mean sea level elevations and to U.S. Geological Survey datum plane.
 - f. Layout of lots, showing dimensions and numbers.
 - g. Building lines showing setback dimensions throughout the subdivision.
 - h. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public, or community purposes.
 - i. Existing and proposed streets and rights-of-way on and adjoining the site of the proposed subdivision showing the proposed names, roadway widths, types and widths of pavements, curbs, sidewalks, bikeways, jogging paths, and other recreational ways. This may be deferred to the Secondary Plat approval stage if permitted by the Zoning Administrator/Director.
 - j. Existing and proposed easements including the location, width, and purpose of each easement.
 - k. Location and size of utilities existing and proposed and on the site, including storm and sanitary sewers; water mains; electrical, telephone, and cable Location television lines; street lights; fire hydrants; and such other utilities as may be appropriate. NOTE: All proposed utility services must be underground; and all sump-pumps (excluding sanitary pumps for basements) must be connected to the storm sewer system or as permitted by the Commission.
This may be deferred to the Secondary Plat approval stage if permitted by the Zoning Administrator/Director.
 - l. Location of natural streams, regulated surface drains, legal ditches, flood plains, drain tiles, etc.
 - m. A preliminary drainage plan showing the proposed storm water drainage system to an improved outlet. Data shall be included showing that said outlet is adequate to accommodate the drainage requirements of the finished development. The plan shall include surface drainage system, storm sewer systems, subsurface drainage systems, and storm water detention facilities. Arrows designating the general drainage of all streets and lots shall be included.
 - n. Location of water courses, marshes, wetlands, wooded areas, isolated trees to be preserved, houses, barns, and other structures and significant features.
 - o. Proposed sidewalks.
 - p. Proposed decorative lighting.
 - q. Type of drainage system(s) proposed to handle surface, underground, and runoff waters. The coefficient to be used for this determination shall be approved by the City Engineer.
 - r. The existing excess capacity available from the Portland Wastewater Treatment Plant; the nearest location to the building site of a trunk or connecting sewer line; and the expected demand of the development or building (numbers to be acquired from the City).

- s. Preliminary architectural drawings in sufficient detail to show building size, height, materials, types of units, and location of all buildings (existing and proposed) on the development site. The Zoning Administrator/Director may waive this requirement until Secondary Plat approval. In housing and large commercial developments, this information may not be available.
 - t. Proposed preliminary landscaping, signage, entrance to the development, screening, and attempts at preserving natural terrain and open space. The Plan Commission may request a landscaping/screening plan. The Zoning Administrator/Director may waive this requirement until Secondary Plat approval.
 - u. Estimated traffic count increase on adjacent streets resulting from the proposed development; description of type and condition of roads to serve such development; total number of motor vehicles expected to use or be stationed in such development; and on and off-site parking to be supplied. A formal engineering study need not be conducted unless the Commission requests such extensive information.
 - v. Photographs may be requested by the Zoning Administrator/Director for specific areas or elements on or surrounding the site.
 - w. If the primary plat is to be divided into sections or phases of development, the boundaries and numbers of such sections shall be shown, and a conceptual plan for the entire subdivision shall be submitted as a "phasing schedule." Due to a fluctuating economy, the Commission shall give some flexibility to revisions to the phasing schedule throughout the process and development.
 - x. Soil map of the site from the Soil Conservation Service.
 - y. Proposed development schedule.
5. The primary plat and application for approval shall be accompanied by a certified check or money order in an amount specified in the official fee schedule of the City of Portland as maintained in the office of the Portland Clerk-Treasurer and the office of the Zoning Administrator/Director.

E. Primary Plat Approval

After submission of the primary plat and application, the Commission shall have twenty-one (21) days to review the information and accept the primary plat and application, or return them to the sub divider with a list of additional information needs or suggested changes. No application will be considered at a meeting unless it is filed with the Commission at least ten (10) days before the date of such meeting.

1. Hearing

After acceptance of the preliminary plat and application by the Commission, the Commission shall set a date for a hearing, notify the applicant in writing, and notify by general publication or otherwise, any person or governmental unit having a probable interest in the proposed plat. The applicant shall meet the cost of publication of the Notice of Hearing.

2. Approval

- a. If the Plan Commission determines in the public hearing that the primary plat complies with the standards set forth in this ordinance, it shall make written findings and a decision granting primary approval to the plat. This information shall be sent to the developer in a letter signed by the President and Secretary of the Plan Commission.
- b. Approval of a primary plat by the Commission is strictly tentative, involving merely the general acceptability of the layout submitted.

- c. The Commission may introduce such changes or revisions as are deemed necessary in the best interest and general welfare of the community.
- d. The primary approval of a plat by the Plan Commission shall be certified on behalf of the Plan Commission by the President and Secretary of the Commission who shall state the approval in a letter and affix their signatures to it.

3. Disapproval

- a. If the Commission disapproves a primary plat application, the Commission shall make written findings and notify the applicant in writing, stating the specific reasons for disapproval. The President and Secretary of the Plan Commission shall sign this written notice.
- b. The applicant may submit a new application for primary plat approval but must pay all applicable fees as if it were an original application.

F. Secondary Plat Procedure

- 1. After approval of the primary plat by the Commission and fulfillment of the requirements of this Ordinance, eight (8) black line or blue line reproductions of the secondary plat of the subdivision shall be submitted to the Commission along with one (1) reproducible Mylar transparency. All plat shall be drawn at the same scale as the primary plat and shall be drawn on a sheet twenty-four (24) inches by thirty-six (36) inches in size.
- 2. If the Commission approves the secondary plat, it shall place a certification thereof on the reproduced copies. Upon the final approval of the plat, one (1) copy of the certified plat shall be forwarded to each of the following persons by the developer:
 - a. Jay County Auditor and Recorder
 - b. Any corporate utility company that may be affected
 - c. Subdivide or applicant
 - d. File of Commission
 - e. Jay County Surveyor
 - f. City Engineer
- 3. The secondary plat may include all or only a part of the primary plat, which has received approval and shall be prepared and certified by a land surveyor registered by the State of Indiana. If the secondary plat does not contain all of the land approved on the primary plat, a section number in a numerical order shall designate it.
- 4. The following information shall be shown on or submitted with the secondary plat:
 - a. Accurate boundary lines, with dimensions and angles, which provide a legal survey per state statute.
 - b. Accurate distances and directions to the nearest official monuments. Reference corners shall be accurately described on the plat.
 - c. Accurate locations of all existing and recorded streets intersecting the boundaries of the tract.
 - d. Accurate metes and bounds description of the tract boundary.
 - e. Source of title of applicant to the land as shown by the last entry in the books of the County Auditor.
 - f. Name of subdivision followed by the words "Secondary Plat."
 - g. Name and address of the owner and sub divider.
 - h. North point, graphic scale, and date.
 - i. Proposed street names.
 - j. Complete curve table for all curves included in the plat.

- k. Street lines with accurate dimensions in feet and hundredths of feet with angles to street, alley, and lot lines. Radii, points of curvatures, tangent bearings, and lengths of all arcs of street lines shall be provided.
- l. Lot numbers and dimensions including the square footage of each lot.
- m. Accurate locations of easements, descriptions of their use, and any limitations on such semi-public or community use.
- n. Accurate dimensions for any property to be dedicated or reserved for public, semi-public, or community use, including sidewalks, bikeways, and other recreational ways.
- o. Building lines and setback dimensions throughout the subdivision.
- p. Location, types, material, and size of all monuments and markers.
- q. Construction plans and specifications for all improvements required by this Ordinance or the Commission.
- r. Restrictions of all types, which will run with the land and become covenants in the deeds for lots.
- s. Certification by a registered land surveyor.
- t. Certification by the owner(s) and lien holder(s) (if any) of dedication of streets and other public property, and an agreement executed by the owner(s) and subdivider(s) to make and install all improvements in accordance with the plans and specifications approved by the Commission and accompanying the secondary plat.
- u. Certificate of approval by the Portland Plan Commission, if approved.
- v. Certificate of approval by the Portland City Council, if approved.
- w. A final landscape/screening plan shall be incorporated in the secondary plat design plans and a phasing schedule of landscaping/screening improvements.
- x. Any other information or data requested by the Commission during primary plat approval or otherwise necessary to clarify conditions and terms of plat approval.

G. Secondary Plat Approval

- 1. Within thirty (30) days after application for approval of the secondary plat, the Commission shall approve or disapprove it. If the Commission determines that the plat complies with the standards of this Ordinance, it shall make written findings and render a decision regarding secondary approval to the plat. No notices of public hearing shall be required for secondary plat approval.
- 2. The secondary approval of the plat by the Plan Commission shall be certified on behalf of the Plan Commission by the President and Secretary who shall affix their signatures to the plat original and all other relevant documents which also may required such signatures.
- 3. If the Plan Commission disapproves the secondary plat, it shall make written findings and notify the applicant in writing, stating the specific reasons for disapproval. The President and Secretary of the Plan Commission shall sign this written notice.
- 4. Approval of the secondary plat shall be effective for a maximum period of twelve (12) months from the date of approval. Failure to obtain approval from the Commission, record the plat with the Jay County Recorder, and commence construction of the subdivision within the twelve (12) month period, shall result in denial of building permits until an extension or re-submittal of application is made. For the purpose of this Section, "commencing construction," means completion of the construction survey and staking.
- 5. A certificate of secondary plat approval shall not be signed until a performance bond or proof or surety has been submitted to the Plan Commission if required.
- 6. No Improvement Location Permit shall be issued by the Zoning Administrator/Director, or his/her agent, for any structures on any subdivision lots prior to the recording of said subdivision by the County Recorder of Jay County, Indiana.

7. No Certificate of Occupancy shall be issued by the Zoning Administrator/Director, or his/her agent, for any structure on any subdivision lots prior to installation and completion of all facilities, including grading, as shown on the development plans and approved by the Commission; except that in the case of an asphalt road surface, the installation of the final surface coat may be postponed until the end of the maintenance period. The final coat of asphalt shall be installed prior to acceptance of the road for public maintenance.
8. A plat of subdivision may not be filed with the Jay County Auditor, and the Jay County Recorder may not record it unless it has been granted secondary approval by the Plan Commission and has been properly signed by the President and Secretary of the Commission. The filing and recording of the plat is without legal effect unless approved by the Plan Commission.
9. The sub divider shall supply one (1) copy of the recorded plat to the Zoning Administrator/Director.

H. Construction Plans

1. It shall be the responsibility of the sub divider of every proposed subdivision to have prepared and certified by a land surveyor or engineer registered in the State of Indiana, a complete set of construction plans, including profiles, cross-sections, specifications, and other supporting data for all required public streets, utilities, and other facilities.
2. The final construction plans shall be based on preliminary plans that have been approved with the primary plat and shall be prepared and submitted in conjunction with the secondary plat. The plans shall show the following:
 - a. General construction plans shall be prepared for all required improvements. Plans shall be drawn on standard twenty-four (24) inch by thirty-six (36) inch sheets at a scale of no less than one (1) inch equaling fifty (50) feet, and map sheets shall be the same size as the secondary plat.
 - b. Topographic contours at intervals of one (1) foot if the general slope of the tract is less than five percent (5%) or intervals of two (2) feet if the slope exceeds five percent (5%). Contours shall be referenced to USGS datum plane.
 - c. Profiles showing existing and proposed elevations along centerlines of all streets. Where a proposed street intersects an existing street or streets, the elevation along the centerline of the existing street or streets within one hundred (100) feet of the intersection. Radii of all curves, lengths or tangents, and central angles on all streets shall be shown.
 - d. The Plan Commission may require, where steep slopes exist, the cross-sections of all proposed streets.
 - e. Plans and profiles showing the location and typical cross-section of streets including curbs, gutters, sidewalks, rights-of-way, drainage facilities, manholes, and catch basins. Plans shall show the location, size, and invert elevations of existing and proposed sanitary sewers, storm water drains, water lines, gas, and fire hydrants, showing connection to any existing or proposed utility systems.
 - f. Location, size, elevation, and other appropriate descriptions of any other existing physical and natural features or facilities including wetlands, trees, the points of connection to proposed facilities and utilities, and the approximate high- and low-water elevations of all ponds, lakes, and streams. All elevations shall be referenced to the USGS datum plane.
 - g. Upon completion of the construction, the developer's engineer or land surveyor shall provide the Plan Commission with a set of "as built" construction plans showing the location, dimensions, and materials used to construct all improvements within the subdivision.

I. Minor Plats

1. The division of a tract of land into six (6) residential parcels or less, fronting upon an existing street and needing no new street or infrastructure, may be approved as follows: The minor plat shall be subject to the same basic procedures as any other subdivision, provided that the Zoning Administrator/Director may determine in advance of the filing of an application the details to be required on the plat.
2. The intent of this Section is to eliminate redundant requirements for minor plats that do not necessitate all of the detail of larger plats. However, the intent of this Section is not to circumvent good subdivision practices; therefore, the use of this procedure shall be limited to the creation of six (6) or less new parcels from any tract of land under single ownership at the time of adoption of this Ordinance.
3. For the purpose of allowing the early construction of model homes in a subdivision, the Commission in its discretion may permit a portion of a major subdivision involving no more than three (3) lots to be created in accordance with the procedures for minor subdivision, provided that said portion derives access from an existing public street, and provided that no future road or other improvement is anticipated where said lots are proposed. The subdivision plat for the "minor" portion shall be submitted to the Commission simultaneously with the primary plat for the entire major subdivision. Subsequent to the primary approval, the model home(s) may be constructed, subject to such additional requirements that the Commission may require.

7.4 SURETY

A. Performance Bonds

1. At the time when the Secondary Plat is approved by the Plan Commission and before the plat is signed by the officers of the Plan Commission or is recorded, the subdivider shall file a performance bond or irrevocable letter of credit with the Clerk-Treasurer and the City Council. The performance bond or letter of credit shall:
 - a. Be drawn in favor of the City of Portland.
 - b. Be in an amount determined by the Commission to be sufficient to complete the improvements and installations in compliance with this ordinance. The subdivider's engineer shall supply an estimate of the cost of improvements and installation on the project to aid the Commission in its determination of the amount of the bond. The engineer's estimate, however, shall not be binding upon the Commission.
 - c. Be with surety satisfactory to the Commission and City Council.
 - d. Comply with all statutory requirements and shall be satisfactory to the Plan Commission's Attorney as to form, sufficiency, and manner of execution as set forth in these regulations.
 - e. Extend for two (2) years, or 80% complete, or as specified by the Commission in the resolution approving the secondary subdivision plat.
 - f. Cover the installation costs of the streets, sanitary sewers, curbs, street signs, sidewalks, and other recreational amenities, surface swales, subsurface and storm drainage systems, seeding/erosion control, landscaping, and other public improvements.
2. The Plan Commission may, upon proof of difficulty, recommend to the City Council extension of the completion date set forth in such bond for a maximum period of one (1) additional year. The City Council may at any time during the period of such bond accept a substitution of principal or sureties on the bond upon recommendation of the Plan Commission's Attorney. The City Council shall have the authority to increase the bond amount to cover increased costs.
3. All required the applicant, at his expense, shall make improvements without reimbursement by the local government or any improvement district therein.

4. The sub divider shall be required to maintain at his expense a licensed civil engineer or engineering firm to manage the construction of the subdivision improvements. The managing engineer shall certify that the subdivision construction is in compliance with the detailed construction plans submitted to the Plan Commission during the review of the secondary plat. The managing engineer shall submit progress reports to the City Engineer as substantial steps are completed and should notify the City Engineer when important work has been scheduled so that an inspection can be made. The engineer or his firm shall submit a final report to the Plan Commission and the City Council.
5. If the City Engineer finds upon inspection that any of the required improvements have not been constructed in accordance with the construction standards and specifications, the applicant shall be responsible for correcting any errors in construction and completing the improvements in accordance with such standards and specifications. Wherever a performance bond covers the cost of improvements, the applicant and the bonding company shall be severally and jointly liable for completing the improvements according to specifications.
6. If a secondary plat is divided into sections, the Plan Commission may allow for performance bonds to be submitted covering only the cost of improvements to be constructed in each section.

B. Release of Performance Bond

1. The City Council and Board of Works shall not accept dedication of neither required improvements nor release nor reduce the performance bond amount until the City Engineer has submitted a final inspection report of the subdivision. The engineer shall certify that the layout of the public improvements has been completed, properly inspected, and is ready for acceptance into the City's system.
2. The City Council and Board of Works, upon approval of the City Engineer's inspection report, shall pass a resolution accepting the improvements in the subdivision and formally releasing the performance bond.
3. In those cases where a performance bond has been posted and required improvements have not been installed within the terms of such performance bond, the City Council may thereupon declare the bond to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the bond is declared to be in default.

C. Other Forms of Surety

1. The sub divider may provide the City Council with other liquid assets in an amount equal to the required performance and maintenance bonds. Such liquid assets may include a cash escrow account, certificate of deposit, irrevocable letter of credit, money market accounts, etc., so long as the proper documents are presented by the sub divider to the City Council giving said Council proper signatory access to the funds upon default.
2. Should the sub divider be required to extend site improvements to the subdivision such as extensions of water and sewer lines owned by the City of Portland which may provide benefits to other properties in the vicinity of the proposed subdivision, then the sub divider and the City Council may, by contract, agree that the other property owners in the vicinity of the subdivision who wish to connect to or utilize the installation provided by the sub divider shall pay the City over a ten (10) year period a fee in an amount agreed to by the contract and that portion of said fee shall be rebated to the sub divider in annual installments.

After the installation of any utility by the developer, an expiration date of fifteen (15) years shall be maintained. Thus, after fifteen (15) years from the time of completion, no monies shall be paid to the developer.

7.5 PRINCIPLES AND STANDARDS OF DESIGN

A. General

1. The subdivision layout shall be of such a character that it protects the health, safety, and general welfare of the residents in the jurisdiction of the Plan Commission.
2. Whenever a proposed subdivision borders an existing street, the Commission may require the reconstruction or widening of such street as a condition of plat approval. Additional dedication of right-of-way may also be required.
3. In designing and approving subdivision streets, the following factors shall receive consideration:
 - a. Accessibility for emergency vehicles and school buses;
 - b. Safety for both vehicular and pedestrian traffic;
 - c. Efficiency of service for all users;
 - d. Livability or amenities as affected by traffic elements in the circulation system; and
 - e. Economy of both construction and use of land.
4. The design of homes and their aesthetic appearance shall conform to the following factors:
 - a. No two homes within two hundred fifty (250) feet of one another's property and on the same street shall be of the same or relatively the same design.
 - b. Mirroring of a design or floor plan is considered to be a duplication of design and will not be permitted.
 - c. The determination of "relatively the same design" if in question shall be determined by vote of the Commission.
 - d. In some instances, similar floor plans may be considered to not be of the same or relatively the same design if substantial aesthetic differences are incorporated. Such substantial differences may include several of the following: roof pitch, architectural style, exterior material, design elements, color, landscaping, and orientation to the site.
5. When there is a situation of unusual physical conditions or a controlled design environment in evidence, and it can be satisfactorily demonstrated to the Commission that a private street is the only feasible solution, said private streets may be authorized provided pavement construction standards shall be the same as the minimum public standard, and adequate covenant provisions are made for direct responsibility and control by the property owners involved to provide for the perpetual operation, liability, and maintenance of said private streets at no expense to the City of Portland.
6. **In addition to the requirements established herein, all subdivision plats shall comply with the following rules, laws, and regulations:**
 - a. All applicable statutory provisions.
 - b. The local zoning ordinances, building and housing codes, and all other applicable laws of the appropriate jurisdiction.
 - c. The Comprehensive Plan, Thoroughfare Plan, and Capital Improvement Plan of the City of Portland, including all public facilities, open space, and recreation plans, as adopted.
 - d. The rules and regulations of the Indiana Department of Environmental Management, the Natural Resources Commission, Aeronautics Commission, Jay County Drainage Board, and other appropriate state agencies.
 - e. The rules, regulations, and standards of the Indiana Department of Transportation if the subdivision or lot contained therein abuts a State highway.
 - f. All applicable planning and regulatory guidelines, including access control, driveway manuals, parking and traffic control ordinances, and other applicable guides published by the local governmental units.
 - g. The "Indiana Manual of Uniform Traffic Control Devices" for installation of traffic control devices.

B. Street Standards

1. The street and alley layout shall provide adequate vehicular and pedestrian access to all lots and parcels of land within the subdivision, and where streets cross other streets. Streets shall conform to the following principles and standards.
 - a. Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.
 - b. Residential street systems shall be designed to minimize through traffic movement, but certain proposed streets, where appropriate, shall be extended to the boundary line of the tract to be subdivided so as to provide for normal circulation of traffic within the vicinity.
 - c. Wherever there exists a dedicated or platted portion of a street or alley adjacent to the proposed subdivision, the remainder of the street or alley to the prescribed width shall be platted within the proposed subdivision.
 - d. Residential street patterns shall provide reasonably direct access to the primary circulation system.
 - e. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two (2) new streets at an angle of less than seventy-five (75) degrees shall not be acceptable. A street should be approximately at right angles for at least one hundred (100) feet there from.
 - f. Not more than two (2) streets shall intersect at any one (1) point, unless specifically approved by the Plan Commission.
 - g. Proposed new intersections along one (1) side of an existing street shall, wherever practicable, coincide with any existing intersection on the opposite side of such street. Street jogs with centerline offsets of less than one hundred fifty (150) feet shall not be permitted except where the intersected street has separated, dual drives, without median breaks at either such intersection. Where local streets intersect with arterial or collector streets, their alignment shall be continuous.
 - h. The minimum right-of-way of residential streets shall be fifty (50) feet. All cul-de-sacs shall terminate in a circulate right-of-way with a minimum diameter of one hundred (100) feet and minimum roadway diameter of eighty (80) feet. Cul-de-sac streets shall not be longer than five hundred (500) feet, unless the Plan Commission shall determine after public discussion that a greater distance better serves the interest of public health, safety, and welfare; including traffic flow considerations; such distance to be measured from the center of the turning circle to the intersection of the centerline of the cul-de-sac street and the centerline of a through street provided, however, that if the residential streets within the subdivision has only one (1) intersection with a through street, the entire subdivision shall be considered a cul-de-sac and the distance shall be measured from the point of intersection of the subdivision street and the through street. The Planning Commission shall determine if the end of a Cul-de-sac shall include a fifty (50) foot easement for future extension of the street.
 - i. A temporarily dead-ended street shall be permitted in any case in which a street is proposed to be and should logically be extended but is not yet constructed. An adequate easement for a turn-around shall be provided for any such temporary dead-end street, which extends two hundred (200) feet or more in length. Such easement shall be automatically vacated to abutting property owners when said dead-ended street is legally extended.
 - j. At the intersection of any proposed residential street with any existing street, acceleration and deceleration lanes, and passing or left turn lanes may need to be provided in accordance with standards established by the handbook, A Policy of Geometric Design of Highways and Streets, by the American Association of State Transportation and Highway Officials.
 - k. All street construction shall conform to the Standards for Acceptance of Municipal Improvements Manual as adopted by City Ordinance No. 1985-12.

C. Block Standards

1. Block length and width or acreage within bounding streets shall be such as to accommodate the size of lot required by the Zoning Ordinance for the district in which the subdivision is to be located, and to provide convenient access, circulation control, and safety of street traffic. Blocks that are unreasonably large or small will not be approved.
2. Residential blocks should not exceed one thousand, five hundred (1,500) feet in length. In the design of blocks longer than eight hundred (800) feet, the Commission may specify the provision of pedestrian crosswalks near the center of the block, or wherever would be most useful to facilitate pedestrian circulation to a school, park, recreation area, shopping center, or other significant neighborhood destination. Minimum length of blocks shall be three hundred (300) feet.
3. Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate length. Exceptions to this prescribed block width shall be permitted in blocks adjacent to minor transportation facilities, watercourses, and industrial and commercial areas.

D. Lot Standards

1. Lot dimensions shall comply with minimum standards as specified in Section 3 of this Ordinance.
2. Double frontage lots shall be prohibited except where necessary to provide separation of residential development from arterial streets or to overcome specific disadvantages of topography and orientation.
3. The lot size, width, depth, shape, grade location, and orientation shall be in proper relation to street and block design and to existing and proposed topographical conditions.
4. All lots shall abut on a public street except where a private street has been specially approved under Section 7.5 A (5) of this Ordinance.
5. Side lines of lots shall be at approximately right angles to straight streets and on radial lines on curved streets. Some variation from this requirement is permissible, but pointed or very irregular lots should be avoided.
6. Building setback lines shall conform to the provisions of Section 3 of this Ordinance.
7. Lots abutting a watercourse, drainage way, channel, stream, or flood plain shall have additional minimum width or depth as required to provide an adequate building site, accommodate the full width of necessary easements, and conform to the minimum yard requirements specified in Section 3 of this Ordinance.
8. Vehicular access from lots to minor or major arterial streets may be prohibited. Vehicular access from lots to collector streets may be prohibited if the Design Hour Volume is determined by the Zoning Administrator/Director to be excessive.

E. Easements

1. Easements to permit access for maintenance and repair of surface and subsurface drainage improvements and utility installations shall be provided on the final copies of the Primary Plat, Secondary Plat, and Construction Plans. The City Engineer and representatives of local utility companies shall review location of easements.
2. Easements shall be a minimum of fifteen (15) feet in width, shall provide continuity from block to block, and shall be located along rear, side, or front lot lines, one-half (½) the width of the easement shall be taken from each lot. In the case of lots extending to the boundary of the lands platted and not adjoining another plat, the full width of the easement shall be provided on such peripheral lots.
3. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, the sub divider shall designate drainage easements on both sides of the watercourse, the width to be determined by the Plan Commission; and in the case of a legal drain, the Jay County Drainage Board.
4. When a proposed drainage system shall carry water across private lands outside the subdivision, appropriate drainage rights must be secured by the sub divider and indicated on the plat. Appropriate legal documentation must be submitted.

F. Open Space

1. If a proposed development will include at least 40 units (in one phase or a combination of phases), the sub divider shall be required to plat a minimum of one (1) acre of open space for each forty (40) dwelling units to be constructed when the gross density of such development is 2.5 dwelling units per acre or greater. A dwelling unit shall be defined as a single-family home, condominium, or apartment/rental unit.
2. The sub divider shall permanently dedicate the open space acreage for public use. The land may be deeded by the sub divider to the City of Portland, the School Corporation, local service clubs, or to a duly organizes homeowners' association within the subdivision. The Plan Commission shall have final approval as to the use of dedicated open space.
3. Easements, crosswalks, and road frontage to provide public access to the open space shall be shown on the Secondary Plat.
4. Existing natural features, which add value to residential development and enhance the attractiveness of the community shall be preserved in the design of the subdivision and may be incorporated into dedicated open space.

G. Subdivision and Street Names

1. The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by these regulations. The Plan Commission shall have final authority to approve the name of the subdivision, which shall be determined at the time of the preliminary plat approval.
2. Street names shall not duplicate any existing name within the area covered by these regulations except where a new street is a continuation of an existing street. Street names that may be spelled different but sound the same as existing streets shall not be used.
3. The Plan Commission shall have final authority to name all streets (in case of conflicts) at the time of preliminary plat approval.

7.6 STANDARDS FOR IMPROVEMENTS AND INSTALLATIONS

A. Street Improvements

1. Streets shall be completed to grades shown on the Construction Plans drawn by the sub divider's professional engineer or land surveyor and approved by the Plan Commission.
2. Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two percent (2%) grade at a distance of sixty (60) feet, measured from the nearest right-of-way line of the intersecting street.
3. At intersections of streets or alleys, property line corners shall be rounded by arcs of at least twenty (20) feet radii or by chords of such arcs. Arterial and all streets in commercial and industrial subdivisions shall have a minimum curb radius of thirty (30) feet. Collector streets shall have a minimum curb radius of twenty-five (25) feet. Local streets shall have a minimum curb return radius of twenty (20) feet.
4. If the smaller angle of intersection of two (2) streets is less than sixty (60) degrees, the radius of the arc at the intersection of property lines shall be increased as deemed advisable by the Commission.
5. a. Horizontal visibility on curved streets and vertical visibility on all streets must be maintained along the centerline as follows:

(1)	Arterial Streets	500 feet
(2)	Collector Streets	300 feet
(3)	Local Streets	150 feet

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- b. Curvature measured along the centerline shall have a minimum radius as follows:
 - (1) Arterial Streets (or as determined by min. design speed standards) 500 feet
 - (2) Collector Streets 300 feet
 - (3) Local Streets 150 feet
 - c. Between reversed curves there shall be a minimum tangent distance as follows:
 - (1) Arterial Streets 100 feet
 - (2) Collector Streets 40 feet
 - (3) Local Streets 40 feet
6. Maximum/minimum grades for streets shall be as follows:
 - a. Arterial Streets - not greater than six percent (6%).
 - b. Collector Streets - not greater than eight percent (8%).
 - c. Local Streets - not greater than eight percent (8%).
 - d. Minimum grade for all streets is four-tenths percent (0.4%).
7. Before any performance bond covering a street installation is released, the Plan Commission, City Council, or City Engineer may request that core borings of the street be done at the sub divider's expense. Cores shall be sent to an independent testing laboratory for analysis.
8. A developer may request permission of the Plan Commission to delay the installation of the one-(1) inch surface layer of asphalt until the binder layer of asphalt has had a sufficient time period to prove its durability under the stress of heavy construction traffic.
9. The developer shall be required to submit a separate performance bond to cover the cost of the installation of the one-(1) inch surface layer of asphalt.
10. Design Requirements of Street Pavements:

Alternative	Arterial	Collector	Local
BITUMINOUS PAVEMENT & STONE BASE			
#2 Compacted Aggr. Base	6 Inches	6 Inches	6 Inches
#53 or #73 Compacted Aggr. Base	4 Inches	4 Inches	4 Inches
220 lb/S.Y. #9 Asphalt Binder	3±Inches	3± Inches	2± Inches
110 lb/S.Y. #11B Asphalt Surface	1± Inch	1± Inch	1± Inch
FULL-DEPTH ASPHALT PAVEMENT			
Asphalt Base	550 lb/S.Y.	550 lb/S.Y.	440 lb/S.Y.
#9 Asphalt Binder	330 lb/S.Y.	330 lb/S.Y.	220 lb/S.Y.
#11B Asphalt Surface	140 lb/S.Y.	140 lb/S.Y.	140 lb/S.Y.
CONCRETE PAVEMENT			
#73 Compacted Aggr. Base	4 Inches Min.	4 Inches Min.	2 Inches Min.
Unreinforced Concrete Pavement	8 Inches	8 Inches	8 Inches

- b. The earth or stone sub base beneath the concrete street and the stone sub base beneath the flexible asphalt street shall be compacted to standards established by City Ordinance No. 1985-12.
 - c. Subsurface drainage tile shall be placed under the street base where the sub divider's engineer or the City Engineer has determined that wet or unstable soil conditions exist.
 - d. All materials shall be furnished and installed in accordance with Standard Specifications, Indiana Department of Transportation, latest edition.
11. Dimensional Requirements of Street Pavements
- a.

<u>Street Type</u>	<u>Minimum Street Width (Feet)</u>	<u>Minimum Dedicated Right-of-Way Width (Feet)</u>
Arterial	30	80
Collector	30	80
Local	27	50
 - b. Street width is measured from back to back of a two- (2) foot wide curb and gutter located on each side of the street unless otherwise approved.

B. Storm Water and Subsurface Drainage

- 1. The sub divider shall provide the subdivision with an adequate storm water sewer system whenever curbs and gutters are installed and whenever the evidence available to the Commission indicates that natural surface drainage is inadequate. When the surface drainage is adequate, easements for such surface drainage shall be provided. Curbs and storm drains along both sides of all streets are required in all subdivisions.
- 2. The storm water drainage system shall be separate and independent of any sanitary sewer system.
- 3. Storm drainage facilities shall be located in the street right-of-way, where feasible, or in perpetual, unobstructed easements of appropriate width, and shall be constructed in accordance with the details on the Construction Plans provided by the sub divider's engineer or as approved by the Plan Commission.
- 4. Storm sewer inlets shall be provided at all low points and so that surface water is not carried across or around any intersection, or for a distance of more than three hundred (300) feet in the gutter or as approved by the City Engineer.
- 5. It is the responsibility of the sub divider to keep all major watercourses, drainage systems, etc., not under the jurisdiction of any public agency, open and free flowing.
- 6. Drainage facilities shall be capable of accommodating peak runoff from a ten- (10) year return period storm or greater intensity, without endangering the public safety, health, or causing significant damage to property.
- 7. Design Calculations: Design calculations are required as part of the drainage plan and shall specifically include:
 - a. Estimate of storm water runoff:
 - (1) Drainage map, including indication of drainage patterns for lots and blocks of areas affecting the proposed development site.
 - (2) Weighted runoff coefficient computations.
 - (3) Time of concentration computation indicating overland flow time and travel times in swales, gutters, pipes, and/or channels.
 - b. Closed conduit and open channel design computations:
 - (1) Size of pipe or channel cross-section.
 - (2) Pipe and channel slopes in percent.
 - (3) Roughness coefficient.
 - (4) Flow velocities in feet per second.
 - (5) Design capacity in cubic feet per second.
 - (6) Pipe and channel invert elevations.

- c. Head loss computations in manholes and junction chambers.
- d. Hydraulic gradient computations, wherever applicable.
- 8. On-site drainage facilities shall be designed to accommodate:
 - a. The water runoff from the parcel after development;
 - b. The present water runoff from developed areas upstream;
 - c. the present peak water runoff from undeveloped areas upstream;
- 9. Each applicant or other entity which makes any surface change shall be required to:
 - a. Collect on-site surface runoff and springs and dispose of it to the point of discharge into an adequate outlet approved by the City Engineer.
 - b. Pay his proportionate share of the total cost of off-site improvements to the common natural watercourse.
 - c. Provide and install at his expense, in accordance with the requirements of the Ordinance, all drainage and erosion control improvements.
- 10. The sub divider shall provide a subsurface drainage system, below curbs, to be placed along both sides of the subdivision streets and wherever else within the subdivision that it is determined to be necessary. The purpose of the subsurface piping system is to provide drainage for the street sub base. The subsurface drainage system shall discharge to the storm sewer system or to the surface drainage system upon approval from the City Engineer. No subsurface drainage system connections will be permitted to the sanitary sewer system.
- 11. It shall be illegal for sump pumps, downspouts, or foundation drains to outlet directly to the street or into the right-of-way of the street, or to be connected to the sanitary sewer.
- 12. Plans for storm water drainage shall include details for storm water detention and retention. Detention facilities shall be designed using the following guidelines to limit the peak discharge from a development.
 - a. For developments with a drainage area (tributary to storm water detention facilities) equal to or greater than ten (10) acres, peak discharge from the detention facility shall be limited to the five- (5) year predeveloped frequency storm peak discharge, with a duration equal to or slightly greater than the time of concentration for the drainage area, or the twenty-four (24) hour duration storm, whichever provides the lesser peak discharge.
 - b. For developments with drainage area (tributary to detention facilities) less than ten (10) acres, peak discharge from the detention facility shall be limited to the ten (10) year period pre-developed frequency storm peak discharge, with the same duration criteria provided in Section a. above.
 - c. The five (5) year/ten (10) year peak discharge shall be based on land use conditions prior to development, using corresponding runoff coefficients, time of concentration, and other basin parameters.
 - d. Inflow (runoff) to all storm water detention facilities shall be determined using a one hundred (100) year twenty-four (24) hour storm to develop an inflow hydrograph.
 - e. The one hundred (100) year twenty-four (24) hour peak discharge (and inflow hydrograph) shall be based on land use conditions representing fully developed conditions, using corresponding runoff coefficients, time of concentration, and other basin parameters.
 - f. A routing procedure shall be used to demonstrate that the storm water detention facility will reduce the one hundred (100) year peak discharge, from the developed area, to a peak discharge equal to or less than five (5) year/ten (10) year peak discharge using the pre-developed conditions.
 - g. The results of the routing procedure shall demonstrate that adequate storage volume has been provided. The detention facility shall not be overtopped from the one hundred (100) year twenty-four (24) hour storm event, and shall have a minimum freeboard of two (2) feet between the maximum routed pool elevation and the top of the facility embankment.

- h. An emergency spillway shall be provided to discharge flow resulting from pool elevations greater than the one hundred (100) year twenty-four (24) hour pool elevation. The spillway shall have a minimum size adequate to pass the routed one hundred (100) year twenty-four (24) hour storm (assuming that the primary spillway is plugged and non-functional) without overtopping the detention facility embankment. The elevation of the emergency spillway shall not be placed lower than the routed one hundred (100) year twenty-four (24) hour pool elevation.
- i. Erosion protection shall be provided for the primary outlet and emergency spillway so that the detention facility embankment will be adequately protected. Location of the emergency spillway shall be in undisturbed material, unless otherwise approved by the City Engineer.
- j. The minimum allowable size for the primary outlet conduit, from the detention facility, shall be twelve (12) inches. If further restriction of the outlet conduit is required, the restriction shall be made at the head end of the outlet conduit.
- k. In those instances where the discharge velocity from the primary outlet or emergency spillway is greater than 6fps or excessive in the opinion of the City Engineer, energy dissipation may be required.
- l. Detention facilities, which are designed to have dry bottoms, must be designed to include under drains, to drain the bottom of the detention facility, so that the facility can be maintained. Also, the bottom of the facility shall be designed to have longitudinal and traverse grade to the outlet, so that the facility will empty, leaving no ponded water.
- m. Methodology for developing peak discharge hydrographs and flood routing calculations shall be in accordance with acceptable engineering practice. Calculations based on the Soil Conservation Service Procedures, the Corps of Engineers' Procedure's, or the Bureau of Reclamation Procedures are considered acceptable. The City Engineer must approve all other procedures.
- n. Peak discharge calculations shall be submitted for the five (5) year/ten (10) year predevelopment and one hundred (100) year post-development conditions. The calculations shall show the drainage area, the runoff coefficients, the time of concentrations, and other basin parameters used to develop the appropriate peak discharges.
- o. Calculations shall be submitted which show stage-discharge relationships (rating curves) for the primary outlet and emergency spillway, the stage-storage relationship for the detention facility, the inflow hydrograph for the one hundred (100) year twenty-four (24) hour storm, and the routed one hundred (100) year twenty-four (24) hour discharge hydrograph.

C. Curbs and Gutters

- 1. The Commission shall require curbs and gutters to be installed on each side of new streets.
- 2. The curbs and gutters shall be constructed according to the following specifications:
 - a. The base for the curbs and gutters shall be well compacted on the existing base or grade.
 - b. The minimum grade of any street gutter shall not be less than four-tenths percent (0.4%).
 - c. The curbs and gutters shall be roll type, unless otherwise required or approved by the City Engineer.
 - d. Inlets shall be located at the low point in the street grade and at other spacing as storm water system calculations require. The maximum spacing between any two inlets shall be 500 feet.
 - e. Inlet grates should be depressed slightly below the plane of the gutter to improve removal of runoff water. Inlet grates shall be heavy-duty type and recommended for bicycle traffic.

D. Sewers

1. The sub divider shall provide the subdivision with a complete sanitary sewer system, which shall connect with an existing interceptor sewer linking the subdivision to the Portland Wastewater Treatment Plant. If said interceptor is not located adjacent to the subdivision site, it shall be the responsibility of the sub divider to extend the interceptor sewer to his property line. The sub divider may be reimbursed for part of the cost of extending the interceptor sewer.
2. Design plans for installation of a sanitary sewer system shall be provided by the sub divider and approved by the City Council, Board of Works, the Indiana Department of Environmental Management, and other appropriate local and State agencies as required. Upon the completion of the sanitary sewer installation, the construction plans for such systems as-built shall be filed with the City Council and Board of Works.
3. Each lot in the subdivision shall be required to pay a sewer connection fee to the Portland Clerk-Treasurer, as indicated in the official fee schedule at the time of obtaining a Location Improvement Permit.
4. Selected Design Criteria
 - a. **Alignment** - All sewers shall be laid with a straight alignment between manholes.
 - b. **Manhole Location** - Manhole type, size, location and design shall be completed in accordance with the Standards for Acceptance of Municipal Improvements, as adopted by City Ordinance No. 1985-12.
 - c. **Manholes** - The difference in elevation between any incoming sewer and the manhole invert shall not exceed twenty-four (24) inches where required to match crowns. The use of drop manholes will require approval by the City Engineer. The minimum inside diameter of the manholes shall conform to those specified by the City Engineer or according to State requirements.
 - d. **Sewer Locations** - Sanitary sewers shall be located within street or alley rights-of-way, unless topography dictates otherwise. When located in easements on private property, access shall be provided for all manholes and over sizing may be required in these instances. Where sewer lines in private easements cross public street or alley rights-of-way, a manhole shall be provided in such rights-of-way where possible. Imposed loading shall be considered at all manhole locations. No less than six (6) feet of cover shall be provided over top of pipe in street and alley rights-of-way or five (5) feet in all other areas.
 - e. **Relation of Sewers to Water Mains** - A minimum horizontal distance of ten (10) feet shall be maintained between parallel water and sewer lines. A minimum vertical distance of eighteen (18) inches shall be maintained between intersecting water and sewer lines.
 - f. **Mandatory Connections to Public Sewers** - If a public sanitary sewer is available within 300 feet of a property, the owner thereof may be required to connect to said sewer for the purpose of disposing of waste. It shall be unlawful for any such owner or occupant to construct or rebuild upon such property an individual sewage disposal system.

E. Water Supply

1. The sub divider shall provide the subdivision with a complete water supply system, which shall be connected to the existing Portland water supply.
2. The plans for the installation of water main supply systems shall be provided by the sub divider and approved by the City Council and the Indiana Department of Environmental Management. Upon completion of the water supply installation, the plans for such system as built shall be filed with the City Council.
3. Approved fire hydrants shall be provided at each street intersection and at intermediate points between intersections, as recommended by the local fire department. Generally, hydrant spacing may range from three hundred fifty (350) to six hundred (600) feet, depending on the area being served.

F. Monuments and Markers

1. Monuments and markers shall be placed under the supervision of a licensed land surveyor and according to State Land Surveyor Regulations so that the center of the pipe or marked point shall coincide exactly with the intersection of lines to be marked, and shall be set so that the top of the monument or marker is level with the finished grade.
2. Monuments shall be set:
 - a. At the intersection of lines forming angles in the boundary of the subdivision, at the beginning and end of all curves and points of tangency of the perimeter of the plat.
 - b. At the intersection of right-of-way lines within the plat.
3. Markers shall be set:
 - a. At the intersection of the centerlines of all streets, the center points of all cul-de-sacs turn around, at the beginning and end of all curves and at angle points.
 - b. At all points where lot lines intersect curves, either front or rear.
 - c. At all angles in property lines of lots.
 - d. At all lot corners not established by monuments.
4. Monuments shall be of precast concrete or cast-in-place concrete with minimum dimensions of four (4) inches by four (4) inches by thirty-six (36) inches set vertically in place. They shall be marked on top with iron or copper dowels at least three eighths (3/8) inch in diameter, or deeply scored on top with a right angle cross. Markers shall consist of iron pipes, steel bards, or copper bars, contain magnetic qualities, have a distinctive top which will be marked with a deep point or cross at the correct location, and be thirty-six (36) inches in total length and not less than five-eighths (5/8) inch in diameter.
5. A minimum of one (1) permanent benchmark shall be established for each forty (40) acres or fraction thereof, subdivided and at a location designated by the City Engineer. The monuments shall be of concrete with a dimension of four (4) inches by four (4) inches and forty-eight (48) inches long. A brass plate inscribed with the elevation of the benchmark shall be fastened to the concrete with a minimum of one-fourth (1/4) inch high letters and numbers. Unless otherwise directed by the City Engineer, benchmark datum shall conform to USGS sea level datum of 1929 and/or USC and GS datum.
6. It shall be the responsibility of the sub divider to prevent disturbance or destruction to all existing monuments within the jurisdictional boundaries of the City of those parties under the direction of or in the employment by the sub divider. Any activities relating to the sub divider's improvements which cause disturbance or destruction of existing monuments shall be reported immediately to the City as well as to the appropriate county, state, or federal agencies. The sub divider shall be responsible for the cost of any repair or re-establishment of any existing monument disturbed or destroyed by his activities. The sub divider shall be aware of fines and penalties in existence for disturbance or destruction of existing monuments.
7. All Public Land Survey points (section corners, quarter section corners, etc.) within or on the boundaries of the land to be subdivided shall be shown of the plat and referenced by no less than three (3) measurements of angle and distance. Each measurement of angle and distance shall be made from a separate known point on the perimeter of the subdivision.
8. Lot corner markers shall be accurate at the time of sale or transfer from the sub divider to a second party. After sale or transfer is complete, the sub divider, the City, or other authorized agents shall not be liable for the accuracy of said markers.
9. All documentation necessary for the City Engineer to ascertain the location and accuracy of the required monuments of this Section shall be submitted by the sub divider to the City Engineer.
10. The plat shall indicate the type and location of all required monuments set within the property being subdivided.

11. Sub divider shall be required to establish the elevation of any bench mark set within the limit of the project to within one-hundredth (1/100) of a foot of the U.S. Geological Survey 1929 sea level datum or USC & GS datum. Evidence of the established elevation shall be certified by a registered land surveyor licensed by the State of Indiana and shall be submitted to the City Engineer.
12. Sub divider shall be required to establish the location of all horizontal monuments by means of a traverse of the third order or better. Evidence of successful completion of the required traverse shall be certified by a registered land surveyor licensed by the State of Indiana and shall be submitted to the City Engineer.

G. Sidewalks

1. Sidewalks shall be required to be located on both sides of every street within the subdivision plat, including around cul-de-sacs. Sidewalks shall be six (6) inches thick at drives and at least four (4) inches thick in all other locations. If driveways cannot be located, special permission may be obtained by the Commission to deviate from this standard. Sidewalks shall be five (5) feet wide. Sidewalks shall be Portland Cement type in accordance with the Standard Specifications of the Indiana Department of Transportation, latest edition, with expansion joints every fifty (50) feet and control joints every five (5) feet.
2. Sidewalks and pathways located away from streets should be properly lighted to permit visual surveillance of the walk or path from the street.
3. When sidewalks or pathways cross major street intersections within or adjacent to the subdivision, safety devices such as painted crosswalks, signs, or traffic signals shall be installed.
4. Easements of at least ten (10) feet in width shall be provided for sidewalks, pedestrian paths, and bicycle paths.
5. ADA-compliant ramps for wheelchairs and bicycles shall be provided on all sidewalks and pathways. Ramps are to be located at all intersections and other transition access points. Overhead obstructions shall be cleared to a height of at least eight (8) feet. Rolled curbs are not a substitute for wheelchair ramps.

H. Street Signs and Street Lighting

1. The sub divider shall be responsible for installing street signs at each intersection throughout the subdivision. The City of Portland shall be responsible for placement of traffic control signs where deemed necessary in the development by the City Engineer.
2. When the subdivision contains private streets, the sub divider shall be required to post a sign at the entrance of the development proclaiming the name of the subdivision with the phrase "Private Streets" placed directly below in letters of two (2) inches minimum height.
3. The sub divider shall provide the subdivision with street lights to be installed at intersections throughout the subdivision or where deemed necessary by the City Engineer. Street lights shall be pole mounted and conform to the installation specifications of the Electric Utility. All electric lines are to be buried.

I. Utilities

All utility lines, including electrical power, gas, telephone, CATV, sewer, and water shall be located underground throughout the subdivision. The location of utility lines shall be shown on the Primary Plat and on the Construction Plans. The utility or sub divider shall provide Service connections to the property lines of each lot in the development.

7.7 DRAINAGE, EROSION, AND SEDIMENT CONTROL

A. General

1. No changes shall be made in the contour of the land, nor shall grading, excavating, removal, or destruction of the topsoil, trees, or other vegetative cover of the land be commenced until such time that a plan for minimizing erosion and sedimentation has been reviewed by the Zoning Administrator/Director or there has been a determination by the Zoning Administrator/Director that such plans are not necessary. (Applies only to subdivision developments.)
2. Measures used to control erosion and reduce sedimentation and to provide drainage shall, as a minimum, meet the standards and specifications of the Jay County Storm Drainage, Erosion, and Sediment Control Ordinance. The Zoning Administrator/Director shall ensure compliance with all appropriate specifications.

B. Performance Principles

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

- a. Existing features which would add value to residential, commercial, natural, or manmade assets such as trees, streams, vistas, historically significant items, and similarly irreplaceable assets shall be preserved through careful and harmonious design.
- b. Stripping of vegetation, regrading, or other development shall be done in such a way that will minimize erosion.
- c. Development plans shall keep cut fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff.
- d. Whenever feasible, natural vegetation shall be retained, protected, and supplemented.
- e. The disturbed area and the duration of exposure shall be kept to a practical minimum.
- f. Temporary vegetation and mulching shall be used to protect exposed critical areas during development.
- g. The permanent final vegetation and structural erosion control and drainage measures shall be installed as soon as practical in the development.
- h. Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development. Where necessary, the rate of surface water runoff will be structurally retarded.
- i. Sediment in the runoff water shall be trapped until the disturbed area is stabilized by the use of debris basins, sediment basins, silt traps, or similar measures.
- j. Design and construction of the drainage facility shall be such that it will be durable and easy to maintain.

C. Grading for Drainage

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

1. The locations, grading, and placement of subgrade (base) material of all streets, public driveway, and public parking areas shall be accomplished second, after erosion control measures have been taken.
2. All lots, tracts, or parcels shall be graded to provide proper drainage away from the buildings, dispose of it without ponding. All land within the development shall be graded to drain and dispose of surface water without ponding, except where approved by the City Engineer.

3. All drainage provisions shall be of such design to adequately handle the surface runoff and carry it to the nearest suitable outlet such as a curbed street, storm drain, or natural watercourse. Where drainage swales are used to divert surface waters away from buildings, they shall be sodded or planted, as required, and shall be of such slope, shape, and size as to conform to the requirements of the Commission.
4. Concentration of surface water runoff shall only be permitted in swales, watercourses, pipes, and detention ponds.
5. Land alteration shall be accomplished in such a way that the grades left at the time that the work is completed will be permanent and stable.
6. **Excavation and Fills**
 - a. Cut and fill slopes shall not be steeper than three to one (3:1), unless stabilized by a retaining wall or cribbing as approved by the City Engineer when handled under special considerations.
 - b. Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surfaces of fills, by installation of temporary or permanent drainage across or above this area.
 - c. Cuts and fills shall not endanger adjoining property.
 - d. Fills shall be placed and compacted so as to minimize sliding or erosion of the soil.
 - e. Fills shall not encroach or impede flows of natural watercourses or constructed channels.
 - f. Fills placed adjacent to natural watercourses or constructed channels shall have suitable protection against erosion during this period of construction.
 - g. Grading shall not be done in such a way so as to divert water onto the property of another landowner without the expressed consent of the landowner.
 - h. During grading operations, necessary measures for dust control shall be exercised.
 - i. Grading equipment shall not be allowed to cross-live streams. Provisions shall be made for the installation of temporary or permanent culverts or bridges.

D. Responsibility for Drainage and Erosion Control

1. Whenever sedimentation is caused by stripping of vegetation, regrading, or other development activities, it shall be the responsibility of the applicant, person, corporation, or other entity causing such sedimentation to remove it from all adjoining surfaces, drainage systems, and watercourses, and to repair any damage at his expense as quickly as possible.
2. Maintenance of all driveways, parking areas, drainage facilities, and watercourses within any development plan area is the responsibility of the applicant or developer, provided that said facilities have not been dedicated to the public and accepted by the appropriate authority for public maintenance.
3. It is the responsibility of the applicant and any person, corporation, or other entity doing any action on or across a communal stream, watercourse, or swale, or upon the flood plain or floodway area of any watercourse during the period of development, to return these areas to their original or equal condition upon completion of said activities.
4. No applicant, person, corporation, or other entity shall block, impede the flow of, alter, construct any structure, deposit any material or thing, or commit any act which will affect normal or flood flow in any communal stream or watercourse without having obtained prior approval from the Jay County Drainage Board and/or the Indiana Department of Natural Resources, Division of Water, whichever is applicable.
5. On-site drainage facilities shall be sufficient to accept:
 - a. the water runoff from the parcel after development;
 - b. the present water runoff from undeveloped areas upstream; and
 - c. the present water runoff from undeveloped areas upstream; and
 - d. that part of the water runoff attributable to future development in undeveloped areas upstream, which is not reasonably likely to be accommodated in such upstream areas.

6. Each applicant or other entity, which makes any surface, changes shall be required to:
 - a. Collect on-site surface runoff and springs and dispose of it to the point of discharge into an adequate outlet approved by the City Engineer.
 - b. Handle existing and potential off-site runoff through the development by designing to adequately handle storm runoff from a fully developed area upstream.
 - c. Pay his proportionate share of the total cost of off-site improvements to the common natural watercourse, based on a fully developed drainage area.
 - d. Provide and install at his expense, all necessary drainage and erosion control improvements (temporary and permanent) or as required by the City Engineer.
7. It is the responsibility of the applicant or owner to keep all major watercourses, not under the jurisdiction of any public agency, open and free flowing.
8. The applicant or owner will assume the responsibility for maintaining an open and free flowing condition in all minor streams, watercourses, and drainage systems, constructed or otherwise improved in accordance with this Section, which are necessary for proper drainage.

E. Compliance with Regulations and Procedures

1. The design, installation, and maintenance of the required drainage facilities and erosion and sediment control measures shall be in accordance with the standards and specifications of the Jay County Storm Drainage, Erosion, and Sediment Control Ordinance.
2. The approval of plans and specifications for the control of erosion and sedimentation shall be concurrent with the approval of the development and shall become a part thereof.
3. Permission for clearing and grading prior to the approval of the development plan may be obtained under temporary easements or other conditions satisfactory to the City Engineer.
4. In the event the applicant or developer proceeds to clear and grade prior to the approval of the subdivision or development plan, without satisfying conditions specified herein, the Plan Commission may revoke the approval of all plans and a suit for an injunction may be instituted to halt further construction until development plans are approved.
5. Topsoil shall not be removed from residential lots or used as spoil. No construction debris, junk, rubbish, or waste material shall be buried in any land or left deposited on any lot or street within a subdivision.

7.8 COMMERCIAL AND INDUSTRIAL SUBDIVISIONS

A. General Requirements

1. Land proposed for platting as a commercial or industrial subdivision shall be subject to all of the requirements of this Ordinance and shall conform to the zoning requirements of the district in which it is located. A Primary Plat, Secondary Plat, and Construction Plans shall be submitted to the Plan Commission for review.
2. Lots and block standards for commercial and industrial subdivisions should be flexible so that lot sizes may be expanded by the sub divider to meet the requirements of a prospective buyer or tenant. If, after recording of a Secondary Plat, the sub divider wishes to amend the lot dimensions, an amended Secondary Plat shall be presented by the sub divider to the Plan Commission for review. Substantial changes shall have to go through another public hearing process. The determination of "substantial changes" and the necessity of a public hearing shall be made by the Zoning Administrator/Director.
3. Streets located in a commercial or industrial subdivision shall be constructed to the specifications for secondary streets as detailed in this Section. The streets shall have a width of thirty (30) feet and a right-of-way of seventy (70) feet minimum. The Plan Commission may require curb and gutter, storm drainage, and subsurface drainage. Once constructed to the specifications of the City, the sub divider may dedicate the streets to the City or may, upon approval of the Plan Commission, elect to keep the streets private to be maintained by the owners and/or tenants of the subdivision.

4. Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed non-residential subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip, when necessary.
5. Truck routes shall be established so as to prevent industrial traffic from encroaching into adjacent residential areas.
6. The builder shall provide each building or lot in the subdivision with a paved parking area with enough marked spaces to meet the requirements of this Ordinance. The parking area shall have a proper drainage system and should be adequately landscaped and lighted.
7. Loading areas or loading docks shall be designed so that they do not interfere with the operation of other lots or buildings. Loading areas shall not encroach on setback lines.
8. No materials, supplies, motor vehicles, or equipment shall be stored outside of the buildings, unless the storage area is properly screened.
9. Frontage roads shall be provided where requested by the Commission to prevent numerous entrances on existing streets.
10. With respect to traffic and storm drainage, commercial and industrial subdivisions shall be considered in totality, and individual parcels or lots shall not be considered separately.

Section 8

Sign Regulations

8.1 INTENT

The purpose of this Section is to provide minimum standards to safe-guard life, health, property, property values, and public welfare by regulating and controlling the quality of materials, construction, installation, and maintenance of signs, in addition to the number, size, sign type, location, height, design, sign structure, and type of illumination of all signs.

8.2 DEFINITIONS

The following words and terms shall, for the purposes of this section and used elsewhere in this code, have the meaning shown herein.

"A" Frame Sign - Sign containing two faces of approximately equal size positioned in an "A" shape no more than eighteen (18) inches wide and no more than thirty-six (36) inches high.

Abandoned Sign - A sign structure that has ceased to be used and the owner intends to no longer have use for the display of sign copy, or as otherwise defined by state law.

Animated Sign - A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from changeable signs as defined and regulated by this code, include the following types:

Electrically activated - Animated signs producing the illusion of movement by means of electronic, electrical or electro-mechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:

1. **Flashing** - Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination. For the purposes of this ordinance, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds 4 seconds.
2. **Patterned illusionary movement** - Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

Environmentally activated - Animated signs or devices motivated by wind, thermal changes or other natural environmental input. Includes spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.

Mechanically activated - Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

Awning - An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or non-rigid materials and/or fabric on a supporting framework that may be either permanent or retractable, including such structures that are internally illuminated by fluorescent or other light sources.

Awning Face - That portion of an awning which is angles other than 90 degrees to grade

Awning Valance - The narrow vertical hanging flap at the front edge of an awning which is 90 degrees to grade.

Awning Sign - Signage displayed on, attached to, or applied flat against the face or valance of an awning.

Backlit Awning - An awning with a translucent covering material and a source of illumination contained within its framework.

Banner - A flexible substrate on which copy or graphics may be displayed; no wider than three (3) feet or no longer than eight (8) feet.

Bench Sign - Any sign placed on, affixed to, painted on or located on a bench.

Billboard - See "Outdoor advertising sign."

Building Elevation - The entire side of a building from ground level to the roofline as viewed perpendicular to the walls on that side of the building.

Canopy (Attached) - A multisided overhead structure or architectural projection supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface(s) and/or soffit of an attached canopy may be illuminated by means of internal or external sources of light.

Canopy (Free-standing) - A multisided overhead structure supported by columns, but not enclosed by walls. The surface(s) and or soffit of a freestanding canopy may be illuminated by means of internal or external sources of light.

Changeable Sign - A sign with the capability of content change by means of manual or remote input, including signs which are:

Electrically activated - Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also "Electronic message sign or center."

Manually activated - Changeable sign whose message copy or content can be changed manually.

Combination Sign - A sign that is supported partly by a pole and partly by a building structure.

Directional Sign - Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

Double-Faced Sign - A sign with two faces, back to back.

Electric Sign - Any sign activated or illuminated by means of electrical energy.

Electronic Message Sign or Center - An electrically activated changeable sign whose variable message capability can be electronically programmed.

Exterior Sign - Any sign placed outside a building.

Free-Standing / Pole Sign - A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles or braces placed in or upon the ground.

Frontage (Building) - The length of an exterior building wall or structure of a single premise orientated to the public way or other properties that it faces.

Frontage (Property) - The length of the property line(s) of any single premise along either a public way or other properties on which it borders.

Ground Sign - A low-profile, on-premise sign completely or principally self-supported by posts or other sign apparatus independent of any building or other structure.

Illuminated Sign - A sign characterized by the use of artificial light, either projecting through its surface(s) (internally illuminated); or reflecting off its surface(s) (externally illuminated).

Landscaping - The improvement of a lot with grass, shrubs, trees, and other vegetation and/or ornamental objects. Landscaping may include pedestrian walks, flowerbeds, berms, fountains and other similar natural and manmade objects designed and arranged to produce an aesthetically pleasing effect.

Menu Board - A free-standing sign orientated to the drive-through lane for a restaurant that advertises the menu items available from the drive-through window, and which has no more than 20 percent of the total area for such a sign utilized for business identification.

Multiple-Faced Sign - A sign containing three or more faces.

Mural - A non-commercial message, picture, scene, or diagram exhibited on the outside wall of a building or structure through application of paint, canvas, tile, panels or similar materials such that the wall becomes the background surface or platform for the mural. (See Section 8.10)

Off-Premise Sign - A sign used for directing the traveling public to commerce or industrial parks (strip shopping center or mall not included). Such sign shall indicate only the name, location, and information about the park itself. Products or services shall not be advertised.

On-Premise Sign - A sign erected, maintained or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

Outdoor Advertising Sign - A permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

Painted Wall Sign - A name, identification, description, display or message painted directly on the exterior wall of a building and/or structure for the purpose of advertising or identifying a business.

Political Sign - A temporary sign intended to advance a political statement, cause or candidate for office. A legally permitted outdoor advertising sign shall not be considered to be a political sign.

Portable Sign - Any sign not permanently attached to the ground or to a building or building surface.

Projecting Sign - A sign other than a wall sign that is attached to or projects more than 18 inches (457mm) from a building face or wall or from a structure whose primary purpose is other than the support of a sign

Real Estate Sign - A temporary sign advertising the sale, lease or rental of the property or premises upon which it is located.

Revolving Sign - A sign that revolves 360 degrees (6.28 rad) about an axis. See also "Animated sign, mechanically activated."

Right-of-Way - A strip of land occupied or intended to be occupied by transportation facilities, public utilities, or other special public uses. Rights-of-way intended for any use involving maintenance by a public agency shall be dedicated to the public use by the maker of the plat on which such right-of-way is established.

Roadway - The actual road surface area from curb line to curb line, which may include travel lanes, parking lanes, and deceleration and acceleration lanes. Where there are no curbs, the cart way is that portion between the edges of the paved, or hard surface, width.

Roof Line - The top edge of a peaked roof or, in the case of an extended façade or parapet, the uppermost point of said façade or parapet.

Roof Sign - A sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building. Sign mounted on mansard facades, pent eaves and architectural projections such as canopies or marquees shall not be considered to be roof signs.

Setback - The minimum horizontal distance between the building line and a lot line or right-of-way. (See Fig. 2.1, page 2-30)

Sight Triangle - A triangular-shaped portion of land established at street or alley intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. (See Section 4.10)

Sign - A name, identification, description, display or illustration which is affixed to, painted, or represented directly or indirectly upon a building, structure or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization or business.

Sign Area - The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face. The area of any double-sided or "V" shaped sign shall be the area of the largest single face only. The area of a sphere shall be computed as the area of a circle. The area of all other multiple-sided signs shall be computed as 50 percent of the sum of the area of all faces of the sign.

Sign Copy - Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, exclusive of numerals identifying a street address only.

Sign Face - The surface upon, against or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, nonstructural or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border.

Sign Structure - Any structure supporting a sign.

Temporary Sign - A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

V Sign - Signs containing two faces of approximately equal size, erected upon common or separate structures, positioned in a "V" shape with an interior angle between faces of not more than 90 (1.57 rad) degrees with the distance between the sign faces not exceeding 5 feet (1524 mm) at their closest point.

Wall or Fascia Sign - A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than 18 inches (457 mm) from the building or structure wall, including signs affixed to architectural projections from a building provided the copy area of such signs remains on a parallel plane to the face of the building façade or to the face or faces of the architectural projection to which it is affixed.

All terms used in this Section, not otherwise defined herein, shall have the definitions provided in Section 2 of this Ordinance.

8.3 PERMITS REQUIRED, FEES

A. Permits Required

Except as otherwise provided herein, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign, or change the permanent copy on an existing sign structure within the jurisdiction of the City of Portland, or cause the same to be done without first obtaining a sign permit for each sign from the Zoning Administrator/Director.

B. Application

Application for a permit shall be made to the Zoning Administrator/Director upon a form provided and shall be accompanied by such information as may be required to assure compliance with the laws and regulations of the City.

C. Permit Fees

The application, including all required documentation shall be filed with the Zoning Administrator/Director together with a permit fee as specified by the Official Fee Schedule. If any sign is hereafter erected, placed, installed or otherwise established on any property before obtaining a permit as required herein, the fees specified shall be doubled. Payment of such double fee shall not relieve any person from compliance with other provisions of this Ordinance and penalties prescribed herein.

D. Effect of Sign Permit Issuance

No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign nor shall a permit issued hereunder constitute a defense in an action to abate an unlawful sign.

E. Nullification

A sign permit shall become null and void if the work authorized there under has not been started within a period **of ninety (90) days** following the date of the permit and completed within **one (1) year** thereafter.

F. Permit Exceptions

The following shall not be considered as creating a sign and therefore shall not be required to have sign permit after the original sign installation, unless otherwise specified.

1. **Changeable Copy** - The changing of advertising copy or message on an approved sign such as a theater marquee and similar approved signs which are specifically designed for use of replaceable copy.
2. **Maintenance** - Painting, repainting, cleaning, or other normal maintenance and repair of a sign or sign structure unless a structural change is involved, or a change in copy is involved. The changing of logo or verbiage on a sign to update or modernize an existing business's sign without changing ownership or company name is permitted.
3. **Exempt Sign** - Exempt signs per Section 8.7 of this Ordinance are exempt from permit requirements unless specified elsewhere.

G. Variances

A variance from the sign regulations of this Ordinance may be granted through the procedures established in Section 10.2 of this Ordinance (such as height, or setback). To be eligible for the granting of a variance under this section, a person must first receive a determination from the Zoning Administrator/Director that a variance is required for the intended use or for the expansion, extension, or enlargement of a use. Application will then be made to the Board of Zoning Appeals for review. If the Board grants the variance, it shall direct the applicant to apply for sign permit. If such application complies with this Ordinance and all other applicable codes or ordinances, the Zoning Administrator/Director shall issue the sign permit for the use authorized by variance.

H. Special Exceptions

To be eligible for the granting of a special exception under this section, a person must first receive a determination from the Zoning Administrator/Director that a special exception is required for the intended use. Application will then be made to the Board of Zoning Appeals for review. If the Board grants the special exception, it shall direct the applicant to apply for a sign permit. If such application complies with this Ordinance and all other applicable codes or ordinances, the Zoning Administrator/Director shall issue the sign permit for the use authorized by special exception.

8.4 INSPECTION, REMOVAL, SAFETY

A. Inspection

Signs for which a permit is required may be inspected periodically by the Zoning Administrator/Director for compliance with this Ordinance and other codes of the City. All signs shall be kept in good repair and safe, neat, clean and attractive condition.

B. Removal of Sign

When a sign is removed, all brackets, poles, and other structural elements that supported the sign shall be removed. All affected building surfaces shall be restored to match the adjacent portion of the structure. Such persons or companies requesting issuance of a sign permit shall be required to assume sole responsibility for the restoration of the building facade at the time the existing sign is removed.

The Zoning Administrator/Director may order the removal of any sign erected or maintained in violation of this Section. He shall give thirty (30) days' written notice to the owner of a permanent sign or place a notice of such violation on the building, structure, premises, or sign in violation to remove the sign or to bring it into compliance. He shall give a three (3)-day notice for temporary or portable signs. The Zoning Administrator/Director may remove a sign immediately and without notice if, in his opinion, the placement or condition of the sign is such as to present an immediate threat to the safety of the public.

Any sign removed by the Zoning Administrator/Director pursuant to the provisions of this Section shall be held by the City for redemption by the owner. To redeem, the owner shall pay all costs incurred by the City for removal. Should said sign not be redeemed within thirty (30) days of its removal, it may be disposed of in any manner deemed appropriate by the City. The cost of removal shall include any and all incidental expenses incurred by the City in connection with the sign's removal.

C. Maintenance

All signs and components thereof shall be kept in good repair and in safe, neat, clean and attractive condition. After such noncompliance has been determined by the Plan Commission and notice (as per Section 8.4 B) has been given to the owner of the sign (as reflected by the records of the Jay County Assessor), the sign shall be removed.

D. Abandoned Signs

A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises; unless, however, it is possible to remove only the sign copy (such as in the case of a box sign), then the insertion of a blank, translucent panel shall be considered removal under this Code. If the owner or lessee fails to remove it, the Zoning Administrator/Director shall give the owner ten (10) days' written notice to remove it. Upon failure to comply with this notice, the Zoning Administrator/Director or his duly authorized representative may remove the sign at cost to the owner. Where a successor to a defunct business agrees to maintain the sign(s) as provided in this Section, this removal requirement shall not apply. The new sign user shall immediately notify the Zoning Administrator/Director's office, in writing, of this change. No new sign permit is required unless the sign is altered or relocated. The Zoning Administrator/Director shall be notified in any matters relating to sign relocations.

E. Street Improvement Projects

Any sign projecting over a roadway right-of-way at the time of the effective date of this Ordinance which was subject to removal or relocation at the owner's expense, pursuant to a permit or other ordinance of the City, shall be removed by the owner, or altered at the owner's expense to comply with the regulations of this Section if, as the result of or after completion of a roadway improvement project, said sign does not or would not comply with the provisions of this Ordinance.

F. Assurance of Discontinuance

As an additional means of enforcement, the Zoning Administrator/Director may accept an assurance of discontinuance of any act or practice deemed in violation of any rule or regulation adopted pursuant thereto, from any owner or person engaging in such act or practice. Such assurance shall be in writing and shall specify a time limit during which said discontinuance is to be accomplished. Failure to perform the assurance shall constitute prima facie proof of a violation of this Ordinance or any rule or regulation adopted pursuant thereto, which makes the alleged act or practice unlawful for the purpose of securing any injunctive relief from a court of competent jurisdiction.

8.5 NON-CONFORMING USES AND SIGNS

Signs which existed prior to the time this Ordinance was passed and were in conformance with previous ordinances will be legally non-conforming (grand-fathered). Any non-conforming sign that is or becomes in a rundown or objectionable condition shall be removed from the premises by the owner of said sign. Said condition shall exist when the sign is determined to be in excess of 30% destroyed by natural causes. Also, when *major changes* are made, the sign shall be brought into conformance with the current sign regulations of this Ordinance

Definition: Major changes shall be defined as changing the name, changing the size, adding lights, refurbishing, and/or relocation.

Non-conforming signs which are structurally altered, relocated, or replaced shall comply immediately with all provisions of this Ordinance. Nothing in this Ordinance shall be construed to give a legal status to any sign without a sign permit.

8.6 PROHIBITED SIGNS

The following type signs are expressly prohibited in all Zone Districts:

Animated and Intensely Lighted Signs - No sign shall be permitted which is animated by means of flashing, scintillating, blinking or traveling lights or any other device or means not providing constant illumination. Public service information signs and other electronic message centers classified as "changing signs" are permitted under special provision of this Section and by special sign permit approval of the Plan Commission.

Billboards / Outdoor Advertising Signs - Billboards or outdoor advertising signs shall be prohibited except as expressly permitted in this Ordinance.

Public Areas - No sign shall be permitted which is placed on any post, pole, hydrant, bridge, tree or other surface located on public property or over or across any street or roadway except as otherwise expressly authorized by this Ordinance.

Towers (Water, Radio, Etc.) - No sign shall be placed on any tower or tank without the approval of the Plan Commission.

8.6 Prohibited Signs continued...

Unclassified Signs - The following signs are prohibited which:

- A. Bear or contain statements, words or pictures of an obscene, pornographic, immoral character, or which contain advertising matter which is untruthful or will offend public morals or decency; or
- B. Are painted on or attached to any fence or any wall which is not structurally a part of a building except to identify a residence or residence structure by means of posting the name of the occupant or structure and the street address; or
- C. Operate or employ any motion picture projection or media in conjunction with any advertisements, or have visible moving parts of any portion of which moves or gives the illusion of movements except as permitted in this Ordinance; or
- D. Emit audible sound, odor or visible matter; or
- E. Signs which purport to be or are in imitation of, or resemble an official traffic sign or signal, or which bear the words "Stop", "Go Slow", "Caution", "Danger", "Warning", or similar words, except as permitted in Section 8.7 of this Ordinance.
- F. Signs which, by reason of their size, location, movement, content, coloring, or manner of illumination, may be confused with or constructed as a traffic control sign, signal or device, or the light of an emergency or road equipment vehicle or which hide from view any traffic or roadway sign, signal or device; or
- G. Obstruct any door, fire escape, stairway, or any opening intended to provide air, egress or ingress for any building or structure; or
- H. Are not included under the types of signs permitted in this Ordinance.
- I. Small, free-standing signs shall be prohibited unless otherwise permitted in this Ordinance.

8.7 EXEMPTIONS

The following types of signs are exempted from all provisions of this Ordinance except for construction and safety regulations and the following requirements.

- A. **Business Identification Sign** - An identification sign on or near (above or beside) a public entrance or service entrance to a business in Highway Service (HS) and Industrial (IND) districts is permitted provided such signs state only the street address number and name of the business or building, that such sign shall be mounted flush against the wall, and that such sign shall not exceed six (6) square feet. Such sign may be mounted flush against the wall or perpendicular to the wall (projecting over a sidewalk, but no over a street within the public right-of-way). Such sign may be on the surface of a canopy or awning or be attached to the underside thereof.
- B. **Damaged Signs** - A sign erected under a legally obtained permit which is damaged or destroyed fifty percent (50%) or more of the fair market value of the sign structure by wind, weather, or other accidental means beyond the control of the applicant may be replaced or restored to its original size, shape, and location (as prior to the accident) without obtaining an additional permit. Replacement of a damaged or destroyed sign with a new sign or different size or location from the original sign shall require a permit and full compliance with the current sign regulations of this Ordinance.
- C. **Integral Signs** - Names of building, date of erection, monumental citations, commemorative tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum, or other permanent type construction and made an integral part of the structure.
- D. **Parking Signs** - Signs for public and private parking shall be permitted. Such signs shall be subject to a three- (3) foot setback from right-of-way and shall not be used for advertising purposes. Signs shall be no higher than six (6) feet and no greater than six (6) square feet in area. Such signs shall be installed so as to not present a hazard to traffic entering or leaving the premises.

8.7 Exemptions continued...

- E. **Private Traffic Direction Signs / Business Entrance Sign** - Signs directing traffic movement onto or within a premise. Illumination of these signs shall be permitted in accordance with Section 8.9 of this Ordinance. The leading edge of such signs shall be a minimum of three (3) feet from any curb or traffic movement aisle, the sign shall be no higher than three (3) feet and no greater than six (6) square feet in area.
- F. **Public Signs** - Signs of a noncommercial nature and in the public interest erected by or on the order of public officer(s) in the performance of his public duty, such as safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest, signs directing the traveling public and quasi-public facilities, or signs on public buildings or structures and the like.
- G. **Small Signs** - A nameplate which shall not exceed two (2) square feet in area is permitted for each dwelling unit of a single-family or multi-family dwelling; such nameplate shall state nothing other than the name and/or address of the occupant and/or legal customary home occupation. No other sign shall be allowed. This paragraph shall not be construed to prohibit each dwelling unit from also displaying a house number plate for identification. Signs on the premises announcing rooms, apartments, or house for sale or rent shall not exceed six (6) square feet in area. Also provided that the signs are located ten (10) feet from the street right-of-way.
- H. **Social or Charitable Organizations** - Signs indicating the names and locations of churches, charitable organizations, and community service organizations are permitted provided that the sign area shall not exceed six (6) square feet, shall be located off the street right-of-way, and shall in no way obstruct the view of pedestrians or vehicular traffic. Such signs shall be permitted as "off-premises" signs; providing, however, such signs have a minimum spacing of five hundred (500) feet between any two (2) signs in this category, except where there is a community service central display.
- I. **Vehicle Signs** - Signs on vehicles are permitted provided the sign is painted or attached directly to the body of the original motor-powered vehicle and does not project or extend beyond the original manufactured body proper of the motor-driven vehicle. Such vehicles and/or semi-trailers shall be parked a minimum distance of ten (10) feet from any street right-of-way and shall be located so as to not create an obstruction or hazard to the traveling public. Trucks and/or trailers may be used as signs for special events or sales for a maximum period of thirty (30) days.

8.8 TEMPORARY SIGNS:

A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

8.8-1 Temporary Sign Permit Regulations

- A.** Temporary signs require a temporary sign permit.
- B.** A business may receive no more than six (6) temporary sign permits in any calendar year, for a total duration displayed for temporary signage not to exceed ninety (90) days per calendar year and being subject to the following:
 - 1. Signage shall be on-premise.
 - 2. Sign face size shall not exceed eighteen (18) square feet.
 - 3. Sign height shall not exceed five (5) feet.
 - 4. Only one sign shall be permitted per parcel with a maximum of two signs permitted on corner lots.
 - 5. Sign shall not be placed within any public right-of-way, proposed or existing, be located between the right-of way and a sidewalk, or encroach upon or impede mobility upon a sidewalk.
- C.** Unless otherwise specified by the applicant, the temporary sign permit shall expire fifteen (15) days from the date of issuance; however, should the applicant specify an alternate commencement date, the duration of sign display shall not exceed fifteen (15) consecutive days. Once a temporary sign permit has expired, another temporary permit shall not be issued within fifteen (15) subsequent days of the expiration.
- D.** No temporary sign shall be placed within the City of Portland right-of-ways, proposed or existing. Any temporary sign unlawfully maintained in a public right-of-way, may be declared a public nuisance and a traffic hazard per State of Indiana Motor Vehicle Laws, Article III or obstruct the flow or sight pattern of vehicular traffic on any established right-of-way; and not be less than ten (10) feet from adjoining residential lots. If necessary, the administrative zoning officer shall remove the sign. No temporary sign shall be attached to fences, walls, utility poles, or street signs.
- E.** The Zoning Administrator/Director shall upon notice, remove any temporary sign not complying with the provisions of this Ordinance.

8.8-2 The following Temporary Signs shall be permitted at any location within the City of Portland and shall not be required to have a Sign Permit.

- A.** Service and charitable organizations shall be permitted the use of temporary/portable signs four (4) times per calendar year for a maximum of fourteen (14) days each time, with no Sign Permit required.
- B.** Construction Signs - Construction signs which identify the architects, engineers, contractors and other individuals or firms involved with the construction but not including any advertisement of any product, and signs announcing the character of the building enterprise or the purpose for which the building is intended during the construction period to a maximum of thirty-two (32) square feet for each firm. The minimum setback shall be ten (10) feet from any street right-of-way. The sign shall be confined to the site of construction and shall be removed within thirty (30) days after the end of construction. No permit shall be required, and the maximum time limit shall be two (2) years, or the duration of construction, whichever is shorter.

8.8-2 Temporary Signs continued...

- C. **Garage Sale/Yard Sale Signs** - All advertising signs concerning the garage/yard sale shall be restricted to the yard, garage, and household at which the sale is being conducted. (City Ordinance Chapter 112)
- D. **Political Campaign Signs** - Political campaign signs announcing the candidates seeking public political office shall be confined within private property and not within the street right-of-way. They shall be permitted no more than ninety (90) days prior to the scheduled election and shall be removed within fourteen (14) days after the election for which they were made. Such signs shall not be required to obtain a permit.
- E. **Real Estate Signs** - One (1) real estate sign advertising the sale, rental, or lease of the premises or part of the premises on which the sign is displayed shall not exceed six (6) square feet in RR, R4, R8, R10 Residential and Neighborhood Business Districts; and thirty-two (32) square feet in Central Business, Highway Service and Industrial Districts. Such sign shall be removed within fourteen (14) days of the sale, rental, or lease. The minimum setback from street right-of-way shall be ten (10) feet. Signs shall reflect no advertising or promotional material other than to indicate the party listing the property for sale, rental, or lease. Such sign shall not be required to obtain a permit. "A" frame real estate directional signs shall be permitted for a period of forty-eight (48) hours in a seven (7) day period.

8.9 ILLUMINATION

All signs must meet the illumination criteria listed below:

- A. All illuminated signs must meet the standards as specified in the National Electric Code, as adopted and amended by the State of Indiana.
- B. No sign shall have blinking, flashing, or fluttering lights, nor shall any device be utilized which has a changing light intensity, brightness or color, or give such illusion.
- C. The full number of illuminating elements thereof shall be kept in satisfactory working condition or be immediately repaired or replaced. Signs that are only partially illuminated shall meet all electrical requirements for that portion directly illuminated. All electrical wiring shall be in conduit and not exposed to the elements of external streets in any way. All electrical signs shall have a disconnecting switch located in a readily accessible place.
- D. The direct non-reflected light from a primary light source shall not create a traffic hazard to operators of motor vehicles on public and/or private roadways.
- E. The light from any illuminated sign shall be so shaded, shielded, or directed that the light intensity or brightness will not be objectionable to the surrounding areas. No light shall shine directly onto adjacent property.

8.10 MURAL STANDARDS AND REGULATIONS

A non-commercial message, picture, scene, or diagram exhibited on the outside wall of a building or structure through application of paint, canvas, tile, panels or similar materials such that the wall becomes the background surface or platform for the mural. A mural shall be considered a wall sign or commercial message if it contains words, logos, trademarks or graphic representations of any person, product or service for the purpose of advertising or identifying a business. Explanatory wording relative to the artwork may be incorporated into the mural. Signatures shall be allowed and limited to maximum of two square feet in size.

A. Placement of Mural

1. Murals shall be permitted only in the Central Business (CB) District.
2. Murals are not permitted on the primary façade of a building. A primary façade is defined (for purposes of this section) as the building elevation that faces the adjacent street right-of-way and is the primary customer entrance

B. Prohibited Mural Types

1. Murals or other representations which imitate or appear to imitate any official traffic sign or device which appears to regulate or direct the movement of traffic or which interferes with the proper operation of any traffic sign or signal, or which obstructs or physically interferes with a motor vehicle operator's view of approaching, merging, or intersecting traffic.
2. Murals with moving parts, including solar, wind, or water driven devices.
3. Murals affixed, applied or mounted above, upon or suspended from any part of the roof of structure.
4. Murals shall not project from the wall surface other than the minimum necessary protrusion to mount the mural to the wall or structure.
5. Murals containing any gang affiliation symbols.
6. Murals containing any commercial messages or advertising.

C. Design Standards

1. The proposed mural should be historically relevant to the community.
2. The proposed mural will not have an adverse impact on the safe and efficient movement of vehicular or pedestrian traffic; and
3. The location, scale and content of the mural should be in keeping with and enhance the building or structure on which it is located; and
4. The proposed mural is well integrated with the building's façade and other elements of the property and enhances the architecture or aesthetics of a building or wall; and
5. The proposed mural, by its design, construction, and location, will not have a substantial adverse effect on abutting property or the permitted use thereof; and
6. The proposed mural is not detrimental to the public health, safety, or welfare; and
7. The mural will not have a detrimental effect on the structural integrity of the wall on which it is applied/affixed; and
8. The maintenance schedule is reasonable for the mural and the building on which it is applied/affixed.

D. Mural Maintenance

1. The mural shall be kept in good condition for the life of the mural according to the maintenance schedule and responsibilities approved by the Zoning Administrator/Director.
2. The display surface shall be kept clean and neatly painted and free from corrosion.
3. Any mural that is not maintained, is faded, or is in disrepair shall be ordered removed or covered with opaque paint, similar to the primary building materials/colors or other appropriate material, by the Zoning Administrator/Director. Also, any windows or door openings that may have been temporarily covered for the purpose of the mural installation shall be returned to their original use as required by the Zoning Administrator/Director.

E. Surface Preparation

Sand and high pressure water blasting are not permitted as a cleaning process for either surface preparation or for mural maintenance purposes in the Portland Downtown Historic Preservation District Corridor or any building eligible for inclusion on the State or National Register of Historic Buildings. Treatments that cause damage to historic materials shall not be used.

F. Application Requirements

Permit application shall contain, but not be limited to, the following information:

1. Site plan showing the lot and building dimensions and indicating the proposed location of the mural.
2. A scale drawing and color photo of the building elevation showing the proposed size and placement of the mural.
3. A colored drawing of the proposed mural.
4. A description of the proposed maintenance schedule that includes the timeframe for the life of the mural and method for removal, if applicable.
5. What materials will be used to affix the mural to the building if not painted directly on the surface of the exterior wall.

G. Approval from the Portland Historic Preservation Commission (PHPC)

All murals for use in the Central Business District that is located within the City of Portland Downtown Historic Preservation District Corridor must follow the guidelines set forth in the Historic Preservation District Ordinance. A Certificate of Appropriateness (COA) from the Portland Historic Preservation Commission is required prior to the issuance of a mural permit from the Zoning Administrator/Director.

H. Mural Permit Approval

No mural shall be installed, enlarged, changed or converted unless a mural permit has been obtained by the owner or his agent from the Zoning Administrator/Director. No mural permit shall be approved or issued unless the Zoning Administrator/Director finds the requirements of this Section have been fulfilled.

8.11 SIGN STANDARDS BY ZONING DISTRICTS

- A.** The following sign standards by districts are intended to apply to every zoning district within the jurisdiction of the City of Portland. The zoning districts are defined in Section 3.1 of this Ordinance and are shown on the Official Zoning Map. Only signs as described herein and as may be described under Sections 8.7 and 8.8 shall be permitted in each particular zone.
- B.** Signage shall meet the requirements of the Sight Visibility Standards, Section 4.9.
- C.** If any zone is omitted from this Ordinance, or if a new zone is created after enactment of this Ordinance, no sign shall be permitted therein until this Ordinance is amended to include the new zone.

8.12 RESIDENTIAL ZONING DISTRICTS

These regulations shall apply to all zones designated by the Zoning Ordinance as **RR, R4, R8** and **R10**, Single-Family, Multiple-Family, Cluster Housing, Condominiums, High-Rise Apartments, or any combination of residential uses.

All signage for use in a Residential District located in the City of Portland Downtown Historic Preservation District Corridor must follow the guidelines set forth in the Historic Preservation District Ordinance. A Certificate of Appropriateness (COA) issued from the Portland Historic Preservation Commission is required prior to the issuance of a sign permit from the Building and Planning Department.

8.12-1 Location and Requirements for Signs in All Residential Districts:

- A.** No sign shall be erected in a location where it will obstruct vision of the public right-of-way to a vehicle operator during ingress to, egress from, or while traveling on the public right-of-way. (See Sight Visibility Standards, Section 4.9)
- B.** A permanent or temporary identity sign for a single-family subdivision or for a multi-family project shall be placed a minimum distance of ten (10) feet from any street right-of-way. The face of any such sign shall not exceed one hundred (100) square feet in area. A ground sign shall be a maximum of six (6) feet above ground level.
- C.** Building-mounted signs shall be flush mounted. There shall be no projection of any sign above the roof line.
- D.** A ground sign shall not be closer than three (3) feet to any building, or ten (10) feet to any other sign.
- E.** Lighting reflectors shall not be more than six (6) feet away from the ground sign which they are designed to illuminate.
- F.** Permitted signs shall not be placed on utility easements or drainage easements as defined on recorded plats or site plans without the express consent of the Advisory Plan Commission and all applicable utilities or other agencies
- G.** Signs shall not be placed as to interfere with the sight path of vehicular traffic.
- H.** Permanent or temporary identity signs for residential projects shall not exceed six (6) feet in height and may be constructed as free-standing ground signs or placed on decorative walls or fences.

8.12-2 Rural Residential (RR) and Low Density Residential (R4) Permitted Signage:

- A.** One (1) nameplate not exceeding a combined area of one (1) square foot in area is permitted. Said nameplate shall not be subject to the permit requirements of this Ordinance.
- B.** Home Occupations Signs, not exceeding eight (8) square feet. Such sign shall not be illuminated. (See Home Occupations, Section 4.4)
- C.** Church, school, golf course, lodge, or public building ground sign, not exceeding thirty-two (32) square feet in area, may be illuminated but shall conform to Section 8.9 of this Ordinance. A wall sign not exceeding one hundred (100) square feet, stating only the name of the church, school, golf course, lodge, or public building may be permitted.

8.12 RESIDENTIAL ZONING DISTRICTS RR & R4 Continued.....

- D. Permanent or temporary subdivision identity signs shall be permitted. In the event the subdivision has entries from more than one (1) street, additional signs may be permitted by the Technical Review Committee. Any temporary signs as provided in Section 8.7 of this Ordinance shall be removed before a permanent sign may be erected. A maximum of two (2) signs shall be permitted for the main entryway. Said signs shall not exceed six (6) feet in height and shall be located at least ten (10) feet from any street right-of-way. Maximum size shall be one hundred (100) square feet in area.

8.12-3 Medium Density Residential (R8) and High Density Residential (R10) Permitted Signage:

- A. For each duplex and/or multiple-family building, one (1) nameplate per occupancy not to exceed one (1) square foot in area is permitted. Such nameplate shall not be subject to the permit requirements of this Ordinance.
- B. Only the multi-family project identity sign may be illuminated but shall conform to Section 8.9 of this Ordinance.
- C. A maximum of one (1) permanent multi-family project identity sign shall be permitted for the main entryway. In the event the project has entries from more than one (1) street, additional identity signs may be permitted by the Technical Review Committee. Any temporary sign, as provided in Section 8.8 of this Ordinance shall be removed before a permanent sign may be erected. Project identity signs shall not exceed six (6) feet in height and shall be located at least ten (10) feet from any street right-of-way. Maximum size shall be one hundred (100) square feet in area.
- D. Home Occupations Signs, not exceeding eight (8) square feet. Such sign shall not be illuminated. (See Home Occupations, Section 4.4)
- E. A church, school, golf course, lodge, or public building ground sign, not exceeding thirty-two (32) square feet in area may be illuminated but shall conform to Sections 8.9 of this Ordinance. A wall sign not to exceed one hundred (100) square feet, stating only the name of the church, school, golf course, lodge, or public building may be approved permitted.
- F. For funeral homes or mortuaries, an illuminated nameplate or ground sign shall be permitted, provided it is not greater than thirty-two (32) square feet in area.

8.13 NEIGHBORHOOD BUSINESS (NB) DISTRICTS

No sign shall be erected in a location where it will obstruct vision of the public right-of-way to a vehicle operator during ingress to, egress from, or while traveling on the public right-of-way. (See Section 4.10 Sight Visibility Standards)

All signage for use in a Neighborhood Business District located in the City of Portland Downtown Historic Preservation District Corridor must follow the guidelines set forth in the Historic Preservation District Ordinance. A Certificate of Appropriateness (COA) issued from the Portland Historic Preservation Commission is required prior to the issuance of a sign permit from the Building and Planning Department.

8.13-1 Placement and Requirements for Signs in Neighborhood Business Districts:

- A. The face of any permanent or temporary identity sign shall not exceed one hundred (100) square feet in area.
- B. All signs shall be placed a minimum of ten (10) feet from the right-of way of any local street, State highway, or Federal highway.
- C. Permitted signs shall not be placed on utility easements or drainage easements as defined on recorded plats or site plans.

8.13-2 Neighborhood Business District Permitted Signage:

- A. **Wall Signs** – One wall sign shall be permitted on each building. Maximum sign area shall be one and one-half (1 1/2) square feet for each lineal foot of building frontage; however, in no instance shall such signage exceed one hundred (100) square feet for a single business. Wall signs shall be mounted flush against the building.
- B. **Ground Signs:**
 - 1. **Limit of One (1):** One (1) ground sign indicating only the name and nature of the occupancy shall be permitted for each business parcel. Where the business lot frontage is one hundred (100) feet or less.
 - 2. **Size of Sign:** Such sign shall not exceed one hundred (100) square feet in area, and the height of any ground sign shall be such that no part of the sign shall exceed a maximum height of six (6) feet.
 - 3. **Location:** A ground sign shall be placed a minimum distance of ten (10) feet from any street right-of-way. Such sign shall be installed in accordance with location criteria as explained in this section.
 - 4. **Illumination:** Such ground sign may be illuminated as provided in Section 8.9 of this Ordinance.
 - 5. **Landscaping:** Such ground signs shall be adequately landscaped.
- C. **“A” Frame Signs** – “A” frame signs or sidewalk signs in the Neighborhood Business District shall be no more than eighteen (18) inches wide and no more than thirty-six (36) inches high. Signs shall not be placed as to interfere with foot traffic or wheel chair traffic on public sidewalks. No sign permit is required.
- D. **Banners** – Temporary banners no longer than eight (8) feet nor wider than three (3) are allowed in Neighborhood Business Districts if they are located flat against the building. Permits are not required for any temporary banner.
- E. **Home Occupations Signs** – not exceeding eight (8) square feet. Such sign shall not be illuminated. (See Home Occupations 4.4)
- F. **Awning Signs** – Signage on awnings in the Neighborhood Business District may be applied flat against the awning face and/or on the valance area of the awning. Permits are required for awnings and awning signs.
- G. **Painted Wall Signs, Pole Signs, Projecting Signs, and Bench Signs are NOT PERMITTED**

8.14 CENTRAL BUSINESS (CB) DISTRICT

The regulations described in this Section shall apply to all uses in the Central Business District. No sign shall be erected in a location where it will obstruct vision of the public right-of-way to a vehicle operator during ingress to, egress from, or while traveling on the public right-of-way. (See Sight Visibility Standards Section 4.10)

All signage for use in the Central Business District located in the City of Portland Downtown Historic Preservation District Corridor must follow the guidelines set forth in the Historic Preservation District Ordinance. A Certificate of Appropriateness (COA) issued from the Portland Historic Preservation Commission is required prior to the issuance of a sign permit from the Zoning Administrator/Director.

8.14-1 Placement and Requirements for Signs in the Central Business District:

- A. The face of any permanent identity sign shall not exceed one hundred (100) square feet in area.
- B. All signs shall be placed a minimum of ten (10) feet from the right-of way of any local street, State highway, or Federal highway.
- C. Permitted signs shall not be placed on utility easements or drainage easements as defined on recorded plats or site plans.

8.14-2 Central Business District Permitted Signage (unless otherwise stated):

- A. **Wall Signs** – **One wall sign shall be permitted on each building.** Maximum sign area shall be one and one-half (1 1/2) square feet for each lineal foot of building frontage; however, in no instance shall such signage exceed one hundred (100) square feet for a single business. In computing wall area for the purposes of this Section, the areas covered by doors or windows shall be excluded. Wall signs shall be mounted flush against the building. If a building is located on a corner lot of intersecting local or arterial streets one additional wall sign may be permitted (does not include buildings next to an alley).
- B. **Projecting Signs** – An on-premise sign attached to a building or structure and extending wholly or partly beyond the surface of the portion of the building or structure to which it is attached; or extending beyond the building line; or over public property ***Projecting Signs are NOT PERMITTED in State or Federal Highways right-of-ways.***
 - 1. There shall be no projecting signs above the roof line.
 - 2. A projecting sign shall be placed at a distance not greater than two (2) feet from the face of the wall to which it is attached, measured from the part of the sign nearest thereto.
 - 3. No projecting sign or part thereof shall extend nearer to the curb line than five (5) feet, nor be placed lower than ten (10) feet above grade or sidewalk level.
 - 4. No projecting sign shall be erected to a height greater than thirty-five (35) feet above grade or higher than the cornice of any building.
 - 5. No projecting sign shall be erected when the area of one face of the sign shall exceed thirty-two (32) square feet in area.
- C. **Awning Signs** – Awnings and awning signs in the Central Business District must comply with the Portland Historic Preservation Commission Ordinance and Guidelines where applicable. Signage on awnings may be applied flat against the awning face and/or on the valance area of the awning. Permits are required for awnings and awning signs.
- D. **Banners** – Temporary banners no longer than eight (8) feet nor wider than three (3) feet are allowed in the Central Business District, if they are located flat against the Building. Permits are not required for any temporary banner.

8.14 CENTRAL BUSINESS DISTRICT continued.....

- E. **Pole Signs** – A high-profile, on-premise sign completely or principally self-supported by posts or other sign apparatus independent of any building or other structure. ***Pole signs located in the Central Business District will require special exception authorization from the Board of Zoning Appeals.***
1. **Limit of One (1):** One (1) pole sign indicating only the name and nature of the occupancy may be permitted. Where the business lot frontage is one hundred (100) feet or less, *only* a ground sign shall be permitted
 2. **Size of Sign:** Such sign shall have a maximum surface area not exceeding one hundred (100) square feet;
 3. **Height of Sign:** A pole sign shall not exceed thirty-five (35) feet in height. A pole sign shall have a minimum clearance of ten (10) feet between the bottom of the face of the sign and grade or sidewalk level. If the pole sign is supported by more than one pole, the space between the poles shall not be enclosed in a manner, which would impair general public visibility. Once a pole sign becomes inactive, as defined in this Ordinance, the pole or sign apparatus must be removed along with the sign itself.
 4. **Illumination:** Such signs may be illuminated as provided in Section 8.9 of this Ordinance, or as approved by the Advisory Plan Commission.
 5. **Landscaping:** Such pole signs should be adequately landscaped.
- F. **Ground Signs:** ***Ground Signs located in the Central Business District will require special exception authorization from the Board of Zoning Appeals***
1. **Limit of One (1):** Where the business lot frontage is one hundred (100) feet or less, one (1) ground sign indicating only the name and nature of the occupancy shall be permitted.
 2. **Size of Sign:** Such sign shall not exceed one hundred (100) square feet in area, and the height of any ground sign shall be such that no part of the sign shall exceed a maximum height of six (6) feet.
 3. **Location:** A ground sign shall be placed a minimum distance of ten (10) feet from any street right-of-way. Such sign shall be installed in accordance with location criteria as explained in this section.
 4. **Illumination:** Such ground sign may be illuminated as provided in Section 8.9 of this Ordinance.
 5. **Landscaping:** Such ground signs should be adequately landscaped.
- G. **“A” Frame Signs** – “A” frame signs or sidewalk signs in the Central Business District shall be no more than eighteen (18) inches wide and no more than thirty-six (36) inches high. Signs shall not interfere with the foot traffic or wheel chair traffic on a public sidewalk. No sign permit is required.
- H. **Bench Signs** – Bench signs are not permitted in the Central Business District.
- I. **Billboards or other Outdoor Advertising Structures** – Billboards or other advertising structures not specifically mentioned are not permitted.
- J. **Painted Wall Signs** – Painted wall signs are not permitted in the Central Business District.
- K. **Murals** – See Section 8.10 for standards and regulations.

8.15 HIGHWAY SERVICE (HS) District

No sign shall be erected in a location where it will obstruct vision of the public right-of-way to a vehicle operator during ingress to, egress from, or while traveling on the public right-of-way. (See Sight Visibility Standards, Section 4.9)

8.15-1 Placement and Requirements for Signs in Highway Service Districts:

- A. The face of any permanent identity sign shall not exceed one hundred (100) square feet in area.
- B. All signs shall be placed a minimum of ten (10) feet from the right-of way of any local street, State highway, or Federal highway.
- C. Permitted signs shall not be placed on utility easements or drainage easements as defined on recorded plats or site plans.

8.15-2 Permitted Signs for free-standing single use buildings, shopping centers and other multi-occupant commercial/office buildings are as follows:

- A. **Pole Signs** – A high-profile, on-premise sign completely or principally self-supported by posts or other sign apparatus independent of any building or other structure.
 - 1. **Limit of One (1):** One (1) pole sign shall be permitted indicating only the name and nature of the occupancy. Where the business lot frontage is one hundred (100) feet or less, only a ground sign shall be permitted.
 - 2. **Size of Sign:** Such sign shall have a maximum surface area not exceeding one hundred (100) square feet;
 - 3. **Height of Sign:** A pole sign shall not exceed thirty-five (35) feet in height. A pole sign shall have a minimum clearance of ten (10) feet between the bottom of the face of the sign and grade or sidewalk level. If the pole sign is supported by more than one pole, the space between the poles shall not be enclosed in a manner, which would impair general public visibility. Once a pole sign becomes inactive, as defined in this Ordinance, the pole or sign apparatus must be removed along with the sign itself.
 - 4. **Illumination:** Such signs may be illuminated as provided in Section 8.9 of this Ordinance.
 - 5. **Landscaping:** Such pole signs shall be adequately landscaped.
 - 6. **Shopping Centers:** Pole signs at shopping centers or strip shopping centers may be made a part of the site development plan or erected at a later date, subject to the approval of the Technical Review Committee. Where a shopping center, strip shopping center, or developed parcel has in excess of two hundred (200) feet of street frontage, one (1) additional free-standing pole sign may be approved by the Technical Review Committee. Where more than one (1) free-standing pole sign is authorized, the distance between each sign shall not be less than one hundred (100) feet.
- B. **Ground Signs:**
 - 1. **Limit of One (1):** Where the business lot frontage is one hundred (100) feet or less, one (1) ground sign indicating only the name and nature of the occupancy shall be permitted.
 - 2. **Size of Sign:** Such sign shall not exceed one hundred (100) square feet in area, and the height of any ground sign shall be such that no part of the sign shall exceed a maximum height of six (6) feet.
 - 3. **Location:** A ground sign shall be placed a minimum distance of ten (10) feet from any street right-of-way. Such sign shall be installed in accordance with location criteria as explained in this section.
 - 4. **Illumination:** Such ground sign may be illuminated as provided in Section 8.9 of this Ordinance.
 - 5. **Landscaping:** Such ground signs shall be adequately landscaped.
- C. **Awning Signs** - Signage on awnings in the Highway Service District may be applied flat against the awning face and/or on the valance area of the awning. Permits are required for awnings and awning signs.

8.15 HIGHWAY SERVICE (HS) District continued...

- D. **Projecting Signs** – An on-premise sign attached to a building or structure and extending wholly or partly beyond the surface of the portion of the building or structure to which it is attached; or extending beyond the building line; or over public property ***Projecting Signs are NOT PERMITTED in State or Federal Highways right-of-ways.***
1. There shall be no projecting signs above the roof line.
 2. A projecting sign shall be placed at a distance not greater than two (2) feet from the face of the wall to which it is attached, measured from the part of the sign nearest thereto.
 3. No projecting sign or part thereof shall extend nearer to the curb line than five (5) feet, nor be placed lower than ten (10) feet above grade or sidewalk level.
 4. No projecting sign shall be erected to a height greater than thirty-five (35) feet above grade or higher than the cornice of any building.
 5. No projecting sign exceed thirty-two (32) square feet in area.
- E. **Wall Signs** – Maximum sign area shall be one and one-half (1 1/2) square feet for each lineal foot of building frontage; however, in no instance shall such signage exceed one hundred (100) square feet for a single business. In computing wall area for the purposes of this Section, the areas covered by doors or windows shall be excluded. Wall signs shall be mounted flush against the building.
- F. **Entrance Signs** – Two (2) on-site entrance signs are permitted at each entrance. Such signs are subject to the provisions of Section 8.7 of this Ordinance and may be internally or externally lit, but shall not shine directly or indirectly into adjacent residential areas.
- G. **Off-premise signs** – shall be permitted for directing the traveling public to commerce or industrial parks (strip shopping center or mall not included). A permit shall be obtained prior to the erection of the sign providing the following requirements are met:
1. Such sign shall indicate only the name, location, and information about the park itself. Products or services shall not be advertised.
 2. Such sign shall have a maximum sign face area of one hundred (100) square feet, a maximum height of nine (9) feet above grade level, and a minimum setback of fifteen (15) feet from street right-of-way.
 3. Such sign shall be a minimum distance of one hundred (100) feet from any residential zoning district.
 4. Such sign shall be a minimum distance of five hundred (500) feet from any other “off-premises” sign.
 5. Such signs shall be adequately landscaped.
 6. Such signs may be illuminated if it conforms to Section 8.9 of this Ordinance
- H. **“A” Frame Signs** – “A” frame signs or sidewalk signs in the Highway Service District shall be no more than eighteen (18) inches wide and no more than thirty-six (36) inches high. Signs shall not be placed as to interfere with foot traffic or wheel chair traffic on a public sidewalks. No sign permit is required.
- I. **Banners** – Temporary banners no longer than eight (8) feet nor wider than three (3) feet are allowed in the Highway Service District, if they are located flat against the Building. Permits are not required for any temporary banner.
- J. **Billboards or other Outdoor Advertising Structures** – Billboards or other advertising structures not specifically mentioned are not permitted.
- K. **Painted Wall Signs** – Painted wall signs are not permitted in the Highway Service District.

8.16 INDUSTRIAL (IND) DISTRICT

No sign shall be erected in a location where it will obstruct vision of the public right-of-way to a vehicle operator during ingress to, egress from, or while traveling on the public right-of-way. (See Section 4.10 Sight Visibility Standards)

8.16-1 Placement and Requirements for Signs in Industrial Districts:

- A. The face of any permanent identity sign shall not exceed one hundred (100) square feet in area.
- B. All signs shall be placed a minimum of ten (10) feet from the right-of way of any local street, State highway, or Federal highway.
- C. Permitted signs shall not be placed on utility easements or drainage easements as defined on recorded plats or site plans.

8.16-2 Industrial District Permitted Signage:

- A. **Pole Signs** – A high-profile, on-premise sign completely or principally self-supported by posts or other sign apparatus independent of any building or other structure.
 - 1. **Limit of One (1):** One (1) pole sign shall be permitted indicating only the name and nature of the occupancy. Where the business lot frontage is one hundred (100) feet or less, only a ground sign shall be permitted.
 - 2. **Size of Sign:** Such sign shall have a maximum surface area not exceeding one hundred (100) square feet;
 - 3. **Height of Sign:** A pole sign shall not exceed thirty-five (35) feet in height. A pole sign shall have a minimum clearance of ten (10) feet between the bottom of the face of the sign and grade or sidewalk level. If the pole sign is supported by more than one pole, the space between the poles shall not be enclosed in a manner, which would impair general public visibility. Once a pole sign becomes inactive, as defined in this Ordinance, the pole or sign apparatus must be removed along with the sign itself.
 - 4. **Illumination:** Such signs may be illuminated as provided in Section 8.9 of this Ordinance.
 - 5. **Landscaping:** Such pole signs shall be adequately landscaped.
- B. **Ground Signs:**
 - 1. **Limit of One (1):** Where the business lot frontage is one hundred (100) feet or less, one (1) ground sign indicating only the name and nature of the occupancy shall be permitted for each business parcel.
 - 2. **Size of Sign:** Such sign shall not exceed fifty (50) square feet in area, and the height of any ground sign shall be such that no part of the sign shall exceed a maximum height of six (6) feet.
 - 3. **Location:** A ground sign shall be placed a minimum distance of ten (10) feet from any street right-of-way. Such sign shall be installed in accordance with location criteria as explained in this section.
 - 4. **Illumination:** Such ground sign may be illuminated as provided in Section 8.9 of this Ordinance.
 - 5. **Landscaping:** Such ground signs shall be adequately landscaped.
- C. **Wall Signs** – Maximum sign area shall be one and one-half (1 1/2) square feet for each lineal foot of building frontage; however, in no instance shall such signage exceed one hundred (100) square feet for a single business. In computing wall area for the purposes of this Section, the areas covered by doors or windows shall be excluded. Wall signs shall be mounted flush against the building.
- D. **Entrance Signs** – Two (2) on-site entrance signs are permitted at each entrance. Such signs are subject to the provisions of Section 8.7 of this Ordinance and may be internally or externally lit, but shall not shine directly or indirectly into adjacent residential areas.
- E. **Painted Wall Signs** – Painted wall signs are not permitted in the Highway Service District.

8.16 INDUSTRIAL (IND) District continued...

- F. Off-Premise Signs/Direction Signs** – Such signs shall be permitted for directing the traveling public commerce or industrial parks (strip shopping center or mall not included). A permit shall be obtained prior to the erection of the sign providing the following requirements are met:
1. Such sign shall indicate only the name, location, and information about the park itself. Products or services shall not be advertised.
 2. Such sign shall have a maximum sign face area of one hundred (100) square feet, a maximum height of nine (9) feet above grade level, and a minimum setback of fifteen (15) feet from street right-of-way.
 3. Such sign shall be a minimum distance of one hundred (100) feet from any residential zoning district.
 4. Such sign shall be a minimum distance of five hundred (500) feet from any other “off-premises” sign.
 5. Such signs shall be adequately landscaped.
- G. Banners** – Temporary banners no longer than eight (8) feet nor wider than three (3) feet are allowed in the Industrial District, if they are located flat against the Building. Permits are not required for any temporary banner.
- H. Billboards or other Outdoor Advertising Structures** – Billboards or other advertising structures not specifically mentioned are not permitted.

Section 9

Administration

9.1 GENERAL ADMINISTRATION

- A. **Administrative Officer:** The City of Portland Zoning Administrator/Director (including any designee(s) of the Zoning Administrator/Director), will have the principal responsibility for the administration and enforcement of this Ordinance within the Plan Commission's planning jurisdiction. The duties of the Zoning Administrator/Director, or his/her designee, shall include but not be limited to:
1. **Improvement Location Permits:** Reviewing, approving, or disapproving all Improvement Location Permits and keeping permanent records of applications made and actions taken;
 2. **Inspections:** Conducting inspections of structures and properties to determine compliance with the requirements of this Ordinance and all approvals granted by the Plan Commission, Technical Review Committee, Common Council, Board of Zoning Appeals or other body in the execution of its duties as established by this ordinance and Indiana State Code;
 3. **Record Keeping:** Maintaining permanent and current records documenting the application of this Ordinance including, but not limited to, all maps, amendments, special exceptions, variances, and appeals;
 4. **Plan Commission Applications:** Receiving, processing docketing, and referring to the Plan Commission all appropriate applications;
 5. **Board of Zoning Appeals Applications:** Receiving, processing, docketing, and referring to the Board of Zoning Appeals all appeals, variances, special exceptions, and other matters upon which it is authorized to act under this Ordinance and Indiana State Code;
 6. **Technical Review Committee Applications:** Receiving, processing, docketing, and referring to the Technical Review Committee all appropriate applications;
 7. **Clerical & Technical Assistance:** Providing all such clerical and technical assistance as may be required by the Board of Zoning Appeals, Plan Commission, Technical Review Committee, Common Council, or other body in the execution of its duties as established by this Ordinance and Indiana State Code.
- B. **Fee Schedule Established:**
1. The fees are established by the Interlocal Board under the Interlocal Agreement between the City of Portland and Jay County. The Interlocal Board shall maintain the official schedule of fees, charges, and expenses and a collection procedure for permits, appeals, and other petitions pertaining to this Ordinance. The schedule of fees shall be available to the public in the office of the City Clerk-Treasurer or the office of the Zoning Administrator/Director and may be altered or amended only by resolution.
 2. Until all applicable fees, charges, and expenses have been paid in full, no final action shall be taken on any permit application, appeal, or petition.
 3. Any person or persons who shall initiate construction of a structure prior to obtaining an Improvement Location Permit or any other required permit shall pay twice the amount of the current permit fee as established by the Interlocal Board.
- C. **Schedule of Meeting and Filing Dates:** The Zoning Administrator/Director shall maintain an annual Calendar of Meeting Filing Dates separately for the Plan Commission and Board of Zoning Appeals. The existence of this calendar shall not be interpreted as prohibiting special meeting of the Commission or Board.
1. The calendars of the Plan Commission shall be coordinated to ensure the efficient processing of applications.
 2. All meetings and filing dates shall be based on the requirements of this Ordinance and the laws of the State of Indiana.
 3. The Calendar of Meeting and Filing Dates shall be prepared by the Zoning Administrator/Director and adopted by resolution by the Plan Commission and Board of Zoning Appeals. The calendar of meeting and filing dates shall be reviewed and updated annually by the Zoning Administrator/Director.

9.2 NOTICE OF PUBLIC HEARING

For all public hearings, the notice shall be provided to the public consistent with the requirements of this Section and the Rules & Procedures of the Board of Zoning Appeals and Plan Commission. Required public notice shall include:

- A. **Legal Notice:** The applicant shall pay for a legal notice consistent with the requirements of IC 5-3-1 for publication in the local newspaper. The legal notice shall appear in the newspaper no less than 1 time at least 10 days prior to the public hearing, not including the date of the hearing. Legal notices shall include each of the following:
1. **Property Location:** The location of the subject property, including its common address and a legal description of the included land.
 2. **Available Plans:** That the project plans are available for examination at the office of the Portland Plan Commission.
 3. **Hearing Information:** That a public hearing will be held, giving the date, place, and hour of the hearing, and
 4. **Written Comments:** That written comments on the application will be accepted prior to the public hearing and may be submitted to the Zoning Administrator/Director.
- B. **Notice to Interested Parties:** The applicant shall pay for written notices of the application to all interested parties as defined by the Plan Commission and BZA Rules & Procedures. In no instances shall streets, alleys, streams, or other features be considered boundaries for precluding notifications.
1. **Notice Information:** The notice shall contain the same information as the legal notice that is published in the newspaper as outlined in Section 9.2(A).
 2. **Responsibility:** The cost of the notices shall be the responsibility of the applicant.
 3. **Ownership Information:** The Building & Planning Department will obtain the names and mailing addresses of those to be notified from the Property Transfer Books contained in the Jay County Auditor's Office.
 4. **Notification Requirements:** Property owners shall be notified at least 1 time in one of the following ways:
 - a. Via Certified Mail through the US Postal Service, postmarked a minimum of 15 days before the date of the public hearing.
 - b. Via delivered notice in accordance with the Plan Commission Rules and Procedures.
 5. **Notification Certification:** A copy of the materials provided to each property owner, the completed mailing and/or delivery forms will be on file prior to the public hearing.

9.3 TECHNICAL REVIEW COMMITTEE

INTENT: The intent of the Technical Review Committee is to provide a coordinated and thorough review of all development plans and to ensure that all applicable requirements are met. By establishing this body, applications can be reviewed by all necessary departments, local agencies, and utility providers at one meeting. Such review helps to identify issues early in the process, and eliminates the need for multiple meetings and individual correspondence between the applicant and each of these departments and agencies. To provide flexibility, the Technical Review Committee can meet at the discretion of the Plan Commission.

All approval processes and actions of the Technical Review Committee shall be consistent with the requirements of Indiana State Law.

- A. General Provisions:** The following general provisions shall apply to the functions of the Technical Review Committee:
1. **Accountability:** All information provided to the Committee, including that shown on site plans and other drawings, should be accurate. This specifically applies to the existing and proposed locations of utilities.
 2. **Utility Standards:** Representatives of local utilities shall review the applications before the Committee consistent with each utility's minimum standards. Adjustments to the determinations of the Committee regarding utility locations may be made by the utilities in response to unforeseen site conditions. These adjustments shall not require additional review by the Technical Review Committee.
- B. Authority and Approvals:** The authority of the Technical Review Committee and appeals of its decisions shall be as follows:
1. **Approval Authority:** The Technical Review Committee shall have the authority to approve Site Development Plans as defined by Section 6 of this Ordinance.
 2. **Review Authority:** The Technical Review Committee shall have the authority to review the following types of applications, forwarding comments to the Portland Plan Commission:
 - a. Planned Unit Development Concept Plans, and
 - b. Planned Unit Development Detailed Plans.
 3. **Appeal Rights:** All decisions of the Technical Review Committee may be appealed to the Plan Commission following the procedure outlined in Section 9.3(F).
- C. Committee Structures:** The Zoning Administrator/Director shall serve as the staff for the Technical Review Committee. He/she shall distribute all appropriate materials and keep all necessary files and meeting records. The organization of the Technical Review Committee shall be as follows:
1. **Membership:** The Technical Review Committee shall consist of the following Members;
 - a. Zoning Administrator/Director
 - b. Plan Commission Member
 - c. Water Department Superintendent
 - d. Police Chief or his/her designee
 - e. Fire Chief or his/her designee
 - f. Street Commissioner or his/her designee
 - g. Wastewater Treatment Plant Superintendent
 - h. Jay County Drainage Board representative
 - i. Jay County Health Department staff member
 - j. Any others deemed necessary by the Zoning Administrator/Director (such as representatives of the Soil and Water Conservation District, etc.).

ADMINISTRATION

9.3 TECHNICAL REVIEW COMMITTEE (Continued)

2. **Attendance:** It is expected that members of the Committee shall review and submit written comments regarding each specific application to the Zoning Administrator/Director prior to the appropriate meeting.
 - a. Each committee member shall only comment on the aspects of each application that directly relate to their area of expertise regarding the applicable adopted standards of the City of Portland or the utility they are representing.
 - b. If no comments are received from any member of the Committee it shall indicate that individually they have no objection to any aspect of the application.
 3. **Duties of the Plan Commission Director (Zoning Administrator/Director):** The Zoning Administrator/Director shall oversee the operation of the Technical Review Committee and shall make the final determination regarding any specific aspect of a application of which members of the Technical Review Committee disagree.
 - a. In cases of disagreement and at his/her discretion, the Zoning Administrator/Director may forward any application before the Technical Review committee to the Plan commission for a determination on the request.
 - b. The Zoning Administrator/Director shall determine the action to be taken on each application by the Committee based on the comments of the Committee members.
 4. **Continued Applications:** All applications which are not approved by the Technical Review committee and not forwarded to the Plan Commission shall be denied or continued for the next appropriate Committee review.
 - a. Prior to that review the applicant shall address the comments of the Committee, making appropriate modifications to the application materials.
 - b. The applicant shall provide appropriate copies of the revised materials prior to the next Committee review.
 - c. The applicant may withdraw any application following the review of the Committee by submitting a notice of such withdrawal in writing to the Zoning Administrator/Director. Any applications that are withdrawn and are subsequently re-filed shall be considered a new application and shall be subject to all applicable requirements for new applications (including fees) established by this Ordinance.
- D. **Meeting Record:** The Zoning Administrator/Director shall make written documentation of the comments and findings of the Technical Review Committee for each application and make those findings available to the applicant within 5 business days of the Committee's review. The written documentation shall consist of the following:
1. **Action Takes:** A letter to the applicant stating the action taken by the Committee, and
 2. **Outstanding Comments:** A list of any unresolved comments made by the members of the Technical Review Committee, including references to appropriate sections of adopted, applicable requirements of the City of Portland, the local utility providers, the State of Indiana, and/or the Federal government.
- E. **Decision Criteria:** In all cases, the Technical Review committee shall only consider the applicable adopted requirements of this Ordinance, the Portland Subdivision Control Ordinance, the Portland Construction Standards, and any other adopted and applicable standards of the City of Portland, the State of Indiana, and/or the Federal government. The minimum standards and specifications of each utility shall also be considered.
1. **Mandatory Approval:** In all cases in which the Technical Review Committee has approval authority and a application conforms to the applicable standards, that application shall be approved.
 2. **Committee Member Comments:** In no case shall any applicant be required to make any modifications to any application based solely on the opinions or other undocumented standards of any member of the Committee.
 - a. This shall be interpreted as prohibiting any committee member from providing comments that express their professional opinions regarding a application being forwarded to the Plan Commission.
 - b. This shall further not be interpreted as preventing private utility representatives from establishing requirements for individual applications based on professional norms.

9.3 TECHNICAL REVIEW COMMITTEE (Continued)

- F. **Appeals:** Any applicant or interested party may appeal the decision of the Technical Review Committee to the Plan Commission.
1. **Relief from Specific Requirements:** Applicants seeking relief from specific development standards or other requirements of the Zoning Ordinance that are unrelated to the Committee's interpretation of the applicable requirements shall be required to obtain variance approval from the Board of Zoning Appeals.
 2. **Appeal Procedure:** All appeals of determinations of the Technical Review Committee shall meet the following requirements:
 - a. The appealing party shall be required to provide the Zoning Administrator/Director with written notice of the appeal within 30 days of the date of the Committee decision.
 - b. The Zoning Administrator/Director shall place the appeal on the agenda for the next appropriate Plan Commission meeting consistent with the adopted Calendar of Meeting and Filing Dates.
 - c. Public notice for the meeting shall be required, consistent with the provision of Section 9.2.
 - d. The Plan Commission shall consider the provisions of this Ordinance and all other documented, applicable standards in deciding the appeal.
- G. **Consistency:** In all cases, the application materials, including any drawings that are presented to the Plan Commission or provided to the Zoning Administrator/Director with an Improvement Location Permit application following Technical Review Committee review shall be completely consistent with those that were approved by the Technical Review Committee. Any application that is inconsistent with the version approved by the Technical Review Committee shall be referred back to the Technical Review Committee for review and comment.

9.4 ADVISORY PLAN COMMISSION

Jurisdiction

The Portland Advisory Plan Commission shall have territorial jurisdiction over all lands within the incorporated area of the City. The Portland Advisory Plan Commission may exercise jurisdiction over all lands outside of, but within two miles, of the corporate limits of the City of Portland as provided for in IC 36-7-4-205. If the Portland Advisory Plan Commission exercises jurisdiction outside the incorporated area of the City of Portland, additional members shall be appointed to the Commission in accordance with the provisions of IC 36-7-4-214.

Membership & Terms of Office

The Portland Advisory Plan Commission shall consist of 7 members as specified in IC 36-7-4-207b, as amended, 2 members as specified in IC 36-7-4-214, along with 1 member as specified in IC 36-7-4-213. Members of the Portland Advisory Plan Commission shall be appointed for terms of office as specified in IC 36-7-4-217 through 220, as amended.

Plan Commission Duties & Powers

The powers and duties of the City of Portland Plan Commission with regard to this Ordinance are defined by Indiana Code, and are described in this Section. These powers and duties are further described by the Plan Commission Rules and Procedures. All powers and duties shall be executed consistent with the provisions of this Ordinance.

- A. **Duties:** Duties should be interpreted as activities that are obligations. Commission duties include:
1. **Rules:** Supervise and make rules for the administration of the affairs of the Commission (IC 36-7-4-401(a)(1);
 2. **Procedures:** Prescribe uniform rules pertaining to investigations and hearings (IC 36-7-4-401(a)(2);
 3. **Record Keeping:** Maintain a complete record of all proceedings (IC 36-7-4-401(a)(3);
 4. **Meeting Time and Records:** Fix the time for holding regular meetings each month, or as necessary, keep minutes of all meetings, and maintain all minutes and records in the office of the Commission (IC 36-7-4-306);
 5. **Certification:** Adopt a seal and certify all official acts (IC 36-7-4-401(a)(6) and (7);
 6. **Recommendations:** Make recommendations to the Common Council concerning the adoption and amendment of the Comprehensive Plan, the Zoning Ordinance (including the zoning map), the Subdivision Control Ordinance, and Planned Unit Development district ordinances (IC 36-7-4-405(a)(1);
 7. **Decisions:** Approve or deny plats, re-plats, and amendments to plats consistent with the IC 36-7-4-700 series (IC 36-7-4-405(b)(2);
 8. **Surety:** Record and file all bonds and contracts and assume responsibility for the custody and preservation of all Commission documents and papers (IC 36-7-5-401(a)(4);
 9. **Publications:** Prepare, publish, and distribute reports, ordinances, and other material relating to the activities authorized by the Indiana Code (IC 36-7-4-401(a)(5);
 10. **Fiscal Supervision:** Supervise the fiscal affairs of the Commission (IC 36-7-4-401(b)(1);
 11. **Budgeting:** Prepare and submit an annual budget to the Common Council, and be limited in all expenditures to the provisions made for those expenditures by the Common Council (IC 36-7-4-401(b)(2);
 12. **Employees:** Prescribe the qualifications of appoint, remove, and fix the compensation of the employees of the Commission, consistent with the compensation fixed by the Common Council (IC 36-7-4-402(a);
 13. **Board of Zoning Appeals Facilities:** Provide suitable facilities for the holder of BZA hearings and for the preserving of records, documents, and accounts (IC 36-7-4-914); and
 14. **Other Duties:** All additional duties as established by Indiana State Code.

9.4 ADVISORY PLAN COMMISSION (continued)

- B. **Powers:** Powers should be interpreted as activities that are optional and may be initiated by the Commission. Plan Commission powers include:
1. **Advisory Committees:** Establish advisory committees as necessary, composed of specific members and organized for specific purposes (IC 36-7-4-407);
 2. **Executive Committee:** Establish an executive committee (IC 36-7-4-408);
 3. **Funding Assistance:** Seek funding assistance through grant programs as necessary (IC 36-7-4-409) and accept gifts, donations and grants (IC 36-7-4-310);
 4. **Fee Schedule:** Establish a schedule of fees to defray the administrative costs of the official actions of the Commission (IC 36-7-4-411);
 5. **Secretary:** Appoint and fix the duties of a secretary (IC 36-7-4-304);
 6. **Professional Services:** Contract for special or temporary services and any professional counsel (IC 36-7-4-311); and
 7. **Other Powers:** All additional powers as permitted by Indiana State Code.

9.5 BOARD OF ZONING APPEALS

Jurisdiction

The Board of Zoning Appeals shall have jurisdiction over all lands subject to the provisions of this Ordinance as specified in Section 1.3 herein.

Membership & Terms of Office

The Board of Zoning Appeals shall consist of and continue as a 5 member Board. Members shall be appointed pursuant to IC 36-7-4-902, as amended. Each Board member shall be appointed for a term of 4 years as specified in IC 36-7-906.

Board of Zoning Appeals Duties & Powers

The powers and duties of the City of Portland Board of Zoning Appeals with regard to this Ordinance are defined by Indiana Code, and are described in this Section. These powers and duties are further described by the Board of Zoning Appeals Rules and Procedures. All powers and duties shall be executed consistent with the provisions of this Ordinance.

- A. **Duties:** Duties should be interpreted as activities that are obligations. Board of Zoning Appeals duties include:
1. **Meeting Time:** Fix a reasonable time for the hearing of administrative appeals, special exceptions, and variances (IC 36-7-4-920);
 2. **Minutes:** Keep minutes of its proceedings and record the vote on all actions taken, file all minutes and records in the office of the Board, and make written findings of facts in all cases (IC 36-7-4-915);
 3. **Rules and Procedures:** Adopt rules concerning the filing of appeals, applications, public notice, the conduct of hearings, and the determination of whether a variance application is for a variance of use or for a variance from the development standards (IC 36-7-4-916(a);
 4. **Publications:** Make adopted rules available to all applicants and other interested persons (IC 36-7-4-916(c);
 5. **Variances:** Review, hear, and approve or deny all applications for variances from development standards (such as height, setback, or area) and variances of use (IC 36-7-4-919.4 and 36-7-4-918.5);
 6. **Special Exceptions:** Review, hear and approve or deny all applications for special exceptions (IC 36-7-4-918.2);
 7. **Appeals:** Review, hear, and decide appeals of decisions made under this Ordinance or in the enforcement of this Ordinance by the Zoning Administrator/Director or other Plan Commission staff, committees, administrative boards, or any other bodies (except the Plan Commission)(IC 36-7-4-918.1); and
 8. **Other Duties:** All additional duties as established by Indiana State Code.
- B. **Powers:** Powers should be interpreted as activities that are optional and may be initiated by the Board. Board of Zoning Appeals powers include:
1. **Hearing Officer:** Appoint a hearing officer (IC 36-7-4-923)
 2. **Secretary:** Appoint a secretary and other employees as necessary for the discharge of Board duties (IC 36-7-4-913); and
 3. **Other Powers:** All Additional powers as permitted by Indiana State Code.

9.6 COMMON COUNCIL DUTIES & POWERS

The powers and duties of the City of Portland Common Council with regard to this Ordinance are defined by Indiana Code, and are described in this Section. All powers and duties shall be executed consistent with the provisions of this Ordinance.

- A. **Duties:** Duties should be interpreted as activities that are obligations. Common Council duties include:
1. **Plans and Ordinances:** Adopt, reject, or amend the Comprehensive Plan, any strategic plans, the Zoning Ordinance, and the Subdivision Control Ordinance as certified and submitted by the Plan Commission.
 2. **Plan and Ordinance Amendments:** Adopt, reject, or amend proposals to amend or partially repeal the text of the Comprehensive Plan, any strategic plans, the Zoning ordinance, and the Subdivision Control Ordinance as certified and submitted by the Plan Commission.
 3. **Zoning Map Amendments:** Adopt, reject, or amend proposals to amend the Official Zoning Map certified and submitted by the Plan Commission.
 4. **Planned Unit Developments:** Adopt, reject, or amend proposals for a Planned Unit Development as certified and submitted by the Plan Commission.
 5. **Fee Schedule:** Adopt, reject, or amend proposals to adopt or amend a Fee Schedule as certified and submitted by the Jay County/Portland Building and Planning Joint Board.
 6. **Other Duties:** all additional duties as established by Indiana State Code.
- B. **Powers:** Powers should be interpreted as activities that are optional and may be initiated by the Common Council. Common Council powers include:
1. **Plan and Ordinance Amendments:** Initiate amendments to the text of the Comprehensive Plan, any strategic plans, the Zoning Ordinance, and/or the Subdivision Control Ordinance.
 2. **Zoning Map Amendments:** Initiate amendments to the Official Zoning Map.
 3. **Other Powers:** All additional powers as permitted by Indiana State Code.

Section 10

Board of Zoning Appeals

10.1 GENERAL PROVISIONS - BOARD OF ZONING APPEALS

- A. **Establishment and Membership:** Pursuant to the IC 36-7-4-900 series, the Portland Common Council establishes the City of Portland Advisory Board of Zoning Appeals which shall conduct business consistent with all requirements of the Indiana Code and this Ordinance.
- B. **Appointments:** The Board of Zoning Appeals (otherwise referred to in this Ordinance as the "BZA" or the "Board") shall consist of, and continue as a 5 member Board. Members shall be appointed pursuant to IC 36-7-4-902 through 906 as follows:
1. **Mayor Appointment:** 3 members appointed by the Mayor, 1 of which must be a member of the Plan Commission and 2 of which must not be members of the Plan Commission.
 2. **Common Council Appointment:** 1 member appointed by the Common Council who must not be a member of the Plan Commission.
 3. **Plan Commission Appointment:** 1 member appointed by the Plan Commission (other than those appointed to the BZA by the Mayor).
- C. **Alternates and Vacancies:** Alternate Board of Zoning Appeal members may be appointed consistent with IC 36-7-4-907. If a vacancy occurs among the members of the Board, the appointing authority shall appoint a member for the unexpired term of the vacating member.
- D. **Territorial Jurisdiction:** The Board of Zoning Appeals shall have jurisdiction over all the land subject to the City of Portland Zoning Ordinance consistent with Section 1.3 of this Ordinance.
- E. **Powers and Duties:** The Board of Zoning Appeals shall have exclusive subject matter jurisdiction for the following:
1. Development Standards Variances
 2. Use Variances
 3. Special Exceptions
 4. Administrative Appeals
- F. **Rules and Procedures:** The Board of Zoning Appeals shall have sole authority to adopt any and all rules under Indiana Code Section 36-7-4-916 and any and all procedures concerning organization, selection of officers, forms for applications, filing requirements, procedures, notices and conduct of meetings, and public hearings.
- G. **Filing:** All applications for variances, special exceptions, and requests for administrative appeal shall be filed by the applicant with the Zoning Administrator/Director in the manner prescribed by the Board.
- H. **Communication with Board Members:** No person (including applicants, remonstrators, and other interested parties) may communicate with any member of the Board before the hearing with intent to influence the member's action on a matter pending before the Board.
- I. **Notice of Public Hearing:** For all public hearings, notice shall be provided to the public consistent with the requirements of Section 9.2.
- J. **Appeals:** Every decision of the Board of Zoning Appeals shall be subject to review by a court of jurisdiction (writ of certiorari) as prescribed by the IC 36-7-4-1000 series. All appeals shall be presented to a court of jurisdiction within 30 days of the Board's decision.

10.2 DEVELOPMENT STANDARDS VARIANCE

- A. **Decision Criteria:** The Board may grant a variance from the development standards of this Ordinance (such as height, setback, area) if, after a public hearing, it makes findings of facts in writing, that:
1. **General Welfare:** the approval will not be injurious to the public health, safety, and general welfare of the community;
 2. **Adjacent Property:** the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
 3. **Practical Difficulty:** the strict application of the terms of this Ordinance will result in a practical difficulty in the use of the property (this situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain).
- B. **Conditions:** The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the criteria for approval in Section 10.2(A) will be served.
- C. **Commitments:** The Board may require the owner of the property to make written commitments concerning the use or development of the property as specified under IC 36-7-4-921 and may have such commitments recorded in the Jay County Recorder's Office. A copy of any recorded commitments shall be provided to the Zoning Administrator/Director for inclusion in the application file prior to the issuance on any Improvement Location Permit. No Improvement Location Permit shall be issued for permit application which does not comply with the written commitments.
- D. **Limitations:** A Development standards variance granted by the Board and executed in a timely manner as described in this Section shall run with the parcel until such time as: (1) the property conforms with the Ordinance as written, or (2) the variance is terminated.

10.3 USE VARIANCES

- A. **Decision Criteria:** The Board may grant a variance from the development standards of this Ordinance if, after a public hearing, it makes findings of facts in writing, that:
1. **General Welfare:** the approval will not be injurious to the public health, safety, and general welfare of the community;
 2. **Adjacent Property:** the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
 3. **Practical Difficulty:** the strict application of the terms of this Ordinance will result in a practical difficulty in the use of the property (this situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain).
 4. **Unnecessary Hardship:** the strict application of the terms of this Ordinance will constitute an unnecessary hardship as they are applied to the property for which the variance is sought; and
 5. **Comprehensive Plan:** the granting of the variance does not interfere substantially with the Comprehensive Plan.
- B. **Conditions:** The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the criteria for approval in Section 10.3(A) will be served.
- C. **Commitments:** The Board may require the owner of the property to make written commitments concerning the use or development of the property as specified under IC 36-7-4-921 and may have such commitments recorded in the Jay County Recorder's Office. A copy of any recorded commitments shall be provided to the Zoning Administrator/Director for inclusion in the application file prior to the issuance on any Improvement Location Permit. No Improvement Location Permit shall be issued for permit application which does not comply with the written commitments.
- D. **Limitations:** Unless otherwise specified by the Board, use variance approvals shall be limited to, and run with the applicant at the location specified in the application. The board may also limit use variances to a specific time period and a specific use. Use variances shall be invalid if (1) the property conforms with the Ordinance as written, or (2) the variance is terminated.

10.4 SPECIAL EXCEPTIONS

In no case shall special exception uses be authorized without the approval of the BZA. Further, no decisions on previous applications shall serve to set a precedent for any other application before the BZA.

- A. **Decision Criteria:** The Board may grant a special exception for a use listed as such in the appropriate zoning district in Section 3 of this Ordinance if, after a public hearing, it makes findings of facts in writing that:
1. **General Welfare:** the proposal will not be injurious to the public health, safety, and general welfare of the City of Portland;
 2. **Development Standards:** the requirements and development standards for the requested use as prescribed by this Ordinance will be met;
 3. **Ordinance Intent:** granting the special exception will not be contrary to the general purposes served by this Ordinance, and will not permanently injure other property or uses in the same zoning district and vicinity; and
 4. **Comprehensive Plan:** the proposed use will be consistent with the character of the zoning district in which it is located and the Portland Comprehensive Plan.
- B. **Other Considerations:** When considering a special exception the Board of Zoning Appeals may examine the following items as they relate to the proposed use:
1. topography and other natural site features;
 2. zoning of the site and surrounding properties;
 3. driveway locations, street access and vehicular and pedestrian traffic;
 4. parking (including amount, location, and design);
 5. landscaping, screening, buffering;
 6. open space and other site amenities;
 7. noise production and hours of any business operation;
 8. design, placement, architecture, and building material of the structure;
 9. placement, design, intensity, height, and shielding of lights;
 10. placement, size, and height of signs;
 11. traffic generation; and
 12. general site layout as it relates to its surroundings.
- C. **Conditions:** The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the criteria for approval in Section 10.4(A) will be served.
- D. **Commitments:** The Board may require the owner of the property to make written commitments concerning the use or development of the property as specified under IC 36-7-4-921 and may have such commitments recorded in the Jay County Recorder's Office. A copy of any recorded commitments shall be provided to the Zoning Administrator/Director for inclusion in the application file prior to the issuance of any Improvement Location Permit. No Improvement Location Permit shall be issued for permit application which does not comply with the written commitments.
- E. **Limitations:** Unless otherwise specified by the Board, special exception approvals shall be limited to, and run with the applicant at the location specified in the application. The Board may also limit special exceptions to a specific time period and a specific use. Special Exceptions shall be invalid if (1) the property conforms with the Ordinance as written, or (2) the special exception approval is terminated.
- F. **Special Exception Use Expansion:** A use authorized as a special exception may not be expanded, extended, or enlarged unless reauthorized by the Board under the procedures set forth in this Section for granting a special exception.

10.5 ADMINISTRATIVE APPEALS

- A. **Appeals:** The Board may grant an appeal of any decision, interpretation, or determination made by the Zoning Administrator/Director, other Plan Commission staff members, or any other administrative official or board charged with the duty of enforcing and interpreting this Ordinance (except the Plan Commission).
- B. **Decision Criteria:** The Board shall only grant an appeal of such an administrative decision based on a finding, in writing, that the decision of the administrative person or board was inconsistent with the provisions of this Ordinance.
- C. **Reversal of Approval:** The approval of an administrative appeal maybe reversed by the Board of Zoning Appeals under the following procedure:
1. **Public Hearing:** Upon determination by the Zoning Administrator/Director that possible grounds for reversal exist, the matter shall be placed on the Board of Zoning appeals agenda for a public hearing. The Zoning Administrator/Director shall notify the appealing party of the hearing via Certified mail a minimum of 10 days prior to the hearing.
 2. **Grounds for Reversal:** At the public hearing the appeal approval shall be terminated if a finding is made by the Board that the approved was the result of fraud or the misrepresentation of facts.
 3. **Time Limitation:** No administrative appeal may be reviewed by the Board of Zoning Appeals for the same cause more than once in any 1 year period.

10.6 APPROVAL EXPIRATION AND TERMINATION

- A. **Improvement Location Permit Required:** If the Board grants a special exception or variance, it shall direct the applicant to apply for an Improvement Location Permit. If such application complies with all established requirements and this Ordinance, an Improvement Location Permit for the execution of the approved variance or special exception shall be issued.
- B. **Expiration:** A special exception or variance ceases to be authorized and is expired if the obtaining of an Improvement Location Permit or sign Permit, or the execution of the approval has not been completed within 1 year of the date the variance or special exception is granted. The variance or special exception shall also expire if the approved construction or sign erection has not been completed and approved by the Zoning Administrator/Director as being consistent with all written commitments or conditions, the requirements of this Ordinance, and all applicable permits within 2 years of the date the approval is granted.
- C. **Termination:** A variance or special exception may be terminated by the Board of Zoning Appeals under the following procedure:
1. **Public Hearing:** Upon determination by the Zoning Administrator/Director that possible grounds for termination exists, the matter shall be placed on the Board of Zoning Appeals agenda for a public hearing.
 2. **Grounds for Termination:** At the public hearing the variance or special exception shall be revoked if a finding is made by the Board that one or more of the following is true:
 - a. The execution of the approval is not consistent with any requirement of this Ordinance.
 - b. The execution of the approval is not consistent with any condition of approval,
 - c. The execution of the approval is not consistent with any written commitment, or
 - d. The approved was the result of fraud or the misrepresentation of facts.
 3. **Time Limitations:** No special exception or variance may be reviewed by the Board of Zoning Appeals for the same cause more than once in any 1 year period.

10.7 DENIED APPLICATIONS

- A. **Re-filing of Denied Applications:** No request for variance, special exception, or administrative appeal that has been denied may be re-filed for a period of 1 year from the date of the denial, unless changes have been made that address the reasons for denial.
- B. **Re-Consideration of Applications:** The applicant, remonstrators, or any other interested party may seek the reconsideration of any variance, special exception, or administrative appeal by submitting a written request to the Zoning Administrator/Director within 30 days of the date of Board action on the request. A variance, special exception, or administrative appeal may be reconsidered by the Board of Zoning Appeals under the following procedure:
1. **Public Hearing:** Upon receipt of the written request for reconsideration by the Zoning Administrator/Director the matter shall be placed on the Board of Zoning Appeals agenda for a public hearing. At the public hearing the board shall only consider whether or not sufficient grounds for reconsideration are present, but shall not take any new action on the application. If sufficient grounds are present, the Board shall place the application on the agenda for its next regularly scheduled meeting, at which time the application shall be reconsidered and subsequent action taken.
 2. **Grounds for Reconsideration:** At the public hearing the Board shall determine whether or not the variance, special exception, or administrative appeal shall be reconsidered.
 - a. The Board may reconsider the application if a finding is made that the entity seeking the reconsideration is able to provide substantial new information or clarified facts that were not known or available at the initial hearing on the application and such new information or facts are directly related to the decision criteria established by this Ordinance.
 - b. In no instance shall a reconsideration be granted to allow an applicant to modify their application.
 3. **Time Limitation:** In no case shall the Board hear more than 2 requests for reconsideration for any single application.

Section 11

Processes & Permits

11.1 PETITION & PERMIT APPLICATION TYPES

- A. **Petition Applications Required:** The City of Portland requires that an application be submitted for the following types of petitions:
1. Variance, Special Exception & Administrative Appeals (subject to the requirements of Section 11.4)
 2. Zoning Map Amendments (rezoning/map change)
 3. Planned Unit Development (subject to the requirements of Section 5)
 4. Site Development Plan (subject to the requirements of Section 6)
- B. **Permit Applications Required:** The City of Portland requires that an application be submitted for the following types of permit applications:
1. Improvement Location Permit (*note: a building permit may also be required consistent with the provisions of the Portland Building Code*)
 2. Certificate of Occupancy and Use
 3. Sign Permit (subject to the requirements of Section 8)
- C. **Application Materials:** All applications may be obtained from the Zoning Administrator/Director. Fees shall be paid to Zoning Administrator/Director at the time all petition applications are submitted and at the time all permit applications are issued.
1. **Application Forms:** All applications shall be made on forms provided by the Zoning Administrator/Director. All applicants shall submit original applications that are completed in their entirety in ink or typed.
 2. **Copies of Materials:** all applicants shall submit copies of applications and necessary attachments as required by the adopted policies of the Zoning Administrator/Director and the applicable Rules and Procedures of the Plan Commission and Board of Zoning Appeals.
 3. **Scheduling:** All applications shall be assigned reference and/or docket numbers by the Zoning Administrator/Director. Petition applications shall be scheduled by the Zoning Administrator/Director for the appropriate public hearings based on the completeness of the application consistent with the requirements of this Section and the appropriate adopted Calendars of Filing and Meeting Dates for the Board of Zoning Appeals and/or Plan Commission.

11.2 VARIANCE APPLICATIONS

The following procedures shall apply to all variance applications:

- A. **Application:** The applicant shall submit a variance application, affidavit and consent of property owner (if the owner is someone other than the applicant), a copy of the deed for the property involved, the required filing fee, and required supporting information. Supporting information shall include, but not be limited to, the following:
1. **Site Plan:** A site plan shall be signed and dated, and clearly show the entire layout of the property and all features relevant to the variance request.
 2. **Statement of Intent:** A statement of intent to the Board of Zoning Appeals describing the details of the variance being requested and stating how the request is consistent with the required findings of fact described by Section 10. The statement should include any written commitments being made by the applicant.
- B. **Notification:** Notification for the scheduled public hearing regarding the variance request shall be completed consistent with Section 9.2 and the Rules and Procedures of the Board of Zoning Appeals.

- C. **Public Hearing:** The BZA will then, in a public hearing scheduled consistent with the adopted Calendar of Filing and Meeting Dates, review the variance application and required supporting information.
1. **Representation:** The applicant and any representative of the applicant must be present at the public hearing to present the petition and address the required findings of fact.
 2. **Testimony:** The Board shall consider a report from the Zoning Administrator/Director and testimony from the applicant, remonstrators, the public and interested parties at the hearing.
 3. **Procedures:** The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of Section 10 and the Rules and Procedures of the Board.
 4. **Possible Action:** The BZA may approve, approve with conditions, deny, or continue the petition.
 - a. **Approval:** The application shall be approved if findings of fact are made consistent with the requirements of Section 10 and Indiana State Code.
 - b. **Approval with Modifications:** The application shall be approved with modifications if the Board of Zoning Appeals determines that the required findings of fact may be made if certain conditions are applied to the application. The Board may make reasonable conditions related to the required finding of facts part of its approval and/or accept written commitments from the applicant.
 - c. **Denial:** The application shall be denied if findings of fact consistent with the requirements of Section 10 and the Indiana State Code are not made. Applications that are denied shall not be eligible for consideration again by the Board for a period of 1 year from the date of denial.
 - d. **Continued:** The application may be continued by the Board based on a request by the Zoning Administrator/Director, applicant, remonstrator, or interested party; an indecisive vote; or a determination by the Board that additional information is required prior to action being taken on the request.
 - I. Additional legal notice shall not be required unless specified by the BZA.
 - II. The continuing of all applications shall be consistent with the adopted Rules and Procedures of the BZA.

11.3 SPECIAL EXCEPTION APPLICATIONS

The following procedure applies to special exception applications:

- A. **Application:** The applicant shall submit a special exception application, affidavit and consent of property owner (if the owner is someone other than the applicant), a copy of the deed for the property involved, the required filing fee, and required supporting information. Supporting information shall include, but not be limited to, the following:
1. **Site Plan:** A site plan shall be signed and dated, and clearly show the entire layout of the property and all features relevant to the special exception request.
 2. **Statement of Intent:** A statement of intent to the Board of Zoning Appeals describing the details of the special exception request including, but not limited to:
 - a. The ways in which the special exception shall comply with the applicable development standards of this Ordinance.
 - b. The ways in which the special exception shall be consistent with the required findings of fact described by Section 10.4, and
 - c. Any written commitments being made by the applicant.
- B. **Notification:** Notification for the scheduled public hearing regarding the special exception request shall be completed consistent with Section 9.2 and the rules and Procedures of the Board of Zoning Appeals.

- C. **Public Hearing:** The BZA will then, in a public hearing scheduled consistent with the adopted Calendar of Filing and Meeting Dates, review the special exception application and required supporting information.
1. **Representation:** The applicant and any representative of the applicant must be present at the public hearing to present the application and address the required findings of fact.
 2. **Testimony:** The Board shall consider a report from the Zoning Administrator/Director and testimony from the applicant, remonstrators, the public and interested parties at the hearing.
 3. **Procedures:** The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of Section 10 and the Rules and Procedures of the Board.
 4. **Possible Action:** The BZA may approve, approve with conditions, deny, or continue the application.
 - a. **Approval:** The application shall be approved if findings of fact are made consistent with the requirements of Section 10.4 and Indiana State Code.
 - b. **Approval with Modifications:** The application may be approved with modifications if the Board of Zoning Appeals determines that the required findings of fact may be made only if certain conditions are applied to the application. The Board may make reasonable conditions related to the required finding of facts part of its approval and/or accept written commitments from the applicant.
 - c. **Denial:** The application shall be denied if findings of fact consistent with the requirements of Section 10.4 and the Indiana State Code are not made. Applications that are denied shall not be eligible for consideration again by the Board for a period of 1 year from the date of denial.
 - d. **Continued:** The application may be continued by the Board based on a request by the Zoning Administrator/Director, applicant, remonstrator, or interested party; an indecisive vote; or a determination by the Board that additional information is required prior to action being taken on the request.
 - I. Additional legal notice shall not be required unless specified by the BZA.
 - II. The continuing of all applications shall be consistent with the adopted Rules and Procedures of the BZA.

11.4 ADMINISTRATIVE APPEAL APPLICATIONS

The following procedure shall apply to an appeal of administrative decisions:

- A. **Application:** The applicant shall submit an administrative appeal application and required supporting information. Supporting information shall include, but not be limited to, the following:
1. **Original Submittals:** Copies of all materials upon which the decision being appealed was based.
 2. **Written Decisions:** Copies of any written decisions that are the subject of the appeal.
 3. **Appeal Basis:** A letter describing the reasons for the appeal noting specific sections of this Ordinance or other standards applicable in the City of Portland upon which the appeal is based.
- B. **Notification:** Notification for the scheduled public hearing regarding the administrative appeal shall be completed consistent with Section 9.2 of this Ordinance and the Rules and Procedures of the City of Portland Board of Zoning Appeals.

- C. **Public Hearing:** The BZA will then, in a public hearing scheduled consistent with the adopted Calendar of Filing and Meeting Dates, review the administrative appeal application and supporting information.
1. **Representation:** The applicant and any representative of the applicant must be present at the public hearing to present the appeal.
 2. **Testimony:** The Board shall consider a report from the Zoning Administrator/Director and testimony from the applicant, remonstrators, the public and interested parties at the hearing.
 3. **Procedures:** The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the Rules and Procedures of the Board and Section 10.5.
 4. **Possible Action:** The BZA may grant, grant with modifications, deny, or continue the appeal.
 - a. **Granted:** The appeal shall be granted if findings of fact are made consistent with the requirements of Section 10.5 of this Ordinance and Indiana State Code.
 - b. **Granted with Modifications:** The appeal shall be granted with modifications if the Board of Zoning Appeals determines that the proper interpretation of the provision(s) that are subject to the appeal is consistent with neither the administrative decision nor the requested interpretation of the applicant.
 - c. **Denied:** The appeal shall be denied if findings of fact are made supporting the administrative decision.
 - d. **Continued:** The appeal shall be continued based on a request by the Zoning Administrator/Director, applicant, remonstrator, or interested party; an indecisive vote; or a determination by the Board that additional information is required prior to action being taken on the request.
 - I. Additional legal notice shall not be required unless specified by the BZA.
 - II. The continuing of all applications shall be consistent with the adopted Rules and Procedures of the BZA.

11.5 ZONING MAP AMENDMENT APPLICATIONS

The following procedure shall apply to all Zoning Map Amendment ("rezoning/map change") applications:

- A. **Application Initiation:** Proposals for Zoning Map Amendments may be initiated by either the Plan Commission, the Common Council, or through an application signed by property owners of at least 50% of the land involved.
1. **City Initiation:** The Zoning Administrator/Director shall prepare the application for zoning map amendment if either the Commission or the City Council has initiated the application. The Zoning Administrator/Director shall serve as the representative of the applicant for such proposals.
 2. **Property Owner Initiation:** Any property owners requesting a zoning map amendment shall be the applicants and assume responsibility for preparing application materials.
- B. **Application:** The applicant shall submit a rezoning application, affidavit and consent of property owner (if the owner is someone other than the applicant, and the City is not the applicant), a copy of the deed for the property involved, the required filing fee, and required supporting information. Supporting information shall include, but not be limited to the following:
1. **Site Plan:** A site plan drawn to scale showing, at a minimum all existing and proposed structures, setbacks, easements, rights-of-way, and any other feature relevant to the application.
 2. **Vicinity Map:** A vicinity map showing the use and zoning of all properties within 500 feet of the property subject to the rezoning request.
 3. **Letter of Intent:** A letter of intent to the Plan Commission stating the reasons for the rezoning, including a detailed description of any proposed development for which the rezoning is sought. The letter should include any written commitments being made by the applicant.

- C. **Rezoning Application:** The Zoning Administrator/Director will review the rezoning application and required supportive information and forward the application to the Plan Commission for public hearing, review and recommendation.
- D. **Notification:** Notification for the scheduled Plan Commission public hearing regarding the rezoning request shall be completed consistent with the requirements of Section 9.2 and the Rules and Procedures of the Plan Commission.
- E. **Plan Commission Public Hearing:** The Plan Commission will then, in a public hearing scheduled consistent with the adopted Calendar of Filing and Meeting Dates (but no later than 60 days following the receipt of the application per IC 36-7-6-4-608), review the rezoning application and required supportive information.
1. **Representation:** The applicant and/or any representative of the applicant must be present at the public hearing to represent the application and address any questions the Commission might have.
 2. **Testimony:** The Commission shall consider a report from the Zoning Administrator/Director and testimony from the applicant, remonstrators, the public and interested parties at the hearing.
 3. **Procedures:** The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the Rules and Procedures of the Commission.
 4. **Possible Action:** The Commission shall either forward the application to the Common Council with a favorable recommendation, an unfavorable recommendation, or no recommendation; or continue the request.
 - a. **Favorable Recommendation:** The application shall be forwarded with a favorable recommendation if it is found to be consistent with the decision criteria listed in Section 11.5(H). The recommendation may include commitments requested by the Plan Commission.
 - b. **Unfavorable Recommendation:** The application shall be forwarded with an unfavorable recommendation if it is found to be inconsistent with the decision criteria listed in Section 11.5(H).
 - c. **No Recommendation:** The application may be forwarded with no recommendation if, by a majority vote of the Commission, it is determined that the application includes aspects that the Commission is not able to evaluate.
 - d. **Continued:** The application may be continued by the Commission based on a request by the Zoning Administrator/Director, applicant, remonstrator, or interested party; an indecisive vote; or a determination by the Commission that additional information is required prior to action being taken on the request.
 - I. Additional legal notice shall not be required unless specified by the Plan Commission.
 - II. The continuing of all applications shall be consistent with the adopted rules and Procedures of the Commission.
- F. **Certification:** The Plan Commission shall certify its recommendation by resolution to the Common Council within 10 business days of its determination (per IC 36-7-4-608). The Plan Commission staff shall forward to the Council appropriate copies of the Plan Commission resolution, the original application and all supporting information, any staff reports regarding the application, and an ordinance for the Council's consideration.

- G. **Common Council:** The Common Council shall vote on the proposed rezoning ordinance within 90 days of its certification by the Plan Commission (per IC 36-7-4-608).
1. **Notification:** The Council shall provide notification of action on the ordinance consistent with Indiana State Code.
 2. **Possible Action:** The Common Council may either approve or deny the ordinance. If the Council fails to act within the 90 day time frame specified above, the ordinance shall become effective or be defeated consistent with the provisions of IC 36-7-4-608. The Council may also seek modifications or additions to any written commitments as described in 11.5(l) in this Section.
- H. **Decision Criteria:** In reviewing the rezoning application, the Plan Commission and Common Council shall pay reasonable regard to the following:
1. **Comprehensive Plan:** The City of Portland Comprehensive Plan and any other applicable, adopted planning studies or reports.
 2. **Current Conditions:** The current conditions and the character of current structures and uses in each district.
 3. **Desired Use:** The most desirable use for which the land in each district is adapted.
 4. **Property Values:** The conservation of property values throughout the City of Portland's planning jurisdiction.
 5. **Responsible Growth:** Responsible growth and development.
- I. **Written Commitments:** The applicant in any rezoning application may make written commitments regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence on, the subject property consistent with IC 36-7-4-615.
1. **Origin of Commitments:** Written commitments may be proposed by the applicant as an element of the initial submittal of application materials or in response to any modifications requested by the Plan Commission or Common Council.
 2. **Consideration of Commitments:** All commitments shall be considered by the Plan Commission and the Common Council in the review of the application.
 - a. Commitments shall be included as an element of the rezoning ordinance prepared by the Plan Commission following action taken at the public hearing.
 - b. Any deletion, addition, or alteration of the written commitments proposed by the Common Council may be referred back to the Plan Commission for consideration and included in a revised or affirmed recommendation regarding the application.
 3. **Recording of Commitments:** Following final action being taken on the rezoning application, the rezoning ordinance, with any written commitments included, may be recorded in the office of the Jay County Recorder. A copy of any recorded commitments shall be provided to the Zoning Administrator/Director for inclusion in the application file prior to the issuance of any Improvement Location Permit. No Improvement Location Permit shall be issued for a permit application that does not comply with the written commitments.
 4. **Enforcement of Commitments:** The written commitments shall be considered part of this Ordinance binding on the subject property.
 - a. The written commitments shall be binding on the owner of the subject property, any subsequent owners of the subject property, and any person or entity that acquires an interest in the subject property or portion thereof.
 - b. The written commitments shall be enforceable by the Plan Commission consistent with the adopted provisions for the enforcement of any other aspect of this Ordinance, as described in Section 12, Enforcement and Penalties.
 - c. The written commitments may be modified only through the Zoning Map Amendment process described by this Section.

11.6 IMPROVEMENT LOCATION PERMIT APPLICATIONS

The following procedure applies to Improvement Location Permit applications:

- A. **General Requirements:** No structure or major infrastructure shall be erected moved, or added to, without a Improvement Location Permit issued by the Zoning Administrator/Director. No Improvement Location Permit shall be issued unless the project is in conformity with the provisions of this Ordinance, the Subdivision Control Ordinance, and other applicable regulations of the City of Portland. When applicable, consistent with Section 6, Site Development Plan review and approval shall be completed prior to the receipt of a Improvement Location Permit.
- B. **Permit Required:** The City of Portland requires that a Improvement Location Permit be obtained for any of the following actions. A single Improvement Location Permit may be issued for a combination of these actions, if they occur together.
1. All residential dwellings.
 2. Detached and attached garages and carports.
 3. Construction or placement of any structure for any use 100 square feet in area or larger (including structures other than buildings such as towers, antennas, and satellite dishes over 4' in area).
 4. All commercial, industrial, and institutional buildings or structures.
 5. Additions to all structures.
 6. Any exterior construction that adds to or alters the height of an existing structure, as a roof change.
 7. Adding or subtracting dwelling units or leased space in multi-family or commercial structures.
 8. The change of use of any property or structure, or conversions of occupancy classification.
 9. Any exterior work to be done in the Downtown Historical District
 10. Any temporary use of land or temporary structure.
 11. Signs and Murals consistent with Section 8 of this Ordinance.
 12. Awnings.
 13. Parking lot construction or alteration.
 14. Fences, walls, and hedges placed outside of the public right-of-way.
 15. Swimming pools (in ground or above ground).
 16. Removal of required trees and plants within buffer yards and landscaping areas required by this Ordinance.
 17. Telecommunication towers, buildings, and antennas.
 18. Wind Energy Systems (wind towers), commercial and/or privately owned
 19. Ponds or lakes.
- C. **Exemptions:** No Improvement Location Permit shall be required for the following types of improvements. However, any such improvement shall comply with any applicable requirements of this Ordinance, the Subdivision Control Ordinance, and any other adopted standards of the City of Portland.
1. Residential driveways and sidewalks that are located entirely on private property.
 2. Cosmetic (non-structural) changes to any structure including the replacement of windows in existing openings, re-roofing, the installation of siding material, and repainting.

- D. **Application Requirements:** All applications for a Improvement Location Permit shall be accompanied by the following:
1. **Site Location Map:** A site location map showing the subject property and the general features of the adjacent property.
 2. **Site Plan (if applicable):** A detailed site plan, drawn to scale with the dimensions indicated showing the following:
 - a. The entire property and the features of the property including all rights-of-way, easements, property lines, required buffer yards, and setbacks;
 - b. All existing and proposed structures or other site improvements with the dimensions of such improvements;
 - c. The distances from all existing and proposed improvements to the property lines;
 - d. The location of any existing or proposed septic field;
 - e. The location of any existing or proposed driveway and/or parking areas;
 - f. Natural, physical, or hazardous conditions existing on the lot;
 - g. The location of any required landscaping, labeled according to size and species,
 - h. The location, type, and dimensions of any storm water structures, conduits, or detention/retention ponds that cross or adjoin the subject property, and
 - i. Finished floor elevations (if required by the Zoning Administrator/Director).
 3. **Waste Disposal Verification (if applicable):** Either a septic permit from the Jay County Health Department or a sewer access (tap-on) permit from the City of Portland.
 4. **Driveway Approval (if applicable):** Driveway approval from the City or Portland Street Department or Jay County Highway Department.
 5. **Use Description:** A detailed description of the existing or proposed uses of the property and any structures.
 6. **Dwelling Units/Tenant Spaces (if applicable):** An indication of the number of dwelling units, or tenant spaces the building is designed to accommodate.
 7. **Indiana State Design Release(s),** when applicable for Commercial/Industrial buildings and/or structures.
 8. **Any other information required by the Zoning Administrator/Director for the proper enforcement of this Ordinance**
- E. **Copies:** A copy of all submitted plans and application materials shall be retained by the Zoning Administrator/Director for the permanent records of the Plan Commission.
- F. **Expiration of Permits:** If the work described in any Improvement Location Permit has not been completed within 1 year of the date of its issuance, the permit shall expire. The City shall not be required to issue written notice to the persons affected.
1. The Zoning Administrator/Director may grant extensions for up to 1 year each for work completion. Requests for extensions must be received within 1 month of the expiration.
 2. No extension shall be granted unless the project continues to conform with all applicable requirements of the City of Portland.
- G. **Construction According to Permits and Permit Application:** Improvement Location Permits issued on the basis of plans and applications only authorize the use, arrangements and construction set forth in such approved plans and applications. Any other use, arrangement, or construction not authorized shall be deemed a violation of this ordinance and subject to the provisions of Section 12, Enforcement and Penalties.

11.7 CERTIFICATES OF OCCUPANCY AND USE OR COMPLIANCE

INTENT: The intent of the Certificate of Occupancy and Use or Compliance procedure is to coordinate building, planning, and engineering related issues and approvals into a single process and to better ensure the public safety and general welfare.

The following procedure applies to Certificates of Occupancy and Use or Compliance:

- A. General Requirements:** An application for a Certificate of Occupancy and Use or Compliance shall be completed by all applicants at the time the Improvement Location Permit for an improvement is issued.
- B. Certificate Requirements:** It shall be unlawful and in violation of this Ordinance for any builder or property owner to allow any new or significantly remodeled (as determined by the Zoning Administrator/Director) structure to become occupied or utilized prior to:
 - 1. Legally obtaining a Improvement Location Permit;
 - 2. Completing all required inspections, including the final inspection; and
 - 3. Receiving a Certificate of Occupancy and Use or Compliance from the Zoning Administrator/Director.
- C. Inspections:** Upon the completion of the work approved through a Improvement Location Permit and the inspections required by the Zoning Administrator/Director, the permit holder shall contact the Zoning Administrator/Director and schedule a final inspection to verify the installation of improvements consistent with the requirements of this Ordinance. The Building Official, any other municipal official, and/or any other person requested by the Zoning Administrator/Director may also take part in the inspection.
- D. Certificate issuance:** The Zoning Administrator/Director shall issue the Certificate of Occupancy and Use or Compliance if the improvements comply with all applicable requirements of the City of Portland, including this Ordinance, the Subdivision Control Ordinance, and all applicable Building Codes as verified by the Building Official. The Zoning Administrator/Director may also issue a limited or temporary Certificate of Occupancy and Use or Compliance at his/her discretion.

Section 12

Enforcement & Penalties

12.1 GENERAL PROVISIONS

- A. **Authority:** The Plan Commission, Board of Zoning Appeals, Building Commissioner, Mayor, Common Council, Board of Public Works and Safety, and/or Zoning Administrator/Director (including their staff and/or designees) are designated to enforce the provisions, regulations, and intent of this Ordinance. All remedies and enforcement shall comply with the powers set forth in IC 36-7-4-1000 et al. and all other applicable state laws.
- B. **Violations:** Complaints made pertaining to compliance with provisions of this Ordinance shall be investigated by the Zoning Administrator/Director. The Zoning Administrator/Director may include other officials, such as the, Building Official, Police Chief, or any of their designees in the investigation. Action may or may not be taken depending on the findings of the investigation. The degree of action will be to the discretion of the Zoning Administrator/Director, and should reflect both what is warranted by the violation as well as a consistent approach to the enforcement of this Ordinance.
- C. **Inspections:** Investigations of property may be done by the Zoning Administrator/Director from a right-of-way, from adjacent property (with permission of that property owner), or from the property suspected of a violation once he/she has presented sufficient evidence of authorization and described the purpose of the inspection to the owner, tenant, or occupant at the time of the inspection.
- D. **Court Ordered Entry:** In the event that the Zoning Administrator/Director is denied entry to the subject property, he/she may apply to a court of jurisdiction to invoke legal, applicable, or special remedy for the enforcement of this Ordinance or any other applicable ordinances adopted under Indiana Code.
1. **Information Required:** The applicant shall include the purpose, violation(s) suspected, property address, owner's name if available, and all relevant facts. Additional information may be necessary as requested by the court.
 2. **Entry Permitted:** Pursuant to applicable regulations and the orders of the court of jurisdiction the owner, tenant, or occupant shall permit entry by the Zoning Administrator/Director.
- E. **Responsibility:** The property owner shall be held responsible for all violations on his/her or their property.
- F. **Types of Violations:** The following items shall be deemed zoning violations, enforceable by the Zoning Administrator/Director (penalties may be imposed based on the provisions set forth in this Section):
1. **Illegal Structures:** The placement, erection, and/or maintenance of a primary structure, sign, accessory structure(s) or any other element determined by the Zoning Administrator/Director to not conform to the provisions or explicit intent of this Ordinance.
 2. **Illegal Use:** Conducting a use or uses that do not comply with the provisions or explicit intent of this Ordinance.
 3. **Failure to Obtain a Permit:** Failure to obtain a Improvement Location Permit or other permits and approvals required by this Ordinance.
 4. **Violation of Stop-Work-Order:** Proceeding with work under a Stop-Work-Order or in violation of a Memorandum of Agreement (as described in Section 12.2(B)).
 5. **Failure to Comply with Development Standards:** Any failure to comply with the development standards and/or any regulations of this Ordinance.
 6. **Failure to Comply with Commitments:** Any failure to comply with commitments or conditions made in connection with a rezoning, special exception, or variance; or other similar and documented commitment.

12.2 CONSTRUCTION PROCESS VIOLATIONS

- A. **Stop-Work Orders:** The Zoning Administrator/Director may place a Stop-Work-Order on any land/property improvement process.
1. **Procedure:** Stop-Work Orders shall be issued by written letter that shall state the violation and that work or other illegal activity must stop immediately until the matter is resolved. This letter shall be posted in a conspicuous place and be delivered/mailed to the property owner.
 2. **Reasons:** Reasons for a Stop-Work Order include, but are not limited to:
 - a. Not complying with development standards and/or any regulations of this Ordinance or the Subdivision Control Ordinance;
 - b. Not obtaining a Improvement Location Permit or any other required permit or approval prior to the construction or installation of any improvement for which an approval or permit is required by this Ordinance;
 - c. Not completing structures or other improvements consistent with any approved Improvement Location permit, variance, special exception, or other approval;
 - d. Not meeting the conditions or commitments of a special exception, variance, rezoning, or other approval;
 - e. Not meeting the conditions of a Site Development Plan, Planned Unit Development Detailed Plan, or written commitment;
 - f. Illegal use or expansion of use of structures, or structures and land in combination.
- B. **Memorandum of Agreement:** The Zoning Administrator/Director must meet with the person(s) served the Stop-Work Order notice within 7 days of any such meeting being requested. A Memorandum of Agreement shall be drafted stating the conditions by which construction or action may be resumed. This Memorandum of Agreement must be signed by the Zoning Administrator/Director and the property owner that is responsible for the violations
- C. **Appeals:** Any Stop-Work Order issued as a result of the enforcement of this Ordinance, as specified in this Section, may be appealed to the Board of Zoning Appeals. This appeal shall follow the provisions established for Administrative Appeals by Section 10.5 and Section 11.4.
- D. **Resumption of Construction Activity:** The Stop-Work Order shall be lifted and construction activity may resume upon either (1) the resolution of the violation(s) or (2) the completion of the Memorandum of Agreement.

12.3 IMMEDIATE PUBLIC RISK VIOLATIONS

Any violation of this Ordinance that presents an immediate risk to the health, safety, or welfare of the public or to property within the community may be corrected by the Zoning Administrator/Director, or a person, firm, or organization selected by the Zoning Administrator/Director without prior notice to the property owner or other persons responsible for the violations.

- A. **Immediate Public Risk Violation Defined:** Immediate Public Risk violations shall include:
1. **Obstructions:** Signs, structures, landscaping or other materials placed in a public right-of-way, easement, or sight visibility triangle in violation of this Ordinance;
 2. **Distractions:** Any sign, structure, landscaping, or other material located on private property that serves to distract or inhibit operators of motor vehicles on adjacent public streets, pedestrians, or other members of the general public; and
 3. **Other Threats:** Any other immediate threat to public welfare as determined by a municipal entity, such as the Board of Public Works and Safety or Board of Zoning Appeals based on the advice and recommendation of the Zoning Administrator/Director.

ENFORCEMENT & PENALTIES

- B. **Seizure of Materials:** Any sign, structure, landscaping or other material that constitutes an immediate public risk violation may be seized by the Zoning Administrator/Director in a manner that results in the most minimal damage to the material and the property on which it is located.
- C. **Notice of Violation:** The Zoning Administrator/Director shall provide notice to the owner of the property upon which the violation was located, or any discernible appropriate owner of materials placed within the right-of-way in violation of this Ordinance, by placing a notice in a conspicuous place on the property and by providing a letter to that property owner.
1. **Notice Time Requirements:** All notice letters shall be sent to the property owner vial certified mail within 24 hours of the seizure. All notice that is posted on the property shall be posted at the time the material is seized.
 2. **Notice Contents:** The letter or posted notice shall include the following:
 - a. a description of the materials seized,
 - b. a citation of the sections of the Ordinance that were violated and the characteristics of the violation that posed an immediate threat to public welfare,
 - c. the address and phone number of the Zoning Administrator/Director and the name of the person to be contacted by the property owner to discuss the violation and request the return of seized item(s), and
 - d. instructions describing how, where, and when the seized items may be claimed.
- D. **Storage and Retrieval of Seized Materials:** The Zoning Administrator/Director shall store any sign, structure, landscape materials or other items seized in a secure location for a period of no less than 30 days from the date notice was provided to the property owner. The property owner may claim the seized property at any time following its seizure upon the payment of the expenses incurred by the City of Portland and the establishment of a memorandum of Agreement between the property owner and Zoning Administrator/Director regarding the future use of the item in a manner consistent with this Ordinance.
- E. **Liability:** Neither the Zoning Administrator/Director, the City of Portland, or any other official or entity involved in the seizure shall be liable for any damage to the seized materials or the property from which they were taken.

12.4 VIOLATION PROCEDURES

- A. **General Procedures:** There shall be a minimum of a three step procedure for the enforcement of violations. Intermediate steps, including additional notices of violation and extensions of time limits for compliance may be used by the Zoning Administrator/Director at his/her discretion. However, the general procedure for all violations shall be consistent. The minimum steps are as follows:
1. **Notice of Violation:** The Zoning Administrator/Director shall issue a Notice of Violation to the person(s) committing, in whole or in part, a violation. The Notice of Violation is a warning to the violator(s) that a violation has been determined and that it must be corrected within a specified time frame from the date of the mailing.
 2. **Notice of Fines for Violation:** The Zoning Administrator/Director shall issue a Notice of Fines for Violation to the person(s) committing, in whole or in part, a violation. The Notice of Fines for Violations is a citation that states the fines for the violation. The Notice of Fines for Violation shall be mailed via Certified Mail, Return Receipt Requested by the Zoning Administrator/Director. The person(s) in violation will have a specified number of days from the date of the mailing to pay all applicable fines, and must correct the violation within the time period specified by the Zoning Administrator/Director or face additional fines.
 3. **Legal Action:** If the person(s) in violation refuses to pay the fines and/or correct the violation within the time frame specified by the Notice of Fines for Violation, the Zoning Administrator/Director may refer the violation to the Board of Public Works & Safety or Board of Zoning Appeals, or to the Plan Commission attorney in order to pursue court action through a court of jurisdiction. The Board of Public Works & Safety or Board of Zoning Appeals may subsequently attempt to remedy the violation or may forward the matter to the Plan Commission attorney for legal action. Additional fines and liens against the property may also be pursued until the matter is resolved.

- B. Monetary Fines:** Monetary fines may be imposed at the discretion of the Zoning Administrator/Director with the Notice of Fines for Violations.
1. **Multiple Violations:** Each violation shall constitute a separate offense.
 2. **Fine Amount:** Each separate offense shall be subject to a fine of not less than twenty-five dollars (\$25.00) and not more than five hundred dollars (\$500.00), issued on a per day basis from the date of compliance requested by the Zoning Administrator/Director in the Notice of Violation.
 - a. In addition to any fine imposed, any person who initiates any activity that requires an Improvement Location Permit without first obtaining a permit may be required to pay up to 3 times (3x) the normal amount of the permit consistent with the adopted fee schedule.
 - b. The amount of any fine shall be at the discretion of the Zoning Administrator/Director.
 3. **Payment:** The payment of any violation shall be by cash or cashiers check and shall be delivered to the Zoning Administrator/Director who shall forward the funds to the Clerk-Treasurer for deposit in the appropriate fund.
 - a. The Zoning Administrator/Director shall issue a receipt to the person making the payment.
 - b. The Zoning Administrator/Director may, at his/her discretion, waive the assessed fine for the otherwise timely correction of the violation.
- C. Appeals:** Any person receiving a Notice of Violation and/or Fines for Violation may appeal the violation and/or fine to the Board of Zoning Appeals or to a court of Jurisdiction. A written statement from the person in violation, either filing an Administrative Appeal consistent with Section 11.4 of this Ordinance or giving notice of the filing of an action with a court, shall be submitted to the Zoning Administrator/Director via Certified Mail at least 3 days prior to the date any fine and/or compliance is due.
1. **Fines:** No additional fines shall accrue from the date of the appeal until the BZA or court of jurisdiction has made a ruling as to the violation and/or fine.
 2. **Additional Notices:** No additional notices will be issued by the Zoning Administrator/Director if the person(s) in violation has (have) submitted an appeal or notice of court review.
- D. Legal Remedies:** Zoning Administrator/Director via the Plan Commission Attorney may bring an action in the Circuit or Superior Court of Jay County to invoke any legal, equitable, or special remedy, for the enforcement of any ordinance or regulation created under IC 36-7-4, and its subsequent amendments.
1. **Enforcement:** This enforcement includes but is not limited to the following:
 - a. The Zoning Ordinance, Subdivision Control Ordinance, and any other requirements adopted separately by the Common Council or adopted by the reference in the Zoning or Subdivision Control Ordinance.
 - b. All agreements with the Plan Commission or its designees that have been established as written commitments;
 - c. All commitments made in accordance with IC 36-7-4-et al; and
 - d. All conditions imposed in accordance with IC 36-7-4-et al.
 2. **Restraint:** The Zoning Administrator/Director may bring action in the Circuit or Superior court of Jay County to restrain a person violating IC 36-7-4 et al. or any ordinance adopted under IC 36-7-4 et al.
 3. **Removal of Structures:** The Zoning Administrator/Director may also bring an action in the Circuit or Superior Court of the County for a mandatory injunction, directing the property owner to remove a structure erected in violation of this Ordinance.

4. **Responsibility for Costs:** If the court finds in favor of the Zoning Administrator/Director, the respondent shall bear all costs of his/her action, including the costs of any required remedy, any fines, and the costs of enforcement (including any attorneys fees, hours worked, photocopying charges, mileage, and other costs incurred directly or indirectly by the City).
 - a. **Documentation:** Only those costs of enforcement that are clearly documented by the Zoning Administrator/Director, and that clearly have a relationship to the enforcement action shall be paid by the respondent.
 - b. **Determination:** In all instances the dollar amount to be paid by the respondent shall be determined by the court of jurisdiction.
5. **Other Parties Eligible to Seek Enforcement:** An action to enforce a written commitment made in accordance with IC 36-7-4 et al. may be brought in the Circuit or Superior Court of the County by:
 - a. **Rules and Procedures Provisions:** Any person who is entitled to enforce a commitment made in accordance with IC 36-7-4 et al. under the Rules and Procedures of the Plan Commission or the Board of Zoning Appeals in force at the time the commitment was made; or
 - b. **Specified Parties:** any other specially affected person who was designated in the written commitment.