

**Article**  
**08**

**Process, Permit and Fee**

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*City of Butler  
Zoning Ordinance*

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# Process, Permit, and Fee Introduction

## 8.1 Purpose

The purpose of issuing permits is to enforce the Butler City Zoning Code by determining that all improvements and modifications to structures and uses are consistent with the Comprehensive Plan of the City of Butler and that all improvements and modifications are in compliance with the City’s Zoning Code. By doing so, the City is protecting the health, safety, and general welfare of the community.

## 8.2 Types of Petitions

A. The following section recognizes and outlines each of the permits, formal approvals and appeals.

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B. All application forms may be obtained through the Community Development Office. Fees shall be paid at the Community Development Office.

C. A project shall not proceed without first successfully being granted the applicable permits, formal approvals, and/or successful appeals. Any project that proceeds otherwise is subject to fines, penalties and court action (see Article Nine).

## 8.3 Public Notice and Public Hearing

A. **Public Notice:** Public notice shall be provided for pursuant to this article and the By-Laws and Rules of Procedure of the Butler City Board of Zoning Appeals and of the Butler City Plan Commission.

B. **Public Hearing:** Public hearings shall be held pursuant to this article and the By-Laws and Rules of Procedure of the Butler City Board of Zoning Appeals and of the Butler City Plan Commission.

# Fence Permit

## 8.4 Fence Permit

- A. Applicability: Fence permits are required to install a fence within the City's Zoning Jurisdiction. This includes replacing an existing fence with a new fence.
- B. Required Information: Application for a Fence Permit shall be made on a form provided by the Community Development Office. The Fence Permit should be completed and accompanied by a drawing or plat showing the location of the proposed fence on the lot and the distance of the fence from the property lines and structures.
- C. Review: Once the completed Fence Permit and drawing are submitted to the Community Development Office with all applicable information included, the office shall have 10 business days to issue or deny the Fence Permit. Denial of the Fence Permit shall specify the Butler City Code provision that is not met.
- D. Fee: The Fence Permit fee shall be collected when the Fence Permit is issued by the Community Development Office. There will not be a fee for Fence Permits that are denied.
- E. Duration:
  1. The Fence Permit is valid for one year from the date of issuance.
  2. Any modifications to the size or location of the fence made after the Fence Permit has been issued shall be noted on the original permit, found in compliance with the ordinances of the City of Butler, and approved by the Community Development Office.

# Improvement Location Permit

## 8.5 Improvement Location Permit

### A. Applicability:

1. An Improvement Location Permit is an official document issued by the Community Development Office which authorizes and or acknowledges that such use or building complies with the provisions of the City's Zoning Ordinance or an authorized variance therefrom.
2. No building or structure shall be erected, moved, added to, or structurally altered without an Improvement Location Permit being approved and issued by the Community Development Office. Changes of use or expansions of use also require an Improvement Location Permit.
3. An Improvement Location Permit shall be obtained for the following:
  - a. Construction of residential dwelling units;
  - b. Alteration, modification, remodel, or additions to residential dwelling units;
  - c. Placement or installation of mobile homes and manufactured homes;
  - d. Mini-barns or sheds regardless of size and regardless of fixture to the ground;
  - e. Other detached residential accessory buildings with foundations or overhead structures;
  - f. Detached and attached garages, carports;
  - g. Inground swimming pools;
  - h. Decks and porches;
  - i. Accessibility ramps;
  - j. Construction of commercial, industrial, multifamily, institutional, and all other buildings and structures;
  - k. Alteration, modification, remodel, or addition to commercial, industrial, multifamily, institutional, and all other buildings or structures;
  - l. Structures other than buildings including satellites greater than 24" in diameter, towers, antennas, and signs;
  - m. Adding or subtracting dwelling units in multifamily or commercial structures;
  - n. Driveways that involve a new or expanded curb cut;
  - o. Parking lot construction or expansion;
  - p. Construction of or alterations to ponds or lakes;
  - q. Telecommunications facilities;
  - r. Utility structures including generation plants, substation, telephone exchange, radio/TV Station, and treatment plants;
  - s. Mineral extraction;
  - t. Any exterior construction that adds to or alters the height of the existing structure;
  - u. Any change of use or expansion of use of property;
  - v. And other structural changes as deemed necessary by the Community Development Office.

### B. Required Information:

1. Application for an Improvement Location Permit shall be made on a form provided by the Community Development Office. The form shall be completed and accompanied by a site plan, drawn to scale, showing the location of the structure, improvement, or use to be altered, changed, placed, erected, or located; the dimensions of the lot to be improved; the size of yards and open spaces; the existing and proposed streets and alleys adjoining or within the lot; and the manner in which the location is to be improved.
2. If the proposed development is in the WP-OL District as defined in Section 5.2, the petitioner shall submit the following:
  - a. A narrative report of the proposed site, including:
    - i. A description of the site including any existing uses, setbacks, available sewage disposal facilities, and a brief history of the site (including any former uses, historical environmental concerns, abandoned wells, underground storage tanks, septic systems, etc.);
    - ii. Description of the proposed operations, including chemical/products used or generated, chemical/product storage area descriptions, waste generation quantities, equipment cleaning/maintenance procedures

# Improvement Location Permit

- iii. Methods and locations of receiving, handling, storing and shipping chemicals/products and wastes
  - iv. Spill or release response measures and reporting
  - v. Description of slopes near containment vessels and waste storage areas
- b. A Site Plan including:
- i. A vicinity map (USGS quadrangle preferred);
  - ii. A site map (drawn to scale) depicting:
    - All existing and proposed structures
    - Paved and non-paved areas
    - Utility lines (inside and outside structures) including sanitary sewers, storm sewers, storm retention ditches/basins/french drains/dry wells, etc. (both proposed and existing)
    - Floor drain locations and outlets
    - Chemical/product storage locations
    - Waste storage locations
    - Liquid transfer areas
    - Site surface water bodies (streams, rivers, ponds)
    - Under ground storage tanks (and associated piping)
    - Above ground storage tanks (and associated piping)
    - Slope and contours of finished grade at two-foot intervals
- C. Review: An application for an Improvement Location Permit shall not be approved until it has been ascertained by the Community Development Office that:
1. The applicant is in compliance with the filing requirements for erosion control on construction sites as in Indiana Administrative Code 327-1 or as amended from time to time, when applicable.
  2. Butler City Utility applications have been submitted, approved by the City Superintendent, and applicable utility fees paid or arrangements for the payment of such fees are made.
  3. Drainage approval from the DeKalb County Surveyor's Office has been obtained when applicable.
  4. The applicant has obtained Development Plan approval from the Butler City Plan Commission as required in Section 8.8 Development Plan Review.
  5. The improvement to the property meets all of the standards within this zoning ordinance or all of the conditions of an approved variance from the Board of Zoning Appeals.
  6. If the proposed development is in the WP-OL District, the improvement to the property meets all of the standards of the Wellhead Protection Overlay District. The Community Development Office may solicit comments from the Wellhead Protection Local Planning Team, the DeKalb County Health Department and the applicable water utility.
  7. The Federal Aviation Administration form and findings have been submitted, when applicable.
- D. Duration:
1. Improvement Location Permits are good for one year from the date of issuance. No written notice of expiration shall be given to the applicant. Work shall not proceed unless and until a new Improvement Location Permit has been obtained.
  2. The Community Development Office may give up to a one year extension for Improvement Location Permits.
  3. Improvement Location Permits issued on the basis of plans and applications only authorize the use, arrangement, and construction set forth in such approved plans and applications. Any other use, arrangement, or construction not authorized shall be deemed as a violation of this ordinance and subject to an order of removal, mitigation, or penalty fees.
- E. Exemptions and Waivers:
1. No permit is needed for the following items: ground level patios, painting, paneling, new siding, gutter and downspout replacement, insulation, window replacement of a like size, and storm windows and doors.
  2. The Community Development Office may issue a written waiver for an Improvement Location Permit for improvements that do not involve changes to the height, use, or building footprint: electrical upgrades, foundation replacement, or reroof. The written waiver is only for the Improvement Location Permit; the waiver allows the applicant to obtain a Building Permit without an Improvement Location Permit.

# Home Occupation Permit

## 8.6 Home Occupation Permit

- A. Applicability: A Home Occupation Permit is an official document or certification that is issued by the Community Development Office that authorizes the existence of the home occupation specified on the permit. No home occupation or business shall be conducted within a home or on a residentially zoned lot without a home occupation permit.
- B. Required Information: Application for a Home Occupation Permit shall be made on a form provided by the Community Development Office. The Home Occupation Permit shall be completed and accompanied by any additional information needed to determine if the Home Occupation meets the provisions of this Ordinance.
- C. Review: Once the completed permit and all necessary information are submitted to the Community Development Office, the office shall have 10 business days to issue or deny the Home Occupation Permit. Denial of the permit shall specify the Butler City Code Provision that is not met.
- D. Fee: The Home Occupation Permit fee shall be collected when the Home Occupation Permit is issued by the Community Development Office. There will not be a fee for Home Occupation Permits that are denied.
- E. Duration:
  1. The Home Occupation Permit shall be approved for the originating applicant for a specific location, and may not be transferred to any other location by that applicant. Should the property upon which the home occupation is conducted be sold or conveyed to a different ownership or resident, a new home occupation permit shall be required.
  2. Any modifications to the size, ownership, composition, or practices of the business made after the Home Occupation Permit has been issued shall require a new Home Occupation Permit.

# Temporary Use Permit

## 8.7 Temporary Use Permit

- A. Applicability: Temporary use provisions allow short-term and minor deviations for uses which are temporary in nature, and which will not adversely impact the surrounding properties and land uses.
- B. Required Information: Application for a temporary use permit shall be made on a form provided by the Community Development Office. The temporary use permit shall be completed and accompanied by a drawn-to-scale site plan that demonstrates the following:
  - 1. The proposed temporary use does not displace required parking for any existing use.
  - 2. The proposed temporary use does not block existing drives or driveways.
  - 3. The site is arranged so that no business shall be conducted with vehicles stopped in a public right-of-way.
- C. Review:
  - 1. The application for a temporary use permit shall be reviewed and approved or denied by the Community Development Office.
  - 2. Temporary use permits may be granted for the uses listed in Temporary Use/Structure in Article Six.
- D. Fee: The Temporary Use Permit fee shall be collected when the Temporary Use Permit is filed with the Community Development Office.
- E. Duration: A temporary use permit shall be issued for the amount of time requested by the petitioner within the allowable duration permitted by this Zoning Ordinance. The expiration date shall be displayed on the permit.

# Building Permit

## 8.8 Building Permit

- A. Applicability: A Building Permit is an official document or certification that is issued by the building official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.
- B. Required Information: The City of Butler contracts with the DeKalb County Building Department to issue Building Permits and conduct appropriate inspections to determine if the work meets applicable codes. See Section 152.20
- C. Review: See Section 152.21
- D. Fee: See Section 152.21
- E. Duration: See Section 152.21

# Development Plan Review

## 8.9 Development Plan Review

- A. Authority and Purpose: The purpose of the Development Plan Review process is to assure compatibility of new development with the surrounding community and to promote innovation and creativity in the design of the environment. A Development Plan is intended to provide information about a proposed development so the Plan Commission may make a knowledgeable decision whether or not the development meets all the requirements of this ordinance and the goals and objectives set forth in the City of Butler Comprehensive Plan.
- B. Districts and Projects Designated for Development Plan Review:
1. The approval of a Development Plan shall be required before an Improvement Location Permit is issued for developments one acre in size or larger that do not involve the subdivision of land in all zoning districts in the Butler zoning jurisdiction. This includes, but is not limited to:
    - a. Any new construction or principal use additions
    - b. New or expanded surface loading areas
    - c. New or expanded parking lots
    - d. Exterior building renovations that require a building permit
    - e. Any development within a MHC district
  2. Single-family residences, residential accessory structures, and two-family residential dwelling-units are exempt from the Development Plan requirement.
  3. Manufactured homes, when located as scattered-site residences in SFR or MFR districts are exempt from the Development Plan requirement.
  4. Buildings used exclusively for agricultural purposes are exempt from the Development Plan requirement.
  5. For residential subdivisions, a Development Plan shall be approved concurrently with the secondary (final) subdivision plat.
- C. Development Requirements: Development Plans shall demonstrate compliance with the following requirements.
1. *General Development Requirements.*
    - a. Compliance with all applicable development standards of the zoning district in which the real estate is located.
    - b. Compliance with all applicable provisions of any Overlay District in which the real estate is located.
    - c. Compliance with all applicable provisions of the Subdivision Ordinance (unless a waiver has been granted, in which case compliance with the terms and conditions of the waiver shall be required).
    - d. The proposed development shall be appropriate to the site and its surroundings.
    - e. The design and location of proposed street and highway access points shall minimize safety hazards and congestion.
    - f. The capacity of adjacent streets and highways is sufficient to safely and efficiently accept traffic that will be generated by the new development.
    - g. The applicable utilities have sufficient capacity and access to provide potable water, sanitary sewer facilities, electricity, telephone, natural gas, and cable service at a satisfactory level of service to meet the needs of the proposed development.
    - h. The entrances, streets, and internal traffic circulation facilities in the proposed development are compatible with existing and planned streets and adjacent development.
  2. *Site Access and Site Circulation Development Requirements.*
    - a. All proposed site access locations shall provide for the safe and efficient movement of vehicular and pedestrian movement to and from the proposed development.
    - b. Site circulation patterns shall be designed to minimize conflicts between vehicular and pedestrian traffic, and create a safe and efficient movement of both vehicular and pedestrian traffic in and around the site.
    - c. Multifamily projects shall include internal sidewalks along all internal streets as well as sidewalks or pathways along perimeter streets.
    - d. Where site access has been officially approved by an agency other than the City of Butler, the Plan Commission shall not be required to include such approved access in the approval of the Development Plan.

# Development Plan Review

3. *Lighting Development Requirements.*
    - a. Light sources shall be located and installed in such a way that minimizes light spilling over onto contiguous properties. Lighting shall be installed so as to reflect away from adjoining properties.
    - b. Special attention shall be given to the intensity, function, and appearance of lighting to be installed. Lighting installed shall be consistent with other lighting in the surrounding area.
  4. *Building Orientation.*
    - a. Each building facade visible from a public street or oriented to an adjoining Residential District shall be a finished facade.
    - b. No loading docks shall be permitted to face a public street.
    - c. When any portion of the loading docks are visible from a public street, the loading docks shall be screened by either building walls, a solid fence, densely planted shrubbery, or an combination thereof, none of which may be less than six feet in height.
    - d. When loading docks are facing or oriented to a side or rear lot line of an adjoining Residential District, the loading docks shall be screened from view from such Residential District by either building walls, a solid fence, densely planted shrubbery, or an combination thereof, none of which may be less than six feet in height.
    - e. No outside storage shall be permitted between an established building line and the right-of-way of a public street or an adjoining Residential District.
    - f. All roof or ground mounted mechanical equipment shall be completely enclosed. Ground-mounted enclosures for mechanical equipment shall be landscaped on all sides not facing the building served.
- D. Review: The approval or disapproval of Development Plans within the Butler Zoning Jurisdiction is vested in the Butler City Plan Commission.
1. The Plan Commission may approve a Development Plan upon finding that:
    - a. The proposed development is consistent with the intent and purpose of the City of Butler Comprehensive Plan; and,
    - b. The proposed Development Plan satisfies the Development Requirements specified in Section 8.9(C).
  2. Approval of said findings may be in the form of a general statement. Disapproval of findings must specify the portion of the code with which there is not compliance.
- E. Waivers of Development Requirements:
1. In order to encourage innovative building and site designs that enhance the quality of the built environment in the City of Butler, the Plan Commission, pursuant to Indiana Code 36-7-4-1402(b)(4), may waive Development Requirements contained in Section 8.9(C-2) Site Access and Site Circulation and/or Section 8.9(C-4) Building Orientation upon making findings as specified in below in Section 8.9(F).
  2. The Plan Commission may not waive any other Development Requirements, including Section 8.9(C-1) General Development Requirements and Section 8.9(C-3) Lighting Development Requirements.
  3. If a Site Access waiver is requested, the Plan Commission may not grant such waiver unless a favorable review comment or letter regarding the site access waiver is received from the City, County or State agency having jurisdiction over access to and from the applicable street.
- F. Conditions for Waiver of Development Requirements: The Plan Commission may approve a waiver of Development Requirements only upon finding all of the following:
1. The proposed development represents an innovative use of site design / site access design / site circulation design / building orientation which will enhance the use or value of area properties.
  2. The proposed development will not be injurious to the public health, safety, morals or general welfare of the City of Butler.
  3. The strict application of the Development Requirements of Section 8.9(C) of the City of Butler Zoning Ordinance will result in a development of the real estate, which is undesirable when compared with the proposed development.
  4. The proposed development is consistent with and compatible with other development located in the area.
  5. The proposed development is consistent with the intent and purpose of the City of Butler Comprehensive Plan.

# Development Plan Review

- G. Required Information: All requests for Development Plan approval shall include the following plan documentation and supporting information:
1. *Site Plan*. A site plan indicates the nature of the proposed development. It shall be drawn to scale of not more than 1"=100' and shall include the following items:
    - a. North arrow
    - b. Graphic scale
    - c. Address of the site
    - d. Proposed name of the development
    - e. Area map insert showing the general location of the site referenced to major streets and section lines
    - f. Legal description of the site
    - g. Boundary lines of the site including all dimensions of the site
    - h. Names, centerlines, and right-of-way widths of all streets, alleys, and easements
    - i. Layout, number, dimension, and area (in square feet and acres) of all lots and out lots with building setback lines
    - j. Location and dimensions of all existing and proposed structures, including paved areas and signs
    - k. Location of all floodway, floodway fringe areas, and wetlands within the boundaries of the site
    - l. Use of each structure by labeling including approximate density or size of all proposed uses and structures on the site (e.g. parking - # of parking spaces provided, office - gross floor area)
    - m. Structures proposed for demolition should be indicated as such
    - n. Distance of all structures from front, rear, and side lot lines. (This distance is measured as a line from the point where the structure is closest to the lot line. This line is perpendicular to the lot line.)
    - o. Location and type (e.g. ground, pole, wall) of all signs on the site
    - p. Areas reserved for park, recreation, conservation, wetland, common area, lake, trails, or other similar uses
    - q. Proposed landscaping buffers or landscaped areas
    - r. Existing zoning and land use of all adjacent real estate
    - s. Any other information necessary to support a thorough review of the project and as requested in writing by the Plan Commission or the Community Development Office
  2. *Building Elevations*. Building Elevations filed in connection with the submission of a Development Plan shall be drawn to scale and shall include the following items:
    - a. Address of the site
    - b. Proposed name of the development
    - c. Graphic scale
    - d. Elevations for each facade of the building
    - e. Specification of the type and color of building materials to be used for all wall, window, roof, and other architectural features
    - f. Placement, size, color and illumination details for any proposed wall sign
    - g. Any other information necessary to support a thorough review of the project and as requested in writing by the Plan Commission or the Community Development Office
  3. *Site Access and Site Circulation Plan*. The Site Access and Site Circulation Plan requirements listed may be incorporated into the required Site Plan. The Site Access and Site Circulation Plan shall be drawn to scale of not more than 1"=100' and shall include the following items:
    - a. North arrow
    - b. Graphic scale
    - c. Address of site
    - d. Proposed name of the development
    - e. Names, centerlines, and right-of-way widths of all streets, alleys, and easements
    - f. Location and name of all existing and proposed public or private streets, access easements, and rights-of-way within 200 feet of the site
    - g. Location of any proposed or existing driveways onto a street or alley and its width at the lot line

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- h. Depictions of all travel lanes, turning movements, vehicle storage areas, parking areas, and tapers, including dimensions, at all driveways
  - i. All improvements to the street system on-site and off-site
  - j. Measurement of curb radius and/or taper
  - k. Location and dimensions of primary vehicular ways in and around the proposed development
  - l. Location of any proposed or existing sidewalk
  - m. Any other information necessary to support a thorough review of the project and as requested in writing by the Plan Commission or the Community Development Office
4. *Utility Plan.* The Utility Plan shall be drawn to a scale of not more than 1"=100' and shall include the following items:
  - a. Location of all existing and proposed utility easements
  - b. Location and size of all existing and proposed utility components including, but not limited to: sanitary sewer components, water components, storm water components, electric, gas, telephone, and cable
  - c. Location and illumination capacity of all lights.
  - d. Names of legal ditches and streams in or adjacent to the site
  - e. Contours sufficient to illustrate storm water runoff
  - f. Storm water drainage plan including estimated runoff
5. *Traffic Impact Study.*
  - a. A Traffic Impact Study shall be required when a proposed development will meet or exceed the warrants of the INDOT Traffic Impact Study Guidelines (i.e., (i) 150 or more dwelling units; (ii) 15,000 square feet or more of retail space; (iii) 35,000 or more square feet of office space; (iv) 70,000 square feet or more square feet of industrial space; (v) 30,000 square feet or more of educational space; (vi) 120 or more occupied rooms; (vii) 46,000 or more square feet of medical space; or, (viii) any mixed use development which generates 100 or more peak hour trips in the peak direction).
  - b. A registered professional engineer shall prepare and certify the Traffic Impact Study. The Traffic Impact Study shall evaluate the impact of present and future traffic generated by the proposed development on the adjacent roadway system. Prior to commencement, the applicant shall meet with the Community Development Office and the Street Superintendent to determine an appropriate scope for the Traffic Impact Study.
6. *Statement of Development Build-Out.* Applicant shall indicate, either on the submitted Site Plan or in writing, a statement of:
  - a. The order of development of the major infrastructure elements of the project
  - b. Project phase boundaries, if any
  - c. The order and content of each phase
  - d. An estimate of the time frame for build-out of the project
7. *Green Space Provisions.* Applicant shall indicate, either on the submitted Site Plan or in writing, along with any necessary explanatory materials or graphics, a statement of the nature and extent of all existing and proposed green space and landscaping on the real estate showing how the proposed landscaping meets or exceeds the Zoning Code requirements detailed in Section 6.19 and 6.20.
8. *WP-OL District Requirements.* If the proposed development is in the WP-OL District, the petitioner shall submit the following:
  - a. A narrative report of the proposed site, including:
    - i. A narrative description of the site including any existing uses, setbacks, available sewage disposal facilities, and a brief history of the site (including any former uses, historical environmental concerns, abandoned wells, underground storage tanks, septic systems, etc.);
    - ii. Description of the proposed operations, including chemical/products used or generated, chemical/product storage area descriptions, waste generation quantities, equipment cleaning/maintenance procedures
    - iii. Methods and locations of receiving, handling, storing and shipping chemicals/products and wastes
    - iv. Spill or release response measures and reporting
    - v. Description of slopes near containment vessels and waste storage areas

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- b. A Site Plan including:
    - i. A vicinity map (USGS quadrangle preferred);
    - ii. A site map (drawn to scale) depicting:
      - All existing and proposed structures
      - Paved and non-paved areas
      - Utility lines (inside and outside structures) including sanitary sewers, storm sewers, storm retention ditches/basins/french drains/dry wells, etc. (both proposed and existing)
      - Floor drain locations and outlets
      - Chemical/product storage locations
      - Waste storage locations
      - Liquid transfer areas
      - Site surface water bodies (streams, rivers, ponds)
      - Underground storage tanks (and associated piping)
      - Above ground storage tanks (and associated piping)
      - Slope and contours of finished grade at Two-foot intervals
  - c. Proposed containment area detail drawings, including area, heights, materials, specifications, if applicable.
- H. Procedures: Application for Development Plan approval by the Plan Commission shall follow the following procedures.
1. *Pre-Filing Conference*.
    - a. A pre-filing conference with the Community Development Office is required prior to the filing of any Development Plan for public hearing before the Plan Commission. The petitioner shall provide a preliminary plan capable of depicting the proposed development. The Community Development Office shall review the proposed plan and provide comments back to the applicant.
    - b. Notwithstanding anything contained in this Ordinance to the contrary, neither the Community Development Office's conceptual review of the plan nor the comments to the applicant relating thereto shall be considered a denial, approval, or decision concerning the proposed Development Plan.
  2. *Eligible Petitioners*. Development Plans may be initiated by the submission of a development plan accompanied by an application signed by the owners of the land involved in the development, or the owner's authorized agent. If an authorized agent files an application, a signed and notarized consent form from the owner must accompany the application.
  3. *Filing of Forms*. All Development Plans for public hearing by the Plan Commission shall be accompanied by an "Application for Approval ~ Development Plan" form provided by the Community Development Office. Unless otherwise instructed, five copies of the Application for Approval, Site Plans, Site Access and Site Circulation Plans, Building Elevations, Utility Plans, and all other relevant supporting documentation shall be submitted to the Plan Commission.
  4. *Filing Deadline*. All Development Plans shall be filed at least 28 days prior to the public meeting at which they are first to be considered by the Plan Commission.
  5. *Filing Fees*.
    - a. The applicant shall pay all applicable fees at the time of filing the Development Plan.
    - b. Current fees are specified in the City of Butler Fee Schedule.
  6. *Agenda Placement*. All Development Plans, which are determined to be complete and in proper form by the Community Development Office, shall be numbered and placed on the first Plan Commission Agenda that occurs 28 days after the Development Plan was submitted in its entirety.
  7. *Investigation of Petitions*.
    - a. Upon assignment of a number and hearing date, the Fire Department, Police Department, Department of Public Works, DeKalb County Surveyor's Drainage Office, Utility Departments and other applicable agencies will be notified of the proposed Development Plan and asked to review and comment.

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- b. The Community Development Office may submit a written report to the Plan Commission stating any facts concerning the physical characteristics of the area involved in the Development Plan, the surrounding land use, public facilities available to service the area, or other pertinent facts. The written report may also contain opinions of the Community Development Office concerning the Development Plan and information from the other agencies that have reviewed the Development Plan. A copy of such report shall be made available to the applicant and all remonstrators of record, if any.
8. *Public Notice.* The following public notice standards apply for Development Plan approval.
- a. The following options for notification are acceptable.
    1. The applicant shall notify all interested parties of the public hearing by certified mail, return receipt requested. Certified mailings shall have a postmark a minimum of 21 days before the date of the public hearing.
    2. The applicant shall notify all interested parties by personally delivering the notice and obtaining the signature of each interested party at least 10 days prior to the date of public hearing. The signature must be of the interested party.
  - b. The petitioner shall publish a legal notice of the hearing in the Butler Bulletin a minimum of ten days before the public hearing. The petitioner is responsible for making the newspapers publishing deadline and the publication cost.
  - c. The applicant must present a copy of public notice, proof of publication, and copies of certified mail receipts or signatures to the Community Development Office at least three days prior to the date of public hearing as proof of fulfilling due and proper notice requirements.
9. *Conduct of Public Hearings.*
- a. In order to provide all interested parties with a fair hearing, applicant and remonstrators shall be afforded a reasonable amount of time for the presentation of evidence, statements and arguments at the public hearing. The order of the presentation of evidence, statements, and arguments shall be as follows:
    - i. The Community Development Office shall be given time to introduce the matter being considered and for the presentation of evidence or statements regarding the application being considered.
    - ii. Applicant shall be allotted a reasonable time to present evidence, statements and arguments in support of the applicant being considered.
    - iii. Plan Commission members shall be afforded the opportunity to ask questions about the applications of either the Community Development Office or the applicant.
    - iv. Members of the public interested in the application, whether for or against the application, shall be allotted a reasonable time to present evidence, statements and arguments related to the application being considered.
    - v. The applicant shall have a reasonable opportunity for rebuttal, which shall include only evidence, statements and argument in rebuttal of or in response to comments of the Community Development Office, the Plan Commission or members of the public, and a brief closing statement.
    - vi. Rules of evidence will not be strictly followed.
  - b. At the conclusion of remarks by any party, the Plan Commission shall have the opportunity to ask questions pertaining to the evidence, statements, and argument presented.
  - c. The presiding officer shall have authority to cut off repetitious and irrelevant testimony, but shall make reasonable efforts to allow equal time for applicant and remonstrators.
  - d. All persons appearing at a public hearing shall act in an orderly and courteous manner. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges extended by the Plan Commission and shall be dealt with by the presiding officer as is deemed fair and proper.
- I. Signature for Findings: All findings specified in Section 8.9(D) for the approval of a Development Plan shall be in writing and signed by the President of the Plan Commission in the case of a determination by the Plan Commission, and retained as a part of the permanent record.

# Development Plan Review

## J. Amendments:

### 1. *Amendments Proposed at a Public Hearing.*

- a. The applicant may propose amendments to Development Plans which are recommended by the Plan Commission or the Community Development Office at any time prior to a vote on the Development Plan Approval. If, in the sole discretion of the Plan Commission, the proposed amendment is of such a nature that additional time is needed for review, the Plan Commission may continue the hearing to the next meeting of the Plan Commission.
- b. The Plan Commission, in its sole discretion, may assign a continued Development Plan to a committee or Community Development Office of the Plan Commission for further review and evaluation prior to the next meeting of the Plan Commission.
- c. If amendments are presented by the applicant and agreed to by the Plan Commission at the public hearing, revised plans indicating all amendments, as approved by the Plan Commission, shall be filed with the Community Development Office within 30 days of the Plan Commission hearing or such approval will become null and void.

### 2. *Amendments to Approved Development Plans.*

- a. Minor amendments to Development Plans which have already received approval from the Plan Commission and which do not involve an increase in height, area, bulk or intensity of land uses; the designation of additional land uses; the reduction in perimeter yards; the addition of driveways or access points; or reduction in the amount of parking may be authorized by the Community Development Office without a public hearing, if the requested minor amendments do not adversely impact the purpose or intent of the overall development.
- b. Such minor amendments authorized by the Community Development Office shall be reported, in writing, to the Plan Commission at the next regular meeting of the Plan Commission.
- c. If the Community Development Office determines that the proposed minor modification is of such a nature as to adversely impact the purpose or intent of the overall development, or if the proposed modification includes an increase in intensity of any land use or if the proposed modification includes the designation of an additional land use(s), the applicant shall be required to file a new application for Development Plan approval.
- d. Any decision of the Community Development Office regarding the amendment of Development Plan may be appealed by any interested party to the Plan Commission within 30 days of such determination.

K. Duration: Substantial completion of the proposed development shall occur within one year of the date of Development Plan approval by the Plan Commission. A longer time frame may be granted by the Plan Commission on larger projects. The Community Development Office may grant a onetime extension of up to one year in duration to obtain substantial completion. If substantial completion has not occurred within one year of the date of approval, or by the end of the one year extension period, the developer shall present a Special Request before the Plan Commission for an extension of time in which to achieve substantial completion. If an extension of time is not requested or denied by either the Community Development Office or the Plan Commission, the prior Development Plan approval shall be deemed null and void. All work must stop and any further development of the site shall require the approval of a new Development Plan in compliance with the terms and provisions of the City of Butler Zoning Ordinance in effect at the time of filing of the new Development Plan.

L. Issuance of Permits: Prior to the issuance of an Improvement Location Permit for any development where a Development Plan is required, the following matters shall be accomplished:

1. The Plan Commission shall approve of the Development Plan in accordance with this Ordinance and the City of Butler Comprehensive Plan.
2. The applicant shall have recorded in the Office of the DeKalb County Recorder the utility easements, rights-of-way, plats, deed restrictions, or any other legal instruments required, and in the form approved by the Commission.

# Variance

## 8.10 Variance

- A. Authority And Purpose: The Board of Zoning Appeals, may, after a public hearing, vary the regulations of this Zoning Ordinance. Variances shall be granted in accordance with the standards set forth in this section and shall be granted upon findings of fact in compliance with Indiana Code 36-7-4-900 et seq. The Board of Zoning Appeals may grant a variance from the development standards of the Zoning Ordinance (such as height, bulk, area) or a variance of use if, after a public hearing, it makes findings of facts in writing.
- B. Procedures: Application for a variance by the Board of Zoning Appeals shall follow the following procedures.
1. *Time Limitation*. The Community Development Office shall refuse to accept a petition for a variance within 12 months of the date of denial when said petition involves the same subject matter. However, the Community Development Office shall have the authority and discretion to determine that a petition containing major changes may justify re-filing within said 12 month period.
  2. *Eligible Petitioners*. A petition for a variance may be filed by the owner, his agent, or any person having a legal or equitable interest in the subject property, but the written authorization of any owner who is not an applicant shall be required.
  3. *Filing of Forms*. A petition for a variance from development standards or a variance of use shall be made on forms provided by the Board of Zoning Appeals. The application shall be filed with applicable drawings and the filing fee.
  4. *Filing Deadline*. A petition for a variance shall be filed at least 28 days before the date of the meeting.
  5. *Public Notice*. The following public notice standards apply for a petition for a variance.
    - a. For a variance from development standards, the following options for notification are acceptable.
      1. The applicant shall notify all interested parties of the public hearing by certified mail, return receipt requested. Certified mailings shall have a postmark a minimum of 21 days before the date of the public hearing.
      2. The applicant shall notify all interested parties by personally delivering the notice and obtaining the signature of each interested party at least 10 days prior to the date of public hearing. The signature must be of the interested party.
    - b. For a variance of use, the applicant shall notify all interested parties of the public hearing certified mail, return receipt requested. Certified mailings shall have a postmark a minimum of 21 days before the date of the public hearing.
    - c. The petitioner shall publish a legal notice of the hearing in the Butler Bulletin a minimum of ten days before the public hearing. The petitioner is responsible for making the newspapers publishing deadline and the publication cost.
    - d. The petitioner shall present proof of notice of adjacent property owners and proof of publication in the Butler Bulletin to the City of Butler a minimum of three business days before the public hearing.
- C. Public Hearing: A public hearing shall be held in accordance with the Board of Zoning Appeals' Rules of Procedure.
- D. Review:
1. The regulations of this Zoning Ordinance shall not be varied unless findings based on the evidence are made in each specific case that affirm each of the following criteria for a development standards variance:
    - a. The approval of the variance will not be injurious to the public health, safety, morals and general welfare of the community.
    - b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
    - c. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

# Variance

2. The regulations of this Zoning Ordinance shall not be varied unless findings based on the evidence are made in each specific case that affirm each of the following criteria for a variance of use:
  - a. The approval of the variance will not be injurious to the public health, safety, morals and general welfare of the community.
  - b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
  - c. That the need for the use variance arises from some condition peculiar to the property involved.
  - d. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.
  - e. The approval does not interfere substantially with the City of Butler's Comprehensive Plan.
- E. Decision: The Board of Zoning Appeals shall approve the petition, approve the petition with conditions and/or commitments or deny the petition.
- F. Duration:
  1. A development standards variance granted by the Board of Zoning Appeals shall run with the parcel until such time as the property conforms with the Zoning Ordinance.
  2. A use variance granted by the Board of Zoning Appeals may run with the parcel or applicant until such time as:
    - a. The use of the variance ends, is vacated, or unused for three months consecutively;
    - b. The property conforms with the Zoning Ordinance as written; or,
    - c. The property is sold.

# Special Exception Use

## 8.11 Special Exception Use

### A. Authority And Purpose:

1. The Board of Zoning Appeals, shall approve or deny all special exceptions from the terms of the zoning ordinance, but only in the particular situations specified in the Zoning Ordinance. The Board may impose reasonable conditions as a part of it approval.
2. Purpose. A special exception use is a use for which certain conditions must be met before it can be established at a given location. The use shall be permitted by the Board of Zoning Appeals if, the board determines, the enumerated conditions are met.

### B. Procedures: Application for a special exception use by the Board on Zoning Appeals shall follow the following procedures.

1. *Eligible Petitioners.* A petition for a special exception use may be filed by the owner, his agent, or any person having a legal or equitable interest in the subject property, but the written authorization of any owner who is not an applicant shall be required.
2. *Filing of Forms.* A petition for approval of a special exception shall be made on forms provided by the Board of Zoning Appeals. The petition shall be filed with applicable drawings and the filing fee.
3. *Filing Deadline.* The petition for a special exception use shall be filed at least 28 days before the date of the meeting.
4. *Public Notice.* The following public notice standards apply for a petition for a special exception use.
  - a. The applicant shall notify all interested parties of the public hearing by certified mail, return receipt requested. Certified mailings shall have a postmark a minimum of 21 days before the date of the public hearing.
  - b. The petitioner shall publish a legal notice of the hearing in the Butler Bulletin a minimum of ten days before the public hearing. The petitioner is responsible for making the newspapers publishing deadline.
  - c. The petitioner shall present proof of notice of adjacent property owners and proof of publication in the Butler Bulletin to the City of Butler a minimum of three business days before the public hearing.

### C. Public Hearing: A public hearing shall be held in accordance with the Board of Zoning Appeals' Rules of Procedure.

### D. Review:

1. A special exception use shall be approved only upon the determination that:
  - a. When required, a development plan has been submitted, reviewed and approved by the Butler City Plan Commission;
  - b. The proposed special exception development is consistent with the purpose of the zoning district and the City's Comprehensive Plan.
  - c. The proposed special exception development will not be injurious to the public health, safety, morals and general welfare of the community.
  - d. The proposed special exception development is in harmony with all adjacent land uses.
  - e. The proposed special exception development will not alter the character of the district; and
  - f. The proposed special exception development will not substantially impact property value in an adverse manner.
2. When considering a Special Exception the Board of Zoning Appeals may take into consideration the following items as they relate to the proposed use:
  - a. topography and other natural site features;
  - b. zoning of the site and surrounding properties;
  - c. driveway locations, street access and vehicular and pedestrian traffic;
  - d. parking amount, location, design;
  - e. landscaping, screening, buffering;
  - f. open space and other site amenities;
  - g. noise production and hours of operation;
  - h. design, placement, architecture, and building material of the structure;

## Special Exception Use

- i. placement, design, intensity, height, and shielding of lights;
  - j. traffic generation; and,
  - k. general site layout as it relates to its surroundings.
- E. Decision:
  1. The granting of a special exception use allows the use to run with the land unless conditions are placed on the approval as stated in subsection E(3) below.
  2. *Commitments*: The Board may impose reasonable conditions upon its approval as it deems necessary. The Board may permit or require the owner of the parcel of property to make a written commitment concerning the use or development of the parcel as specified under Indiana Code 36-7-4-921 and have such commitment recorded in the Office of the DeKalb County Recorder.
  3. *Conditions of Approval*: The Board may limit special exceptions to a specific individual or entity and/or a specific time period.
- F. Duration: The granting of a special exception use authorizes the use and establishes the terms of use. Special exception uses are also subject to development plan requirements, all necessary permits and approvals and other applicable requirements.
  1. *Expiration*: Any special exception use granted by the Board of Zoning Appeals shall expire:
    - a. In the case of new construction or modifications to an existing structure:
      - i. Two years after the date granted by the Board, unless a building permit has been obtained and construction of the structure or structures has commenced; or,
      - ii. At the date of termination established by the Board of Zoning Appeals as a condition or commitment if different from above.
    - b. In the case of occupancy of land which does not involve new construction:
      - i. Two years after the date granted by the board, unless an occupancy permit has been obtained and the use has commenced; or
      - ii. At the date of termination established by the Board of Zoning Appeals as a condition or commitment if different from above.
      - iii. The board may provide by rule for the granting of extensions of special exception uses.
  2. *Amendments*. If the Community Development Office determines a proposed modification or intensification represents an alteration in the essential character of the original special exception use as approved by the Board of Zoning Appeals, a new special exception use will be required. The operator of the special exception use shall provide the Community Development Office with all the necessary information to render this determination.

# Zoning Text Amendment

## 8.12 Zoning Text Amendment

- A. Authority and Purpose: The Butler City Plan Commission has the authority to hear a proposal to amend the text of the Zoning Ordinance and make a recommendation to the Butler City Council concerning that proposal. The Butler City Council has the power to approve or reject a proposal to amend the text of the Zoning Ordinance.
- B. Procedures:
1. *Eligible Petitioners*. Only the members of the City Council or the Plan Commission shall have the standing to initiate a proposal to amend the text of the Zoning Ordinance. Persons who wish to propose an amendment to the text of the Zoning Ordinance and who are not members of either group must find a sponsor among the members of either the City Council or the Plan Commission to introduce the proposal.
  2. *Filing of Forms*. The proposal for an amendment to the text of the Zoning Ordinance shall be prepared by the Community Development Office upon direction of either the Plan Commission or the City Council.
  3. *Filing Deadline*. The proposal for an amendment to the text of the Zoning Ordinance shall be filed at least 60 days before the date of the meeting.
  4. *Public Notice*. The following public notice standards apply for a proposal for an amendment to the text of the Zoning Ordinance.
    - a. The Plan Commission or its staff shall notify affected property owners and interested parties of the public hearing. Notice shall be given in a manner deemed appropriate by the Plan Commission.
    - b. The Plan Commission or its staff shall publish a legal notice of the public hearing in the Butler Bulletin a minimum of ten days before the public hearing.
    - c. The Plan Commission or its staff shall be responsible for including proof of published notice in the proposal file.
- C. Public Hearing: A public hearing shall be held in accordance with the Indiana State Statutes and the By-Laws and Rules of Procedure of the Butler City Plan Commission
- D. Review: In preparing and considering proposals to amend the text of this Zoning Ordinance, the Plan Commission and the City Council shall pay reasonable regard to:
1. The comprehensive plan;
  2. Current conditions and the character of current structures 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.
- E. Decision: The Plan Commission will certify the amendment to the text of the Zoning Ordinance and forward the proposal to the City Council with either a favorable recommendation, a negative recommendation or with no recommendation. See Indiana Code 36-7-4-607.
- F. Duration:
1. Unless a text amendment ordinance provides for a later effective date, the ordinance takes effect when it is adopted under Indiana Code 36-7-4-607.
  2. When a provision prescribing a penalty or forfeiture for a violation is approved, it may not take effect until 14 days after the later of the following:
    - a. The final day on which notice of its adoption is published; or
    - b. The day on which it is filed in the City Clerk's office.

# Zoning Map Amendment: Rezoning

## 8.13 Zoning Map Amendment: Rezoning

- A. Authority And Purpose: The Butler City Plan Commission has the authority to hear a petition to amend the zoning map (rezoning) and make a recommendation to the Butler City Council. The Butler City Council considers the Plan Commission recommendation, approves or rejects the recommendation and makes the final decision approving or rejecting the zoning map amendment petition.
- B. Procedures: Application for a rezoning by the Plan Commission shall follow the following procedures.
1. *Eligible Petitioners*. A petition for a rezoning may be filed by the owner, his agent, or any person having a legal or equitable interest in the subject property, but the written authorization of any owner who is not an applicant shall be required.
  2. *Filing of Forms*. A petition for a rezoning shall be made on forms provided by the Plan Commission. The petition shall be filed with applicable drawings and the filing fee.
  3. *Filing Deadline*. The petition for a rezoning shall be filed at least 28 days before the date of the meeting.
  4. *Public Notice*. The following public notice standards apply to a petition for a rezoning.
    - a. The petitioner shall notify interested parties (as defined in the By-Laws and Rules of Procedure of the Butler City Plan Commission) of the public hearing. Notice shall be given by certified mail, return receipt requested and postmarked at least 21 days before the public hearing.
    - b. The petitioner shall publish a legal notice of the hearing in the Butler Bulletin a minimum of ten days before the public hearing. The petitioner is responsible for making the newspapers publishing deadline and the publication cost.
    - c. The petitioner shall present proof of notice of interested parties and proof of publication in the Butler Bulletin to the City of Butler a minimum of three business days before the public hearing.
- C. Public Hearing: A public hearing shall be held in accordance with the Plan Commission's Rules of Procedure.
- D. Review: In preparing and considering proposals to amend the zoning map (rezoning) of the Zoning Ordinance, the Plan Commission and the City Council shall pay reasonable regard to:
1. The comprehensive plan;
  2. Current conditions and the character of current structures 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.
- E. Decision: The Plan Commission will determine if the evidence presented is sufficient to recommend a rezoning to the City Council. The City Council is charged with making the final decision on whether or not to follow the recommendation of the Plan Commission. The City Council shall act on the petition within 90 days of certification by the Plan Commission in accordance with Indiana Code 36-4-608. When a rezoning is approved, such amendment shall be incorporated into the official zoning map maintained by the City.
1. *Commitments*. The Plan Commission may require or permit the owner of a parcel of real property to make a written commitment concerning use and/or development of that parcel in connection with a proposal to amend the zoning map (rezoning) under Indiana Code 36-7-4-608 and this article.
    - a. The Plan Commission may permit or require a written commitment to be made in any case where the making of such commitment will further the goals of the comprehensive plan and the Zoning Ordinance.
    - b. The procedure by which the Plan Commission permits or requires the making of a written commitment shall be the same as the procedure for the underlying proposal to amend the zoning map (rezoning) and no additional notice or hearing shall be required.

## Zoning Map Amendment: Rezoning

- c. A written commitment may be modified or terminated by Plan Commission after notice and public hearing. Such notice and public hearing shall be in accordance with Indiana Code. The Plan Commission shall provide for notice to adjacent property owners and other interested parties as defined in the Plan Commission rules and procedures at least ten days before the hearing. Modification or termination of commitments shall be allowed for good cause which may include but shall not be limited to change in circumstances such that the modification or termination will further the goals of the Zoning Ordinance or the comprehensive plan.
  - d. A written commitment shall be in recordable form and shall contain such matters necessary to make the commitment effective, and shall be subject to final approval by the City Attorney as to form.
  - e. A commitment made under this section takes effect upon approval of the proposal in connection with which the commitment is made. An unrecorded commitment is binding upon the owner(s) of the parcel but is only binding upon a subsequent owner or other person acquiring an interest in the parcel if that person has actual notice of the commitment. A recorded commitment is binding upon any subsequent owner and any person acquiring an interest in the parcel.
  - f. A commitment made hereunder shall be recorded in the office of the county recorder prior to approval of the proposal and prior to issuance of any building permits or improvement location permits for the area involved in the proposal.
  - g. A commitment made hereunder terminates automatically if after adoption of the proposal the zoning map applicable to the area involved in the proposal is changed.
  - h. A written commitment shall be enforceable by the Plan Commission, City Council or City Attorney. A written commitment shall also be enforceable by any property owner adjacent to the parcel of real estate which was the subject of the underlying proposal in connection with which the commitment was made, or other interested party as defined by the Plan Commission rules and procedures.
- F. Duration: A rezoning shall be effective from the date of its final approval pursuant to Indiana Code.

# Administrative Interpretation

## 8.14 Administrative Interpretation

- A. Authority and Purpose:
1. The Community Development Office, subject to the procedures, standards, and limitations of the Zoning Ordinance, may render written interpretations, including use interpretations, of the provisions of the Zoning Ordinance and of any rule or regulation pursuant to it.
  2. The Community Development Office may forward requests for interpretation to the Plan Commission, where, in the opinion of the Community Development Office, the proposed use is not sufficiently similar to a use expressly listed as permitted or as a special exception to allow Community Development Office to make an interpretation.
  3. The interpretation authority established by this article is intended to recognize that the provisions of this Zoning Ordinance, though detailed and extensive, cannot, as a practical matter, address every specific situation to which they may have to be applied. For example, certain categories of uses are listed as either permitted or special exception uses, but certain specific proposed uses may not clearly fall within the common ordinary meaning of any of the listed uses. Many such situations can be readily addressed by an interpretation of the specific provisions of this Zoning Ordinance in light of the general and specific purposes for which those provisions have been enacted. Because the interpretation authority established is an administrative rather than a legislative authority, an interpretation shall not have the effect of adding to or changing the essential content of this Zoning Ordinance but is intended only to allow authoritative application of that content to specific cases.
- B. Procedure: Application for an administrative interpretation shall follow the following procedures.
1. *Eligible Petitioners*. Applications for interpretations may be filed by any person having a legal or equitable interest in property that gives rise to the need for an interpretation; provided that interpretations shall not be sought by any person based solely on hypothetical circumstances or where the interpretation would have no effect other than as an advisory opinion.
  2. *Filing of Forms*. Applications for interpretations of the Zoning Ordinance shall be filed in writing with the Community Development Office and shall contain information describing the nature of the requested interpretation.
- C. Review: The Community Development Office shall review the application for an administrative interpretation and make a determination. The Community Development Office shall inform the applicant in writing of his or her interpretation, stating any specific precedent, the reasons, and the analysis upon which the determination is based. A record of all applications for interpretations shall be kept on file in the Community Development Office.
- D. Decision: The Community Development Office shall give the applicant written notice of the approval or denial of the application. If the application is denied, the Community Development Office shall advise the applicant of the procedures for filing a use variance petition with the Board of Zoning Appeals if the interpretation was made regarding a specific use.
- E. Duration:
1. *Effect Of Favorable Use Interpretations*. A use interpretation finding a particular use to be permitted in a particular district only approves the use. It does not authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure. All necessary permits shall be obtained and all necessary procedures shall be followed.
  2. *Limitations On Favorable Use Interpretations*. A use interpretation finding a particular use to be permitted, or allowed as a special exception use in a particular district, shall be deemed to authorize only the particular use for which it was issued, and such interpretation shall not be deemed to authorize any allegedly similar use for which a separate use interpretation has not been issued.

# Administrative Appeal

## 8.15 Administrative Appeal

- A. Authority and Purpose: The Board of Zoning Appeals is charged with hearing administrative appeals from a requirement, decision, or determination made by an administrative official charged with the enforcement of any part of the Zoning Ordinance.
- B. Procedure: A written request for an administrative appeal shall follow the following procedures.
1. *Eligible Petitioners*. A written request for an administrative appeal may be filed by the owner, his agent, or any person having a legal or equitable interest in the subject property, but the written authorization of any owner who is not an applicant shall be required.
  2. *Filing of Forms*. A written request for an administrative appeal shall be filed with the Board of Zoning Appeals. The petitioner shall submit a written statement specifying the grounds for the appeal, the name and/or title of official or board from which the appeal stems and any applicable supporting material within 30 days of the decision. The administrative official from the which appeal is taken shall transmit to the Board of Zoning Appeals all documents, plans and papers constituting the record of action from which the appeal is taken.
  3. *Public Notice*. Administrative appeals require public notice in the newspaper per Indiana Codes.5-3-1-2 and 5-3-1-4
- C. Review: The Board of Zoning Appeals shall review:
1. The written statement and supportive material submitted by the petitioner;
  2. The record of action supplied by the administrative official from the which appeal is taken;
  3. The testimony of the petitioner; and
  4. The testimony of the administrative official from which the appeal is taken.
- D. Decision: The Board of Zoning Appeals may reverse, affirm or modify the order, requirement, decision or determination from which the appeal stems. The Board of Zoning Appeals may add conditions to any application which was approved at the appeal stage.
- E. Duration: An administrative appeal shall be effective from the date of the Board of Zoning Appeals final decision pursuant to Indiana Code.

# Schedule of Fees

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## 8.16 Schedule of Fees

The City Council shall maintain an official fee schedule for permits and processes outlined in the Zoning Ordinance. Penalties, collection procedures for permits and penalties, appeals process, and other petition processes pertaining to the Zoning Ordinance are considered a part of the Zoning Ordinance. The official fee schedule is in Title 9, Chapter 100 of the Butler Municipal Code. The schedule shall be available to the public in the office of the Clerk-Treasurer and the Community Development Office. The official fee schedule may be amended by a recommendation submitted to the City Council by the Plan Commission followed by the City Council approving said amendments.

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.

