

ARTICLE 1: GENERAL PROVISIONS

Section 1.1. Title

This Ordinance shall hereinafter be known and cited as "Town of Zionsville Zoning Ordinance."

Section 1.2. Authority

- A. This Ordinance is adopted pursuant to the authority contained in **Indiana Code 36-7-4 et seq.**
- B. Whenever any provision of this Ordinance refers to or cites a **Section** of the **Indiana Code** and that **Section** is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended **Section** or the **Section** that most nearly corresponds to the superseded **Section**.

Section 1.3. Purpose

In adopting this Ordinance, the Town Council of the Town of Zionsville is acting for the purpose of:

- A. Promoting the public health, safety, comfort, morals, convenience, and general welfare;
- B. Guiding the future development of the Town of Zionsville;
- C. Securing adequate light, air, convenience of access, and safety from fire, flood, and other danger;
- D. Lessening or avoiding congestion in public ways;
- E. Ensuring that the needs of agriculture, industry, and business be recognized in future growth;
- F. Ensuring that residential areas provide healthful surroundings for family life;
- G. Ensuring that growth be commensurate with and promotive of the efficient and economical use of public funds; and
- H. Preserving, maintaining, and enhancing the architectural and aesthetic characteristics of the Town;
- I. Regulating the number, size, type and style of signs permitted on all properties;
- J. Fixing reasonable standards to which buildings and structures shall conform;

- K. Assuring the orderly use of land developed within the Planning Area of the Master Development Plan for Zionsville, Indiana;
- L. Defining the powers and duties of the administrative officers and bodies as provided herein, and;
- M. Otherwise accomplishing the purposes of **Indiana Code 36-7-4 et seq.**

Section 1.4. Effective Date

This Ordinance shall be effective on and after the fourteen (14) days after notice of its adoption is published in compliance with **IC 36-7-4-610**.

Section 1.5. Repealer

(Reserved)

Section 1.6. Exclusion

Nothing in this Ordinance or any rules, regulations, or orders issued pursuant to this Ordinance shall be deemed to restrict or regulate or to authorize any unit of government, legislative body, Plan Commission, or Board of Zoning Appeals now or hereafter established, to restrict or regulate the exercise of the power of eminent domain by the State of Indiana, any agency of the State of Indiana, or the Town of Zionsville, or the use of property owned or occupied by the State of Indiana, any agency of the State of Indiana, or the Town of Zionsville, except to the extent such restriction or regulation is permitted by applicable law.

Section 1.7. Interpretation

- A. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the health, safety, comfort, morals, convenience, and the general welfare of the public. In the case of any conflict or inconsistency between two or more provisions of this Ordinance or any other ordinance of the Town of Zionsville, the provision which imposes the greater or higher or more restrictive standard of performance shall control.
- B. References to other documentation or standards in this Ordinance shall be interpreted to be the latest version thereof.

Section 1.8. Jurisdiction

Upon (i) adoption of this Ordinance by the Town Council of the Town of Zionsville, and (ii) the effective date of this Ordinance, the Town of Zionsville Plan Commission shall be the duly authorized Plan Commission for the incorporated areas of the Town of Zionsville

pursuant to the **Indiana Code**, and this Ordinance shall apply to all real property located within the corporate boundaries of the Town of Zionsville.

Section 1.9. Subdivision of Land

The subdivision of land may occur in any and all zoning districts established by this Ordinance. Whenever a subdivision occurs, regulations and procedures of this Ordinance, the Zionsville Subdivision Control Ordinance, and other relevant Zionsville ordinances and standards shall apply.

Section 1.10. Scope and Application

Except as expressly provided otherwise in this Ordinance:

- A. No person may use or occupy any land, building, structure, or improvement or authorize or permit the use or occupancy of any land, building, structure, or improvement under his/her control except in accordance with the applicable provisions of this Ordinance.
- B. No land, building, structure, or improvement shall be used and no building shall be erected, reconstructed or structurally altered, which is not in accordance with the applicable provisions of this Ordinance or is arranged, intended or designed to be used for any purpose other than a use which is permitted in the zoning district in which such land, building, structure, or improvement is located.

Section 1.11. Findings

In adopting this Ordinance, the Town Council of the Town of Zionsville have considered, evaluated, and given reasonable regard to:

- A. The general policies and patterns of development set out in the Comprehensive Plan for the Town of Zionsville, Indiana;
- B. Current conditions and the character of current structures and uses in each zoning district;
- C. The most desirable use for which the land in each zoning district is adapted;
- D. The conservation of property values throughout the Town of Zionsville, and;
- E. The responsible development and growth of the Town of Zionsville.

Section 1.12. Private Provisions

The provisions of this Ordinance are not intended to and do not abrogate any easement, covenant, or other private agreement or restriction.

Section 1.13. Determination of Land Uses not listed in the Zoning Ordinance

It is recognized that this Ordinance may require interpretation to assign all possible land uses to individual zoning districts. For any land use which is not specifically set forth in this Ordinance, staff shall review the land use for consistency with the intent set forth in each zoning district and for compatibility with land use characteristics typical of land uses permitted within those districts. Then, staff shall determine the appropriate zoning district for any land use which is not specifically set forth in this Ordinance. In case of disagreement with the determination of the staff in assigning a land use to an appropriate zoning district, any aggrieved party may file an appeal with the Board of Zoning Appeals pursuant to the provisions of Article 8 of this Ordinance.

If it is (i) determined by the staff and no appeal of the staff's decision is filed with the Board of Zoning Appeals pursuant to the provisions of Article 8 of this Ordinance, or (ii) determined by the Board of Zoning Appeals that a particular use is not permitted in any agricultural, residential, commercial, industrial, or other zoning district provided for in this Ordinance, then such use shall be deemed to require a special exception in the most restrictive agricultural, residential, commercial, industrial, or other zoning district most similar to the particular use (i.e. the O-1 District for open land and agriculturally-related uses; the R-MF-2 District for residentially-related uses; the B-3 District for commercially related uses; or the I-3 District for industrially-related uses).

Section 1.14. Saving Provision

Except as shall be expressly provided for in this Ordinance, the adoption of this Ordinance shall not: (i) abate any action pending under, or by virtue of, any prior ordinance; (ii) discontinue, abate, modify or alter any penalty accruing or about to accrue under, or by virtue of, any prior ordinance; (iii) affect the liability of any person, firm, or corporation under, or by virtue of, any prior ordinance; (iv) waive any right of the Town of Zionsville under any **Section** or provision of any prior ordinance; or, (v) vacate or annul any rights obtained by any person, firm, or corporation by lawful action of the Town of Zionsville under, or by virtue of, any prior ordinance.

Section 1.15. Amendments

In its continuing administration of the purposes set forth in **Section 8.1**, the Town Council may find it reasonable and necessary to adopt amendments to the text of this Ordinance or determine changes to the Zone Maps incorporated into this Ordinance. All such amendments shall be considered and adopted in compliance with **Indiana Code 36-7-4-600 et seq.**, the provisions of this Ordinance and any applicable Rules of Procedure.

Section 1.16. Compliance

Compliance with the terms and provisions of this Ordinance shall be a prerequisite for the use and development of real property within the Town of Zionsville. Failure to comply with the terms and provisions of this Ordinance shall be deemed to be a civil zoning violation enforceable by the Plan Commission or the Board of Zoning Appeals, as provided for in **Indiana Code 36-7-4 et. seq.**, and **Section 10** of this Ordinance.

Section 1.17. Infrastructure and Utility Easements

Service easements, including but not limited to those providing for roadways, pipelines, electric power lines, utility infrastructure, telephone lines, relay stations, water lines, pumping stations, sewer lines, lift stations, or cable television lines, shall be exempt from the provisions of this Ordinance. This exemption is not applicable to easements solely for surface drainage or for access easements not related to such service easements.

Section 1.18. Obstruction of Easements

Unless expressly authorized by the appropriate agency or department of the Town of Zionsville, no sign, fence, wall or improvement of any kind shall be erected, planted, or maintained upon easements in favor of the Town.

The Town of Zionsville shall not be responsible for or liable for any loss occasioned by the removal, alteration, or destruction of any sign, fence, wall or improvement by the Town of Zionsville in the proper exercise of its rights and duties in regard to an easement in favor of the Town of Zionsville.

Section 1.19. Nonconforming Lots, Uses, Buildings or Structures

Within the zoning districts established by this Ordinance there exist:

- nonconforming lots of record;
 - nonconforming buildings or structures;
 - nonconforming uses of land; and
 - nonconforming uses within nonconforming buildings or structures
- A. which were legally established prior to the effective date of this Ordinance, but which would be prohibited, regulated or restricted under the provisions of this Ordinance.
- B. Legally Established Non-Conforming Lots, Buildings, or Structures

- C. It is the intent of this Ordinance to permit these legally established nonconforming lots, buildings, or structures to continue until the buildings or structures are structurally modified or removed, but not to encourage their survival. It is further the intent of this Ordinance that legally established nonconforming buildings and structures shall not: (i) be enlarged upon, expanded, or extended; or (ii) be used as grounds for adding other structures or uses which are otherwise prohibited in the same district. Upon structural modification, enlargement, expansion, or extension of a non-conforming building or structure such building or structure and all uses shall be made to be compliant with this Ordinance and all other relevant ordinances and standards.
- D. Legally Established Non-Conforming Uses
- E. It is the intent of this Ordinance to permit these legally established nonconforming uses to continue until the uses are modified, but not to encourage their survival. It is further the intent of this Ordinance that legally established nonconforming uses shall not be changed, revised, or expanded for uses which are otherwise prohibited in the same district. Upon any change of a non-conforming use, such use shall be made to be compliant with this Ordinance and all other relevant ordinances and standards.
- F. Non-Conforming Lots, Buildings, Structures, or Uses Not Legally Established
- G. Non-conforming lots of record, nonconforming buildings or structures, nonconforming uses of land, and nonconforming uses within nonconforming buildings or structures that are either illegal or not legally established on the effective date of this Ordinance shall not become legally established or validated by virtue of the enactment of this Ordinance.
- H. Incompatibility of Nonconforming Uses

Legally established nonconforming uses are declared by this Ordinance to be incompatible with permitted uses in the zoning district in which such legally established nonconforming uses are located. A legally established nonconforming use of a building or structure, or a legally established nonconforming use of land shall not be altered to another conforming use, extended, expanded, or enlarged, nor shall additional signs for such legally established nonconforming use be erected on the lot, after the effective date of this Ordinance.

- I. Avoidance of Undue Hardship

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans for or construction of any building or structure, or the designation of use of any building or structure, for which an Improvement Location Permit has been properly filed for or issued prior to the effective date of this Ordinance, provided that the construction of such building or structure is

commenced within six (6) months of such effective date and diligently prosecuted to completion, and provided further that such construction shall be completed and a certificate of occupancy issued within two (2) years of the issuance of said Improvement Location Permit.

J. Nonconforming Lots of Record

Any legally established lot recorded or any legally established platted lot recorded prior to the effective date of this Ordinance, having less than the required minimum lot area or minimum lot width required by the applicable zoning district regulations of this Ordinance, shall be deemed a permitted exception to such minimum lot area or minimum lot width and may be used for any use permitted within the applicable zoning districts in which such lot is located provided that:

1. All other development standards are met; and
2. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.

K. Nonconforming Buildings or Structures

Where a legally established nonconforming building or structure exists on the effective date of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on: gross floor area; lot coverage; building height limitations; front, side and rear setbacks and yards; location on the lot; bulk; or other provisions of this Ordinance applicable to the building or structure, such building or structure may continue to exist so long as it remains otherwise lawful, subject to compliance with the following provisions:

1. Such legally established nonconforming building or structure may not be enlarged, expanded, or altered in a way which increases its nonconformity;
2. Should such legally established nonconforming building or structure, or legally established nonconforming portion of a building or structure, be damaged or destroyed by any means to the extent of more than two-thirds (2/3) of the gross floor area of the building or structure immediately prior to the damage or destruction, said building or structure shall not be reconstructed except in conformity with the provisions of this Ordinances; and
3. Should such building or structure be moved for any reason for any distance whatsoever, such building or structure shall thereafter conform to the provisions of this Ordinance.

L. Nonconforming Uses of Land

Where legally established nonconforming uses of land exist on the effective date of this Ordinance which would not be permitted by the provisions of this Ordinance, such uses may be continued so long as they remain otherwise lawful, provided that:

1. Such legally established nonconforming uses shall not be enlarged, expanded, increased or extended to occupy a greater area of land than was occupied on the effective date of this Ordinance;
2. Such legally established nonconforming use shall not be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses on the effective date of this Ordinance; and
3. No additional building or structure shall be erected in connection with such legally established nonconforming use of land.

M. Discontinuation of Nonconformity

If any legally established nonconforming use of land is discontinued or abandoned for more than six (6) months (except when government action impedes access to the premises), any subsequent use of such land shall conform to the provisions of this Ordinance.

N. Legally Established Nonconforming Uses within Legally Established Nonconforming Buildings or Structures

If any legally established nonconforming use is located within a legally established nonconforming building or structure and such legally established nonconforming building or structure becomes unsafe or unlawful by reason of physical condition and is razed, the legally established nonconforming use previously being conducted in such legally established nonconforming building or structure shall be no longer permitted.

If any legally established nonconforming use is located within a legally established nonconforming building or structure and such legally established nonconforming building or structure is damaged or destroyed by any means to the extent of more than two-thirds (2/3) of the gross floor area of the building or structure immediately prior to the damage or destruction the legally established nonconforming use previously being conducted in such legally established nonconforming building or structure shall be extinguished and no longer permitted unless an application in compliance with the provisions of Article 9 is made for an Improvement Location

Permit within one-hundred and eighty (180) days of such damage or destruction and an Improvement Location Permit demonstrating compliance with the following regulations is issued pursuant to such application:

1. The proposed redevelopment shall, to the maximum extent practical, comply with the development standards, including but not limited to lot coverage, off-street parking, off-street loading, lighting, landscaping, minimum yards or bufferyards, use of minimum yards and bufferyards, building setbacks, maximum building height, main floor area, and outside storage and operations, applicable to the legally established nonconforming use in the district in which such use is first identified as a permitted use; and
2. The gross floor area and the maximum building height devoted to the legally established nonconforming use shall not be increased, except as such increase is required to comply with other applicable Federal, State or local regulations (i.e. minor enlargements to accommodate ADA Accessibility Guidelines or current Building Code).

O. Repairs and Maintenance

- P. On any legally established nonconforming building or structure, or portion of a building or structure, work may be done on the repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that there is no increase in the gross floor area or cubic feet content existing when the building or structure, or portion of a building or structure containing a legally established nonconforming use became nonconforming. Nothing herein shall be deemed to prevent the strengthening, repairing or restoring to safe condition of any building or structure, or part thereof, declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Q. Non-Conforming Rural Districts

At the time of the adoption of this Ordinance, some rural zoning districts may no longer be listed in this Ordinance. Unless otherwise noted, property zoned under these rural districts will continue to be zoned as such until such time as the property is rezoned to a conforming district. Non-conforming rural districts, their restrictions, and permitted uses include:

1. R5- High Density, Multi-Family Residential. Permitted uses include all uses currently permitted in the R4 and MF Districts by right, Special Exception, and with Development Plan approval as listed.

2. CR-Commercial Reserve. Uses in the underlying zoning districts of the CR District areas shall be in accordance with the current use table by right, Special Exception, and with Development Plan approval as listed.
3. SC-Shopping Center. Uses in the underlying zoning districts of the SC district areas shall be permitted in accordance with the current table by right, Special Exception, and with the Development Plan approval as listed.
4. IR-Industrial Reserve. Uses in the underlying zoning district of the IR District areas shall be permitted in accordance with the table by right, Special Exception, and with the Development Plan approval as listed. Industrial development currently permitted in the I1 District would be permitted in this District only by Special Exception and with a minimum tract of 20 acres.

Section 1.20. Additional Setback Provisions

A. Additional Front Setback Provisions

Front yard setback provisions of this Ordinance are subject to the following modification.

- i). In any block in any district contained in this Ordinance in which an existing front yard setback is established by existing, legally established buildings or structures on more than fifty percent (50%) of the total number of lots within the same block face fronting on the same public street, the minimum required front yard setback for any new building, structure, or addition along such block face shall be no less than the average of such established front yards if such dimension is less than the minimum front yard setback established by this Ordinance.

B. Side and Rear Yard Exceptions

The minimum side and rear yard setback requirements for a lot containing a single-family or two-family dwelling in a residential district shall be subject to the following exceptions:

- i). A legally established nonconforming, detached, accessory garage may be reconstructed on an existing foundation even though such reconstruction would not comply with required side or rear yards, provided such reconstruction does not interfere with a vision clearance area or encroach into any right-of-way.

- ii). A legally established nonconforming single-family or two-family dwelling may be enlarged or extended one time along a legally established nonconforming side yard provided such legally established nonconforming side yard width is not reduced, the lineal footage of such enlargement or extension does not exceed fifty percent (50%) of the lineal footage of the original dimension of the single-family or two-family dwelling along that side setback, and such enlargement or extension does not interfere with a vision clearance area or encroach into any right-of-way.

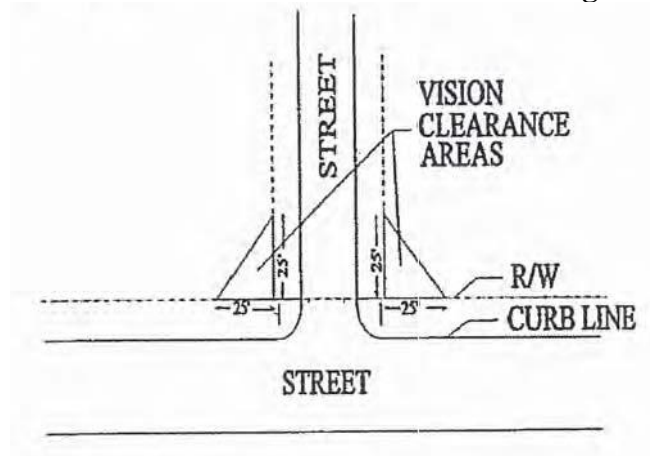
C. Setback Exception - Laterally-supported Extensions

Section 1.21. Laterally-supported extensions, such as canopies, eaves, cornices, bay windows, or roof overhangs may extend a maximum of twenty-four (24) inches into any required front, side, or rear yard; required front, side or rear bufferyard; or required front, side, or rear perimeter yard. Urban Section Vision Clearance Areas

No building, structure, or improvement, including landscaping, shall be erected, placed, planted or maintained so as to interfere with a vision clearance area located between the heights of two and one-half (2 ½) feet and nine (9) feet above the crown of a street, driveway or alley. A vision clearance area shall be established for all streets, whether public or private, in one of the following manners:

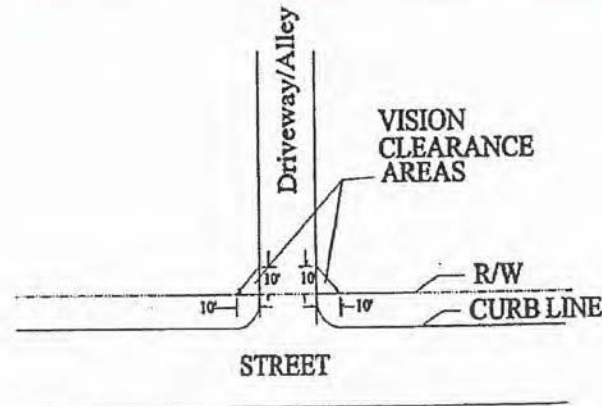
- A. At the intersection of streets, vision clearance areas are formed at each corner by the street right-of-way lines and a line connecting points on the right-of-way lines located twenty-five (25) feet away from the intersection of such street right-of-way lines. In the case of a round or corner-cut right-of-way, the measurement shall be taken from the intersection of the right-of-way lines extended.

Figure 1: Vision Clearance Area for Intersecting Streets



- B. At the intersection of a street with a driveway or alley, vision clearance areas shall be formed by the intersection of the street right-of-way line and the driveway surface edge or the right-of-way of the alley and a line connecting points ten (10) feet from the intersection of such street right-of-way line and the driveway surface edge or alley right-of-way.

Figure 2: Vision Clearance Area for Streets that Intersect with Driveways or Alleys



Section 1.22. General Regulations for all Urban Residential Districts

- A. Dismantling, Repairing, Restoring, or Performing any Work on any Motor Vehicle, Machine, Motor, or Similar Device in an Urban Residential District

Notwithstanding any provision in this Ordinance to the contrary, no person shall dismantle, repair, restore or otherwise perform any work on any motor vehicle, machine, motor, or similar device not owned or leased by that person or a member of that person's family, on any real estate zoned as an urban residential district. In addition, any work performed shall be:

1. Incidental to a permitted use; and
2. Completely within an accessory building or garage; or
3. Completely within an area wholly enclosed from the view of surrounding lots and rights-of-way by a solid structural barrier (either a wall or fence of ornamental stone, brick, wood or a combination thereof), with a maximum height above grade of not less than six (6) feet, nor greater than eight (8) feet.

- B. Storing, Maintaining, or Keeping a Motor Vehicle, Machine, Motor, or Similar Device in an urban residential district

Notwithstanding any provision in this Ordinance to the contrary, no motor vehicle, machine, motor, or similar device from which any part material to the operation of the vehicles has been removed, or which is inoperable for any reason, shall be stored,

maintained or kept on any property in an urban residential district unless such device is:

1. Owned or leased by the resident of the property on which it is stored or by a member of that person's family; and
2. Completely within an accessory building or garage.

C. Parking, Storing, Maintaining, or Keeping a Commercial Motor Vehicle or Trailer in an urban residential district

Commercial motor vehicles that are in the course of making normal and reasonable service calls are exempt from this provision. Notwithstanding any provision in this Ordinance to the contrary, no commercial motor vehicle or trailer shall be parked, stored, maintained or kept on any property in an urban residential district unless the vehicle:

1. Has a maximum load capacity of three-quarters (3/4) of a ton or less;
2. Serves as the sole vehicular transportation of a resident of the property upon which it is parked, stored, maintained, or kept; and
3. Such vehicle is stored within an accessory building or garage which complies with all the standards and regulations of this Ordinance.

D. Parking, Storing, Maintaining, or Keeping of any Recreational Vehicle in an urban residential district

Notwithstanding any provision in this Ordinance to the contrary, no recreational vehicle shall be parked, stored, maintained, or kept on any property in an urban residential district unless in compliance with the following:

1. Recreational vehicles may be parked or stored:
2. Inside an accessory building or garage; or
3. Outside in such a manner that no part of any such recreational vehicle shall project into any required side or rear yard or in the front yard of the lot other than on the hardsurfaced area of the driveway or interior access drive.

E. Not more than two (2) recreational vehicles shall be permitted to be parked or stored in the open on the same lot at any one time.

- F. Parked or stored recreational vehicles shall not be occupied or used for living, sleeping, or housekeeping purposes in any urban residential district.

Section 1.23. Requirements for Submittal of a Traffic Impact Study

A Traffic Impact Study shall be required to be filed with any Zone Map change, development plan approval, variance, or special exception petition when a proposed development meets or exceeds the warrants of the INDOT Applicant's Guide to Traffic Impact Studies (i.e. (i) 150 or more dwelling units; (ii) 15,000 or more square feet of retail space; (iii) 35,000 or more square feet of office space; (iv) 70,000 square feet or more 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), or as requested and justified in writing by the Building Commissioner.

The definition of a Traffic Impact Study, documentation required in its submission, and procedures for its review and analysis shall be per the Indiana Department of Transportation Applicant's Guide to Traffic Impact Studies, which is incorporated into this Ordinance by reference. Copies of the Applicant's Guide to Traffic Impact Studies are on file and available for public inspection in the office of the Clerk-Treasurer of the Town of Zionsville, Indiana.

