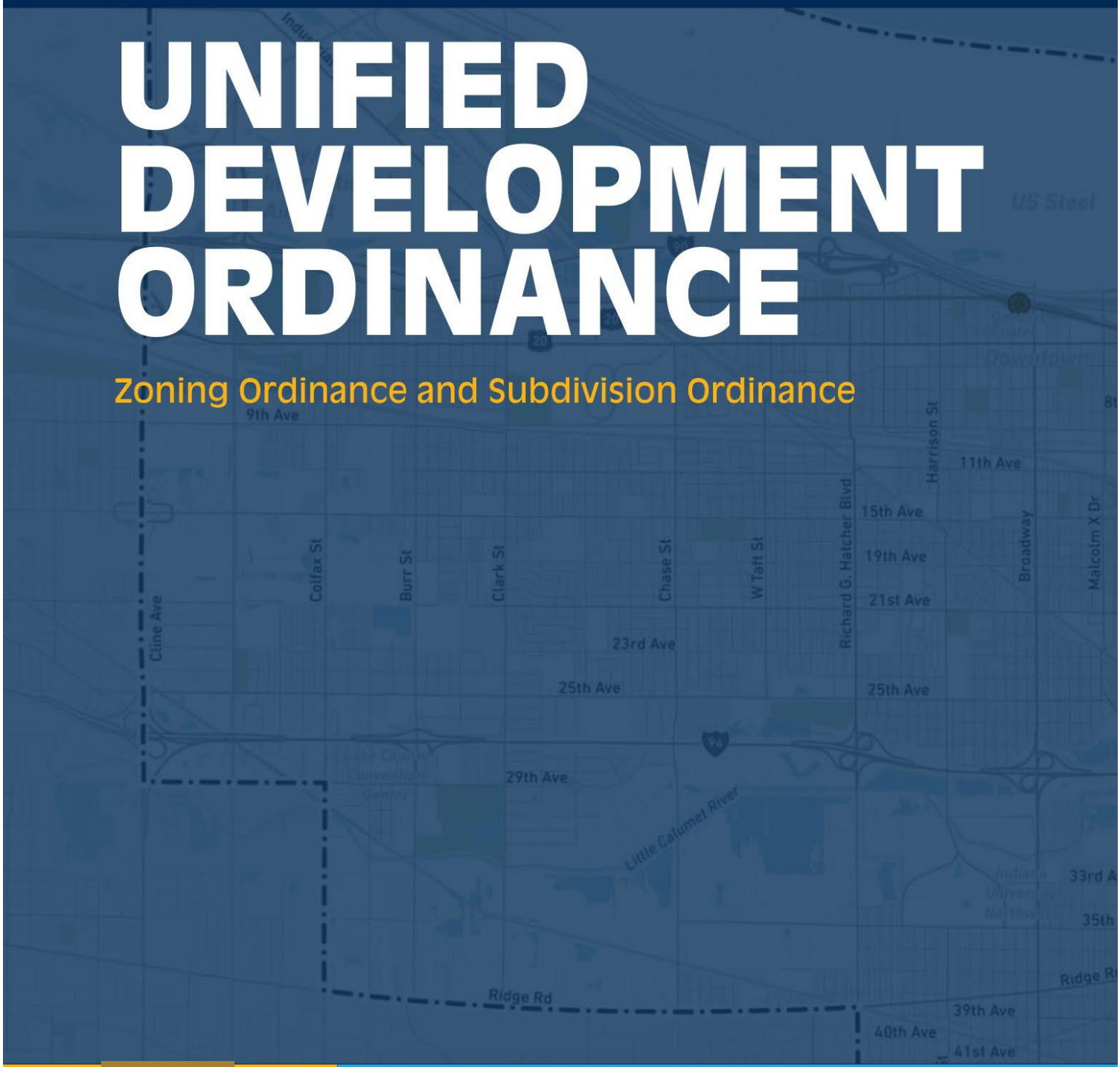
UNIFIED DEVELOPMENT ORDINANCE

Zoning Ordinance and Subdivision Ordinance



2026

City of Gary, IN Planning Commission

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REFERENCE:

University of Notre Dame Housing and Community Regenerative Initiative, (2025). *Downtown Gary Action and Vision Plan*. Gary, IN. "(Initiative, 2025)"

SECTION 1. GENERAL PROVISIONS

A. CONFLICT WITH OTHER REGULATIONS

Nothing in this Ordinance is intended to preempt other applicable state and federal laws or regulations. Nor are they intended to interfere with, abrogate, or annul any other ordinance, rule, or regulation, statute, or other provision of law. If any provision of these regulations imposes restrictions different from any other ordinance, rule, regulation, statute, or provision of law, the provisions that is more restrictive or that impose higher standards shall govern.

B. ADJACENT REGULATIONS

This Ordinance serves as an adjacent regulation to other City of Gary regulations. Other City of Gary regulations may serve as city ordinances and/or city technical standards. These may include nuisance ordinances, building codes, stormwater management technical standards, other health and safety regulations, or the like.

C. LEGAL NON-CONFORMING USE

Except as specifically provided herein, the size of the building or structure or use of land may not be increased. Any expansion of use permitted under this article applies only to land owned or occupied by the use at the time of adoption of this ordinance.

Normal maintenance and repair of a building or other structure containing a nonconforming use may be performed, provided there is no physical change to the building or structure and such maintenance or repair does not extend or intensify the nonconforming use, except as otherwise specifically approved in writing by the Plan Commission Director.

Any legal nonconforming use, regardless of classification, shall continue until, or unless, modified or terminated as herein provided. Such use may be vacated, sold, transferred, inherited, or otherwise alienated, provided the use remains the same or of a more restricted character within 6-months of the vacation/transaction. Such use may not be changed to any less restricted use.

If any part of a building, structure or land occupied by a nonconforming use is changed to or replaced by a use conforming to the provisions of this ordinance, those premises shall not thereafter be used or occupied by any nonconforming use, even though the building may have been originally designed and constructed for the prior nonconforming use.

No building shall be erected or expanded, and no use of land area expanded upon any premises devoted to a nonconforming use, except in conformance with all other provisions of this ordinance.

Nothing herein contained shall require any change in the plans, construction, or designated use of a building for which a building permit has been issued prior to the date of passage of this ordinance and on which construction will be begun within 30 days after the date of the permit and diligently prosecuted to completion (completed within 18 months from beginning construction).

In the event that a nonconforming use of any building or premises is discontinued for a period of six months, the use of the same shall thereafter conform to the uses permitted in the district in which it is

located, and provided further, that any nonconforming dwelling which is deficient in ground floor area, and which is removed from an area of a lot, shall not relocate on the lot or be replaced by any other dwelling which will increase nonconformity according to the requirements of the ordinance.

If no enclosed building is part of the nonconforming use, the discontinuance of a nonconforming use for a continuous period of six months shall constitute abandonment of the use.

Appropriate permits shall be obtained with respect to all changes which pertain to legal nonconforming use.

SECTION 2. DEFINITIONS

Unless otherwise expressly stated, or unless the context clearly indicates a different meaning, the words, and phrases in the following list of definitions shall, for the purposes of this development ordinance, have the meanings indicated. All words and phrases not defined shall have their common meaning.

Accessory dwelling unit means a secondary independent dwelling unit constructed on a lot with a primary dwelling unit. The secondary independent dwelling unit is constructed auxiliary to and smaller than the primary dwelling unit.

Accessory exterior improvement means any improvement except buildings or other roofed structures on a lot, which includes: surface parking and loading areas; paved and graveled areas; areas like swimming pool, outdoor kitchen, storage, or similar activities; and improved open areas such as plazas and walkways, but does not include vegetative landscaping, natural geologic forms, or unimproved land.

Accessory Structure (Floodplain). A structure with a floor area of 400 square feet or less that is on the same parcel of property as a principal structure and the use of which is incidental to the use of the primary structure; an accessory structure specifically excludes structures used for human habitation. Accessory structures are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof. Examples of accessory structures include but are not necessarily limited to two-car detached garages (or smaller), carports, storage and tool sheds, and small boathouses. The following may have uses that are incidental or accessory to the primary structure on a parcel but are generally not considered to be accessory structures by the NFIP. Structures in which any portion is used for human habitation, whether as a permanent residence or as temporary or seasonal living quarters, such as a detached garage or carriage house that includes an apartment or guest quarters, or a detached guest house on the same parcel as a primary residence. Structures used by the public, such as a place of employment or entertainment; and Development that does not meet the NFIP definition of a structure for floodplain management purposes. Examples include, but are not necessarily limited to, a gazebo, pavilion, picnic shelter, or carport that is open on all sides (roofed but not walled).

Accessory Structure- Commercial. A non-primary structure with a floor area of 900 square feet or less that is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure; an accessory structure specifically excludes structures used for human habitation. (1) Accessory structures are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof. (2) Examples of accessory structures include but are not necessarily limited security guard shacks, storage, and tool sheds. Storage/Shipping containers are not permitted accessory structures.

Accessory Structure- Residential. A non-primary structure with a floor area of 150 square feet or less that is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure; an accessory structure specifically excludes structures used for human habitation. Accessory structures are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof. Storage/Shipping containers are not permitted accessory structures.

Accessory Use. A use customarily incidental and subordinate to the primary use or building and located on the same lot therewith. A use which dominates the primary use or building in area, extent, or purpose shall not be considered an accessory use.

Addition. (To an existing structure) any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

Airport means the Gary/Chicago International Airport which is generally described as the area bounded by the Grand Calumet River to the south, Gary Road and US Hwy 12 to the west, and Airport Road to the north and east; legally owned and operated by Gary/Chicago International Airport Authority.

Airport - Above Ground Level (AGL) means the height measured with respect to the underlaying ground surface.

Airport - Above Mean Sea Level (MSL) means elevations above sea level based upon and determined by reference to the United States Coast and Geodetic Survey datum.

Airport - Determination Process. The process by which a development within the Airport Overlay District is reviewed by the Plan Commission Director in collaboration with the Gary/Chicago International Airport Director and evaluated for compatibility with the provision of Section 13– Airport Overlay District.

Airport - Federal Aviation Administration (FAA) Advisory Circular (AC) 150/5300-13 *Airport Design* is a document that outlines a wide range of design standards which airports that have taken federal funding must address as part of their airport development and operation.

Airport - Federal Aviation Administration is the federal agency charged with regulating civil aviation in the United States to provide a safe and efficient aerospace system.

Airport - Federal Aviation Regulations (FAR) Part 77 Objects Affecting Navigable Airspace (FAR Part 77 Surfaces), is a set of surfaces, as defined in Title 14 of the Code of Federal Regulations (CFR), that provide the requirements for providing notification to the FAA for proposed construction and the standards used to determine obstructions to air navigation, and navigational and communication facilities. This also provides the process for airspace studies to be conducted by the FAA, as well as methods to petition the FAA for review of their findings.

Airport - Federal Grant Assurance #20 – Hazard Removal and Mitigation requires that an airport owner will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

Airport - Federal Grant Assurance #21 – Compatible Land Use requires that an airport sponsor will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

Airport - Federal Grant Assurances. Obligations (assurances) that airport owners or sponsors agree to

when they accept funds from the Federal Aviation Administration, as a condition of taking the funds for airport related projects.

Airport - Flyer means any person engaged in the operation of an aircraft inflight including, but not limited to, a pilot, navigator, or flight engineer.

Airport - INDOT Noise Sensitive Area. Per Indiana Code 8-21-10, a noise sensitive area exists to 1,500 feet on either side of the runway centerline and the extended centerline of the runway for one nautical mile. The Indiana Department of Transportation uses a permitting process to control land uses in a noise sensitive area. Examples of noise-sensitive land uses include residential, educational, health, religious sites, parks, recreational areas, wildlife refuges, and cultural and historical sites where a quiet setting is a generally recognized attribute.

Airport - Wildlife attractants include any human-made structure, land-use practice, or human- made or natural geographic feature that can attract or sustain hazardous wildlife within the landing or departure airspace or the airport's aircraft operations area. These attractants can include architectural features, landscaping, waste disposal sites, wastewater treatment facilities, agricultural or aquaculture activities, surface mining, or wetlands.

Airport - Wildlife means any wild animal, including without limitation any wild mammal, bird, reptile, fish, amphibian, mollusk, crustacean, arthropod, coelenterate, or other invertebrate, including any part, project, egg, or offspring thereof. (50 CFR 10.12). Wildlife also includes feral animals and domestic animals out of the control of their owners.

Airport Director means the senior executive of the Gary/Chicago International Airport.

Airport future elevation means the elevation of the future highest point on the usable landing area which is 612 feet above mean sea level (MSL) as documented in the Airport Layout Plan of record.

Airport hazard means any structure, tree, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at the airport or is otherwise hazardous to such landing or taking off of aircraft within the limits of the zones outlined in the airport overlay district.

Airport height. For the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level (MSL) elevation unless otherwise specified.

Airport landing area means the area of the airport used for the descent, landing, taking off, or taxiing of aircraft.

Airport Layout Plan (ALP) means the set of drawings that illustrate the existing and future development of the Gary/Chicago International Airport.

Airport Overlay Areas (AOAs) includes any of the five areas, as defined in Section 13 of this ordinance, where height and land use limitations are applied for the preservation of safe activities for the Gay/Chicago International Airport and persons living or working in proximity to the airport.

Airport Overlay District (AOD) means the entirety of the area, as defined in Section 13 of this ordinance, which includes the five airport overlay areas.

Airport reference point means the point established as the approximate geographic center of the airport landing area and is established at the Gary/Chicago International Airport as follows: The ARP is located at the intersection of two perpendicular lines, one of which is located 337 feet perpendicular from the centerline of the NE-SE runway, and the other located 133 feet perpendicular from the centerline of the

NW-SE runway. Said point being located at latitude 41º37'02.10”N and longitude 87º24'52.30"W.

Aisle. A driveway that provides access for vehicles entering and departing parking spaces.

Alley means a public right-of-way not more than 30 feet wide which affords only a secondary means of access to abutting property.

Alteration of a watercourse. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other modification which may alter, impede, retard, or change the direction and/or velocity of the flow of water during conditions of the base flood. (a) an approved state program as determined by the Secretary of Interior, or (b) directly by the Secretary of Interior in states without approved programs.

Antenna. A structure or device that is used for the purpose of receiving and or transmitting signals, images, sounds, or information of any nature by radio, visual, or electromagnetic waves, including but not limited to directional or omni- directional antennas, panels, and microwave or satellite dishes.

Appeal (Floodplain). A request for a review of the floodplain administrator’s interpretation of any provision of this ordinance, a request for a variance, or a challenge of a board decision.

Appeal. A request for a review of the Plan Commission Director’s interpretation of any provision of this ordinance, a request for a variance, or a challenge of a board decision.

Area of shallow flooding. A designated Floodplain Zone on the community’s Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard. The land within a community subject to a one (1) percent or greater chance of being flooded in any given year.

Attached home means a dwelling unit located on its own lot which shares one or more common abutting walls between independent dwelling units. The common or abutting wall must be shared by at least 50 percent of the length. An attached house does not share common floor/ceiling with other dwelling units. An attached home is similar to townhouses or row houses.

Automobile car wash means a place where washing of automobiles is by hand or automatic.

Automobile fueling station. An establishment where the principal use is the sale of gasoline or any other automobile engine fuel (stored only in underground tanks), kerosene, motor oil, lubricants, grease, or minor accessories, directly to the public on the premises. In addition, household and convenience items, food or other miscellaneous retail goods commonly associated with the same also may be sold.

Automobile repair, major. An establishment engaged in performing major repairs to, and the servicing of, passenger automobiles, where gasoline or other automobile engine fuel (stored only in underground tanks), kerosene, motor oil, lubricants, grease, or minor accessories may be sold. Major repairs may include engine rebuilding, rebuilding, or re-conditioning of passenger automobiles, body, frame, or fender straightening and repair, painting, rustproofing, engine overhaul or replacement, and transmission

overhaul. Such work excludes commercial wrecking, dismantling, junkyard, tire recapping and truck-tractor repair. In addition, household and convenience items, food or other miscellaneous retail goods commonly associated with the same also may be sold.

Automobile repair, minor. An establishment engaged in performing minor repairs to, and the servicing of, passenger automobiles, where gasoline or other automobile engine fuel (stored only in underground tanks), kerosene, motor oil, lubricants, grease, or minor accessories may be sold. Minor repair may include muffler replacement, oil changing and lubrication, tire repair and replacement except tire recapping, wheel alignment, brake repair, engine tune-up, flushing of radiators, servicing of air conditioners, and other activities of minor repair or servicing of automobiles. In addition, household and convenience items, food or other miscellaneous retail goods commonly associated with the same also may be sold.

Automobile wrecking yard means any land, building, or structure used for the open storage, keeping, or abandonment of any worn out, cast off, inoperative, discarded, or abandoned vehicle, automobile, or parts thereof, which is not being restored to operation; or vehicles or automobiles without a valid current state registration and license plate issued to the vehicle or automobile or to the occupant, owner, purchaser, lessor, lessee, or tenant of the place; or used for wrecking of motor vehicles or parts thereof, including the commercial or salvaging of any other goods or articles.

Awning Canopy. A structure often constructed of fabric, plastic, vinyl, metal, or glass, with supports attached to the ground, sheltering an area, or forming a sheltered walk to the entrance of a building.

Awning. A roof-like cover, often constructed of fabric, plastic, vinyl, metal, or glass, designed, and intended for protection from the elements or as a decorative embellishment, and which projects from a wall of a structure.

Bar. A building wherein intoxicating liquor is sold to be consumed on the premises, not including restaurants where the principal business is serving food.

Base Flood Elevation (BFE). The water surface elevation of the base flood in relation to a specified datum, usually the North American Vertical Datum of 1988.

Base flood. The flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% annual chance flood or one hundred (100) year flood.

Basement. That portion of a structure having its floor sub-grade (below ground level) on all sides. Also, that portion of a building located partially, up to fifty (50) percent, underground or belowgrade.

Bed and breakfast. An owner-occupied single-family dwelling in which a room or group of rooms forming a single habitable unit and one (1) meal are provided for a fee to the traveling public for the purpose of living and sleeping, but not for cooking.

Best Available Flood Layer (BAFL). Floodplain studies and any corresponding floodplain maps prepared and/or approved by the Indiana Department of Natural Resources which provide base flood elevation information floodplain limits, and/or floodway delineations for flood hazards identified by approximate studies on the currently effective FIRM (Zone A) and/or for waterways where the flood hazard is not identified on available floodplain mapping.

Board of Zoning Appeals (BZA). Refer to IC 36-7-1-4 "unless preceded by a qualifying adjective, refers to a board of zoning appeals under either the advisory planning law, the area planning law, or the metropolitan development law."

Breakaway wall. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the structure.

Buffer area. An area including plant materials, fencing, landforms, or a combination thereof, between two or more land uses, buildings, lots or parcels of land, or adjacent rights-of-way, which is intended to eliminate or minimize negative impacts between the adjoining land uses lots or parcels and/or rights-of-way.

Buildable area. The area of a lot remaining after the minimum yard or setback requirements of this ordinance have been provided.

Building Integrated Photovoltaic System. A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other façade material, semitransparent skylight systems, roofing materials, and shading over windows.

Building line. A line parallel to the front lot line at a distance equal to the minimum depth of the front setback required for the zoning district in which the zoning lot is located.

Building means any structure designed, built, or intended for the shelter, enclosure, or protection of persons, animals, chattels, or movable property of any kind, and which is permanently affixed to the land. This includes all other structures of every kind, regardless of similarity to buildings.

1) **Building, completely** enclosed, means a building separated on all sides from the adjacent open space or from other buildings or other structures by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.
2) **Building coverage,** on a zoning lot, means the proportion of the total area of the zoning lot occupied by the ground area of all buildings located thereon, with the exception of garage buildings enclosing accessory off-street parking facilities and not exceeding a building height of ten feet; garage buildings may be ignored for purposes of determining building coverage.
3) **Building, detached,** means a building surrounded by open space on the same zoning lot.
4) **Building height** means the vertical distance from the curb level, or its equivalent, opposite the center of the front of a building to the highest point of the underside of the ceiling beams in the case of a flat roof; to the top level of a mansard roof; and to the mean level of the underside of the rafters between the eaves and the ridge of a gable, hip, or gambrel roof. Where no curb level has been established, the height of the building may be measured from the mean elevation of the finished lot grade at the front of the building.
5) **Building, principal** means a non-accessory building in which a principal use of the lot on which it is located is conducted.
6) **Building, residential** means a building which is arranged, designed, used for residential occupancy by one more families or lodgers and which includes, but is not limited to, the following types:
   a) One-family detached dwellings.

b) Two-family dwellings.
c) Multiple-family dwellings.
d) A row of one- or two-family attached dwellings developed initially under single ownership or control.

7) **Building story**. That portion of a building included beneath the upper surface of a floor and upper surface of the floor next above, or fourteen (14) feet, whichever is less, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar, or unused underfloor space is more than six (6) feet above grade, more than fifty percent (50) percent of the total perimeter or is more than twelve (12) feet above grade at any point, such basement, cellar, or unused under floor space shall be considered a story.

Bulk regulations. Standards and controls that establish the maximum size of structures and the buildable area within which the structure can be located, include height, gross floor area, lot area, lot coverage, impervious surface coverage and yard requirements, but excluding residential density regulations.

Bus terminal, depot, or station means any place, building, or portion thereof where inter-city buses make their major or only stop, whether the stop is off-street or on the public way adjacent thereto, for the purpose of loading or unloading passengers, baggage, or freight, and also where minor repairs to buses may be provided. The bus terminal, bus depot, or bus station may serve as a stop for intra-city buses for the purpose of loading or unloading passengers and baggage but shall not be deemed to include the corner-to-corner passenger pick-up and discharge service normally provided by intra-city buses.

Business. Any occupation, employment, or enterprise wherein merchandise is exhibited, rented, or sold, or which occupies time, attention, labor and/or materials or where services or goods are offered for compensation.

Campsite. A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Carriage House. A detached garage with a living space above, also an Accessory Dwelling.

Cellular or wireless communications antenna means any structure or device used to receive or transmit electromagnetic waves between cellular phones, pages, commercial mobile services, wireless services and ground-wired communications systems including both directional antennas, such as panels, microwave dishes, and satellite dishes, and all-direction antennas such as whips and other equipment used to serve personal communication services.

Cellular or wireless communications site means a tract, lot or parcel of land that contains the cellular or wireless communications tower, antenna, support structure, parking, and any other uses associated with and ancillary to cellular or wireless communications transmission.

Cellular or wireless communications support structure means any building or structure accessory to but necessary for the proper functioning of the cellular or wireless communications antenna or tower.

Certificate of occupancy. A document issued by the Building Commissioner allowing for the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all the applicable codes and ordinances.

City Engineer. The City of Gary Engineer or other representative authorized by the City.

City. City of Gary, Indiana

Clinic. An establishment where patients are admitted for medical and dental exams and treatment on an outpatient basis only.

Club or lodge, private, means a nonprofit association of persons who are bona fide members, electing a board of directors and paying annual dues, which owns, hires, or leases a building or portion thereof, the use of the premises being restricted to members and their guests. It shall be permissible to serve food and meals on the premises provided adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed in conjunction with the operation of a dining room for the purpose of serving food and meals, though these beverages may be served in a separate room or rooms, provided the sale of alcoholic beverages follows the applicable federal, state, and municipal laws.

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

Co-location. A few different telecommunications providers or different use antennas by the same provider or several providers locate their transmitting facilities on a single tower to allow the use of a number of different kinds of public and private telecommunications services including police, fire, emergency management, storm warning etc.

Commercial use. The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

Common green means a courtyard that provides pedestrian and bicycle access, but not vehicle access, to abutting property and generally provides a common area for use by residents. A common green may function as a community yard. Hard and soft landscape features may be included in a common green, such as groundcover, trees, shrubs, surfaced paths, patios, benches or gazebos.

Community center. An establishment operated by a non-profit organization or government agency, which includes recreational facilities, meeting rooms, social service facilities, and public health facilities, or any combination thereof.

Community water system. A public water system that pipes water for human consumption to at least 15 service connections used by year-round residents, or one that regularly serves at least 25 year-round residents (e.g., municipalities, subdivisions, mobile home parks).

Concentrated Solar Thermal Power (CST) (aka Concentrated Solar Power (CSP): Solar Energy Systems that use lenses or mirrors, and often tracking systems, to focus or reflect a large area of sunlight into a small area. The concentrated energy is absorbed by a transfer fluid or gas and used as a heat source for either a conventional power plant, such as a steam power plant, or a power conversion unit, such as a sterling engine.

Although several concentrating solar thermal technologies exist, the most developed types are the solar trough, parabolic dish, and solar power tower.

Concrete, asphalt, and rock crushing facility. A use in which the principal activity is performed in an open area where concrete, asphalt, rock, brick, cement, or other similar paving or building materials are crushed, ground, pulverized, bought, sold, exchanged, stored, mixed, packed, disassembled, or handled. Such facility does not include the use, on a public roadway construction or repair project approved by the City Engineer, of equipment which directly moves along the roadway surface and grinds, reconstitutes, or resurfaces the roadway, or the temporary on-site crushing, grinding, or pulverizing of a razed building, parking area, or structural materials.

Condominium. A form of individual ownership within a multi-family or commercial building which entails joint responsibility for maintenance and repairs, and in which each unit is owned outright by its occupant.

Contractor yard. An establishment providing general contracting or building construction service, and which involves outdoor storage of machinery or equipment.

Convalescent home. A facility for aged, chronically ill, or incurable persons licensed by the Indiana Department of Health providing nursing care and related medical services.

Critical Facility (Floodplain). A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.

Curb level. The level of the established curb in front of a building or structure measured at the center of such frontage. Where no curb elevation has been established, the City Engineer shall establish such curb elevation.

Daycare center means, a facility operated for the purpose of providing care, protection and guidance to individuals during part of a 24-hour day. This term includes nursery schools, preschools, daycare centers for individuals, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full 24- hour period.

1) **Home Daycare:** a state-licensed daycare facility providing care for not more than 10 people at one time. The licensed capacity must include all persons present in the residence. A dwelling in which a permanent occupant of the dwelling provides for the care of children or adults. Permitted in Residential districts only.
2) **Commercial Daycare:** A commercial establishment providing, for a fee, the care, protection, and supervision of children, elderly, or persons-of-need on a regular basis, including but not limited to; nursery schools, day nurseries, child care centers, play groups, daycare centers for school age children or elderly, after school programs, infant daycare centers, cooperative daycare centers, and Head Start programs. Permitted in Business districts only.

Deck. An unroofed structure, pervious in nature, which is attached to or abuts the wall of a dwelling, and which is afforded access to the interior of the dwelling through one or more doors.

Development (Floodplain) means, Any man-made change to improved or unimproved real estate including but not limited to: (1) construction, reconstruction, or placement of a structure or any addition to a structure; (2) installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days; (3) installing utilities, erection of walls and fences, construction of roads, or similar projects; (4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.; (5) mining, dredging, filling, grading, excavation, or drilling operations; (6) construction and/or reconstruction of boat lifts, docks, piers and seawalls; (7) construction and/or reconstruction of, bridges or culverts; (8) storage of materials; or (9) any other activity that might change the direction, height, or velocity of flood or surface waters. "Development" does not include activities such as the maintenance of existing structures and facilities such as painting; re- roofing; resurfacing roads; or, gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

Development. The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; and any use or extension of the use of land.

Disturbed Area. An area that includes grading, soil disposal and stockpiling, installation of infrastructure (i.e., roads, driveways, septic systems, utilities) and building sites.

Drive-through facility. A facility which accommodates automobiles and from which the occupants of the automobiles may make purchases or transact business, including the stacking spaces in which automobiles wait. Examples include, but are not limited to, drive-up windows, menu boards, order boards or boxes, drive- in restaurants, and drive-up banks. Drive-through facilities shall not include the direct refueling or motor vehicles.

Driveway. The area used for vehicular access to a parking area from a street or alley. Driveway shall also include the area used for vehicular access to areas of the zoning lot other than a parking area.

Dry hydrant. A structure that does both of the following: (1) Extends lakeward of the legally established or average normal waterline or shoreline. (2) Provides a means of suction water supply without direct drafting for fire protection.

Dust-free. A minimum treatment of the native soil with a covering of asphalt, concrete, wood, masonry, granite, gravel, oil penetration or soil-cement.

Dwelling. A building, or portion thereof, designed exclusively for residential occupancy, but not including hotels, motels, and similar short-term lodging establishments.

Dwelling unit. One (1) or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with a single complete kitchen facility, sleeping room, and bathroom provided within the unit for the exclusive use of a single household.

Dwelling, Duplex. A building on a single lot that contains two dwelling units.

Dwelling, multiple-family. A building containing three (3) or more dwelling units, all of which are located on a single lot.

Dwelling, single-family attached. A building containing one dwelling unit attached to another building containing only one (1) dwelling unit, each of which is located on a separate lot.

Dwelling, single-family detached. A residential building containing not more than one (1) dwelling unit and entirely surrounded by open space and yards located on the same lot.

Easement. The grant of one (1) or more of the property rights by the property owner to and for use by the public, a corporation, or another individual or entity.

Electrical Equipment: Any device associated with a solar energy system, such as an outdoor electrical unit/control box, which transfers the energy from the solar energy system to the intended on-site structure.

Electricity Generation (aka production, output): The amount of electric energy produced by transforming other forms of energy, commonly expressed in kilowatt-hours (kWh) or megawatt- hours (MWh).

Elevation Certificate. A FEMA form that is routinely reviewed and approved by the White House Office of Management and Budget under the Paperwork Reduction Act, that is encouraged to be used to collect certified elevation information.

Enclosed area (enclosure) An area of a structure enclosed by walls on all sides.

Enclosure below the lowest floor. See "Lowest Floor" and "Enclosed Area."

Entertainment, general. Entertainment that does not meet one or more of the definition requirements of limited entertainment.

Entertainment, limited. Entertainment limited to literary readings, story-telling, or live music by not more than three (3) people, not exceeding 110 dBA.

Equal degree of encroachment. A method of determining the location of flood way boundaries so that flood plain lands on both sides of a stream can convey a proportionate share of flood flows.

Essential services. The erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply, or disposal systems by public utilities, municipal or other governmental agencies, but not including buildings.

Extractive use. The use of land for surface or subsurface removal of sand, gravel, rock, Manufacturing minerals, and other nonmetallic minerals, and peat, not regulated under Indiana Statutes.

Façade. Any side of a structure that faces a street or open space (such as a park).

FEMA. Federal Emergency Management Agency.

Fence. An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

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

Flood Fringe. The portion of the floodplain lying outside the floodway.

Flood hazard area. Areas subject to the one percent annual chance flood. (See "Special Flood Hazard Area")

Flood Insurance Rate Map (FIRM). An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS). The official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM and the water surface elevation of the base flood.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters. (2) The unusual and rapid accumulation or runoff of surface waters from any source. (3) Mudslides (i.e., mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. Flood or flooding also includes the collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or current of water exceeding anticipated cyclical levels that result in a flood as defined above.

Flood prone area. Any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Floodplain")

Flood Protection Grade (FPG). The BFE plus two (2) feet at any given location in the SFHA. For sites within a SFHA designated as "Zone AO," the BFE is equivalent to the flood depth specified on the Flood Insurance Rate Map, measured from the highest adjacent grade. If no flood depth is specified, two feet is used as the minimum depth. (See "Freeboard")

Flood, Freeboard. A factor of safety, usually expressed in feet above the BFE, is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

Flood, Regional. A flood which is representative of large floods known to have occurred generally in Indiana and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

Flood, Regulatory. A flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The "Regulatory Flood" is also known by the term "Base Flood," "One-Percent Annual Chance Flood," and "100-Year Flood".

Floodplain management regulations. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power which control development in flood-prone

areas. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of prevention of flood damage and reduction.

Floodplain management. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain or **flood prone area.** Any area susceptible to being inundated by water from any source. (See "Flood")

Floodplain, fill for floodplain management purposes, means any material deposited or placed which has the effect of raising the level of the ground surface above the natural grade elevation. Fill material includes but is not limited to consolidated material such as concrete and brick and unconsolidated material such as soil, sand, gravel, and stone.

Floodplain, Hardship. The exceptional hardship that would result from a failure to grant the requested variance. The variance must be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Floodplain, Letter of Final Determination (LFD). A letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates a six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

Floodplain, Letter of Map Change (LOMC). A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They are broken down into the following categories:

1) **Conditional Letter of Map Revision (CLOMR).** FEMA's comment on a proposed project that would, upon construction, result in modification of the SFHA through the placement of fill outside the existing regulatory floodway.
2) **Conditional Letter of Map Revision Based on Fill (CLOMR-F).** A letter from FEMA stating that a proposed structure that will be elevated by fill would not be inundated by the base flood.
3) **Letter of Map Amendment (LOMA).** An amendment by letter to the currently effective FEMA map that establishes that a building or of land is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.
4) **Letter of Map Amendment Out as Shown (LOMA-OAS).** An official determination by FEMA that states the property or building is correctly shown outside the SFHA as shown on an effective NFIP map. Therefore, the mandatory flood insurance

requirement does not apply. An out-as-shown determination does not require elevations.

5) **Letter of Map Revision (LOMR).** An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
6) **Letter of Map Revision Based on Fill (LOMR-F)** FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.

Floodplain, Lowest floor. The lowest elevation is described among the following: The lowest floor of a building, basement floor, garage floor if the garage is connected to the building, or first floor of a structure elevated on pilings or pillars. The floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of floodwater. Designs for meeting the flood opening requirement must either be certified by a registered professional engineer or architect or meet or exceed the following criteria: a. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters. b. At least two (2) openings are designed and maintained for the entry and exit of floodwater; and these openings provide a total net area of at least one (1) square inch for every one (1) square foot of enclosed area. The bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher. Doorways and windows do not qualify as openings. The first floor of a building elevated on pilings or columns in a coastal high hazard area (as that term is defined in 44 CFR 59.1), as long as it meets the requirements of 44 CFR 60.3.

Floodplain, Obstruction. includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

Floodplain, One-percent annual chance flood. Is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. See "Regulatory Flood." Also called a 100-year flood.

Floodplain, Regulatory flood protection elevation. An elevation no lower than one (1) foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

Floodplain, Special Flood Hazard Area (SFHA). Synonymous with "areas of special flood hazard" and floodplain, means those lands within the jurisdiction of the City subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, as Zones A, AE, A99, or VE. The SFHA includes areas that are flood prone and designated from other federal, state, or local sources of data including but not limited to best available flood layer maps provided by or approved by the Indiana Department of Natural Resources, historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

Floodplain, Regulatory flood. A flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Section 09 (6). The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

Floodplain, Repetitive loss. Flood-related damages sustained by a structure on two separate occasions during a 10- year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

Floodproofing (dry floodproofing). A method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

Floodproofing certificate. A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG.

Flood-related erosion. The collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high-water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event which results in flooding.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulative increasing the water surface elevation more than a designated height.

Floor area ratio (FAR) means the ground floor area of the building or buildings on the lot divided by the area of the lot.

Frequency means the number of oscillations per second in a sound wave and is an index of the pitch of the resulting sound.

Frontage. The distance for which a lot line coincides with the right-of-way line of a public street or the boundary of a private street. A corner lot has 2 frontages.

Functionally water-dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Garage sale. Garage sale shall include rummage sales, basement sales, yard sales, porch sales, and all other periodic sales at a residential location intended for the limited purpose of isolated or occasional sales a for the selling of used goods or home-crafted items by the residents thereof for a duration not to exceed 32 hours over 4 consecutive days.

Garage. A detached accessory building or a portion of the principal building used for the parking and storage of vehicles, merchandise, or equipment, and which is not a separate commercial establishment open to the general public. When associated with a residential use, it shall be limited to use for parking and storage of vehicles, noncommercial trailers, and household equipment.

Grade. The lowest point of elevation of the finished surface of the ground, paving, or sidewalk with the area between the building and the property line, or between the building and a stabilization structure such as a retaining wall, or, where the property line or structure is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

Gross floor area. The sum of the gross horizontal area of the several floors of a building measured from the outside faces of walls or from the centerline of party walls separating two (2) buildings, but not including any interior parking spaces, loading spaces, any space where the floor to ceiling height is less than six (6) feet, any space devoted to mechanical equipment, terraces, breezeways, or screened porches, or basement or other subterranean area not intended for human habitation or service to the public.

Group care facility means a short-term residence (less than 60 days) for a maximum of ten individuals and for staff persons in a building originally constructed as a one- or two-family dwelling. The residence may provide emergency shelter care as certified by the state department of child services (DCS) as a group home under Rule 465 IAC 13.

Group home care means a long-term residence (over 60 days) for a maximum of ten youths and for staff persons in a building originally constructed as a one- or two-family dwelling. The residence may provide residential care alone, or in conjunction with training or treatment and must be certified by the state department of child services (DCS) as a group home under Rule 465 IAC 12.

Group home private secure care institution means a long-term residence (over 60 days) that may exceed ten youths but no more than 15 youths and for staff persons in a structure meeting the I-3 building code. The facility shall provide care in conjunction with training or treatment for youths gravely disabled with behaviors capable of being harmful to themselves or others which may require a locked facility. Such a facility must be certified by the state department of child services (DCS) as a group home under Rule 465 IAC 12. This facility is not permitted in a residential setting.

Group living structure means a residential dwelling that receives 50 percent or more of its short- or long-term residents under a contract or other agreement with a state or local government human services agency to provide basic living arrangements and possibly treatment specific to its residents, including facilities that are further defined herein below. The facility is a 24-hour service provider for children, elderly, or at-risk persons.

1) Residential facility/group care facility;
2) Residential home/group care home;
3) Residential home/group home private secure care institution.

Guest room. A room occupied by one (1) or more guests for compensation and in which no provision is made for cooking, but not including rooms in a dormitory for sleeping purposes primarily.

Hazardous substance means any substance, material or waste listed below:

1) Nuclear or radioactive materials or waste;
2) Chemicals subject to reporting under Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986, published July 1987, U.S. Environmental Protection Agency; and
3) Hazardous Materials Table, in 49 CFR 172.101.

Health center, government-operated, means a government supported and operated institution where physicians and other medical professionals provide outpatient health service to the public, and where additional facilities and services, including but not limited to laboratories, diagnostic testing, analytical and clinical research, and administrative offices may be located, the additional facilities and services being operated as an integral part of the institution and related directly to the outpatient health services provided.

Hearing officer means a designee of the mayor.

Height of building. The vertical distance from the natural grade measured either at the curb level or at a point ten (10) feet away from the front center of the structure or building, whichever is closer to the top of the highest point of the roof.

Height, wall. Wall height shall be the vertical distance from the floor to the top plate of the adjacent wall.

Highest adjacent grade. The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic site. Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listings after review by the Indiana state archaeologist or the director of the Indiana Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

Historic structure. Any structure that is: (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by

Home occupation. An occupation or profession carried on by a member of the household residing on the premises, conducted as a customary, incidental, and accessory use of a dwelling and does not change the residential character of the structure or area. For the purposes of this ordinance, a home day care facility shall not be considered a home occupation.

Hospital means an institution where physicians and other medical professionals provide health services primarily for inpatient nursing, and medical or surgical care and treatment of persons suffering from injuries or from physical or mental ailments, and where additional facilities and services, including but not limited to laboratories, diagnostic testing, analytical and clinical research, outpatient departments, training facilities, and administrative and staff offices and living quarters may be located, these additional facilities and services being operated as an integral part of the institution and related directly to the health services provided. The term "hospital" shall include sanitariums and institutions for the care of mental health, except in determining the applicable off-street parking and loading requirements specified in this chapter.

Hotel. An establishment offering transient lodging accommodations to the general public, and which may provide additional services such as restaurants, meeting rooms, entertainment, and recreational facilities, excluding short-term rentals as defined by Indiana law

Hydrologic and hydraulic engineering analysis. Analyses performed by a professional engineer licensed by the State of Indiana, in accordance with standard engineering practices that are accepted by the Indiana Department of Natural Resources and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

Impervious surface. Any material that substantially reduces or prevents the natural absorption of stormwater into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow. Impervious surfaces include, but are not limited to, buildings or other structures with roofs, sidewalks, and all stone, brick, concrete, or asphalt surfaces.

Junkyard. See Salvage yard.

Kennel means any lot or premises or portion thereof on which more than four dogs, cats, and other household domestic animals over four months of age are kept, or on which more than two such animals are boarded for compensation or kept for sale.

Legal Nonconforming Lot of Record. Any legally established and recorded lot prior to the date specified in the Ordinance, or its subsequent amendments, that no longer meet the lot-specific development standards.

Legal Nonconforming Sign. Any sign lawfully existing on the effective date of the Zoning Ordinance that does not conform to all the standards and regulations of the Zoning Ordinance.

Legal Nonconforming Use. Any continuous, lawful use of structures, land, or structures and land in combination established prior to the effective date of the Ordinance that is no longer a permitted use in the district where it is located.

Lifestyle center means a shopping center designed as a mixed-use retail and commercial service development that combines the traditional retail and commercial functions of a shopping mall but with leisure and pedestrian amenities generally oriented towards consumers with a higher than average percentage of disposable income, sometimes labeled "boutique malls."

Loading space. A space or berth used for the temporary parking of a vehicle while loading or unloading cargo, products, or materials from such vehicle.

Lot area. The area bounded by the front, side, and rear lot lines, but not including any area occupied by the waters of a duly recorded lake, river, street or alley right-of-way, or any other public space.

Lot coverage. That portion of a lot that is covered by the ground floor of any structure, parking lots, and private streets and drives. Also, pools, tennis courts, sidewalks and plazas are counted toward lot coverage.

Lot depth. The average distance between the front lot line and rear lot line of a lot.

Lot line, front. A boundary of a lot which runs along an existing or dedicated public street, but not an alley.

Lot line, rear. The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot, a line ten (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

Lot line, side. Any boundary of a lot that is not a front lot line or rear lot line.

Lot line. A line of record bounding a lot that divides one lot from another lot or from a public or private street, alley, or any other public space.

Lot of record. Any validly recorded lot which, at the time of recording, complied with all applicable laws, ordinances, and regulations.

Lot width. The distance between the side lot lines of a lot measured along a straight line parallel to the front lot line immediately in back of the required front setback.

Lot, corner. A lot with frontage on two (2) or more streets at their intersection.

Lot, through. A lot which fronts upon two (2) parallel or that fronts upon two (2) streets that do not intersect at the boundaries of the lot.

Lot. A parcel of land occupied, or to be occupied, by one (1) main building or unit group of buildings, and the accessory buildings or uses customarily incident thereto, including such open spaces as are required under these regulations, and having its principal frontage upon a public street.

Lowest adjacent grade. The lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.

Maintenance. The process of keeping a structure or sign in good repair. Maintenance includes cleaning, painting, and repair or replacement of damaged or defective parts with like materials in a manner that does not alter the basic design or structure of the sign.

Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or “mobile” home.

Manufacturing use. The use of land or buildings for production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

Marquee or canopy means a rooflike structure of a permanent nature which projects from the wall of a building and overhangs the public way, and is designed and intended to protect pedestrians from adverse weather conditions.

Mechanical equipment. Air conditioning, heating, ventilation, or other equipment that are reasonably necessary to the operation of a building or use within a building.

Medical or dental clinic/office means a facility operated by two or more physicians and other employees, and providing health services for the outpatient treatment of persons suffering from injuries or from physical or mental ailments. The term "medical or dental clinic" shall include the term group medical center, massage therapy, physical therapy, and the like.

Mitigation. Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

Mixed-use development means the combination of more than one type of land use in a single building or a single development of more than one building and land use, meaning some combination of residential, commercial, industrial, office, institutional, or other land uses are in close proximity planned as a unified complementary whole and functionally integrated to the use of shared vehicular and pedestrian access including shared-parking areas.

Modular home. A structure, transportable in one or more sections, which is built on a permanent foundation and connected to permanent utilities, per Indiana Code. The term "modular home" does not include the term "recreational vehicle".

Motor freight terminal (“Trucking”) means a building in which freight brought by motor truck is assembled and sorted for routing in intrastate and interstate shipment.

Nonconforming building or structure means any building or structure which does not comply with all of the regulations of this chapter or any amendment governing bulk for the zoning district in which the building or structure is located; or is designed or intended for a nonconforming use.

Nonconforming use means any use of land, buildings, or structures which does not comply with all the regulations of this chapter or any amendment governing use for the zoning district in which the use is located.

Noxious matter means material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.

Nuisance Glare: A continuous source of excessive brightness. It could be experienced by a stationary observer located in the path of reflected sunlight from the face of the panel.

Nursing Home. See "Convalescent home."

Office. A room or group of rooms utilized for the management of the affairs of an establishment or for the non-retail, non-production conduct of affairs of a service, professional, institutional, or business nature.

Off-street parking means all off-street areas designated, used, required or intended to be used for the parking of motor vehicles. (Parking not associated with on-street parking.)

On-street parking means parking in the street right-of-way, typically in parking lanes or bays. Parking may be "parallel" or "angled" in relation to the edge of the right-of-way or curb and in accordance with parking standards and requirements.

Open space means land within a public, common, private, active or passive development that has been dedicated in common ownership within a development or to the public specifically for the purpose of providing places for recreation, conservation or other open space land use.

Ordinary high-water level. The boundary of public waters and wetlands and an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high-water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high-water level is the operating elevation of the normal summer pool.

Outdoor commercial use means a use supporting a commercial activity that provides goods or services for outdoor sale. Examples of outdoor commercial uses include but are not limited to: automobile sales or service, nurseries, home improvement centers, lumberyards, or equipment rental businesses.

Outdoor storage. The outdoor placement or depositing of goods, materials, equipment, stock, or supplies.

Overlay district. A zoning district that encompasses one or more primary zoning districts, or portions thereof, and that imposes additional requirements, or relaxes one or more standards required by the primary zoning district.

Owner occupancy. A property, as reflected in title records, whose owner makes his or her legal residence at the given lot, as evidenced by voter registration, vehicle registration, or similar means and resides at the given lot more than six (6) months out of any given year.

Parking garage means any facility or combination of facilities for motor vehicle parking to support the primary use.

Parking space. A space of definite length and width designed for parking motor vehicles within a parking area that is directly accessible to a parking aisle or driveway. Said space shall be exclusive of such drives, aisles, or entrances giving access thereto.

Pedestrian amenities means areas and objects that serve as places for public socialization and enjoyment and area usually closed to motorized vehicles (examples include: plazas; building frontage areas - extra wide sidewalks; street furnishings - benches, drinking fountains, bus waiting shelters; and pocket parks adjacent to a street; and similar areas and objects (sidewalks designed to meet the minimum sidewalk width standards for the city are not amenities for the purposes of this chapter.

Performance standard means a criterion established to control noise, odor, smoke, toxic or noxious matter, vibration, fire, explosive hazards, and glare or heat generated by or inherent in uses of land or buildings.

Person. Any person, partnership, firm, company, corporation, tenant, owner, lessee or licensee, agent, heir, or assign.

Physical Map Revision (PMR). An official republication of a community's FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

Place of assembly. A church, synagogue, temple, mosque, or other facility that is used for prayer by persons of similar beliefs, or a special purpose building that is designed or particularly adapted for the primary use of conducting, on a regular basis, religious services and associated accessory uses by a religious congregation.

Plan Commission Director. A Director appointed and/or hired by the Mayor of Gary.

Planned unit development. A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, Townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

Planning and or Zoning Administrator. An Administrator hired and/or appointed by the Plan Commission Director.

Plat, primary. A drawing showing the proposed general patterns of streets, lots, and land uses within a tract to be subdivided.

Plat, secondary. A drawing of a permanent nature showing the precise location and dimension of such features as streets, lots, easements, and other elements pertinent to transfer of ownership and prepared for permanent record.

Plat. A drawing or map of a subdivision prepared for filing of record and containing all elements required under this ordinance.

Practical Difficulty. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the area.

Prefabricated Building. A non-residential building that is manufactured and constructed using prefabrication. It consists of factory-made components or units that are transported and assembled on-site to form the complete building.

Production or processing. The assembly, disassembly, fabrication, manufacture, transformation, packaging, sorting, or other handling of goods or materials, either as an intermediate input for further production and processing, or for final sale, use, or consumption.

Professional engineer. A qualified individual who is licensed as a professional engineer in the State of Indiana.

Protective covenants. Any contract made between private parties as to the manner in which land may be used.

Public use. A use of land owned or operated by a municipality, school district, City or state agency, or other governmental entity.

Public waters. Any waters as defined in Indiana Statutes, Section 103G.

Pump Island Canopy. A roof-like horizontal structure that extends over or covers the fuel dispenser(s), may be a lighting source for the dispensing area and may display signage.

Railroad right-of-way means a strip of land with tracks and auxiliary facilities for track operation.

Recreational vehicle. A vehicle that is built on a single chassis, is four hundred (400) square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck and is designed primarily not for use a as permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. The term "recreational vehicle" shall be synonymous with the term "travel trailer".

Residential care facility. A licensed public or private facility, which, for gain or otherwise, regularly provides one or more dependents with a twenty-four (24) hour a day substitute for the care, food, lodging, training, supervision, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the dependent's own home. The term includes, but is not limited to, residential programs that are licensed by the Indiana Department of Health, adult foster care homes, board and lodge serving developmentally disabled, mentally retarded, mentally ill, and/or frail elderly, residential treatment centers, maternity shelter, schools for handicapped children, and homes for battered children or spouses. Such term shall not include any facility eligible for licensure by the Indiana Department of Corrections.

Restaurant. An establishment that sells unpackaged food to the customer in a ready-to-consume state, in individual servings, and where the customer consumes these foods in the building, picks up the food from the building to consume elsewhere, or the food is delivered to the customer by employees of the restaurant or other food delivery service.

Right-of-way. A strip of land occupied or intended to be occupied by a road, crosswalk, utility line, railroad, electric transmission line, or other similar use.

Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Roof-mounted antenna. Any device attached to a building, or structure that is used for wireless telecommunications service.

Salvage yard. A lot, parcel of land or structure, or part thereof, used primarily for the collecting, storage, and sale of wastepaper, rags, scrap metal, discarded materials, or similar materials; or for the collection, dismantling, storage and salvaging of machinery or vehicles not in running condition; or the sale of part thereof.

Scrapyard. Any situation where inoperable motor vehicles, or parts thereof, are stored in the open and are not being restored to operation, or any land, building, or structure used for wrecking or storing of such motor vehicles or parts thereof; and including any commercial salvaging and scavenging of any other goods, articles, or merchandise

Screening. The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, wall, hedges, berms, or other features.

Self-service storage facility. An establishment designed and utilized for the purpose of renting or leasing individual storage spaces to tenants who have sole access to such space for the storage of private property.

Sensitive resource management. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

Setback, corner lot. A corner lot has two front setbacks on the primary streets.

Setback, front. A line parallel to the front lot line and extending from side lot line to side lot line.

Setback, rear. A line parallel to all rear lot lines and extending from side lot line to side lot line.

Setback, side. A line parallel to any side lot line and extending from the front setback line to the rear setback line.

Setback. The minimum separation in linear feet, measured on a horizontal plane, required between the wall of a building or structure and each of the lot lines or between the walls of buildings located on the same zoning lot.

Sewage treatment system. A septic tank and soil absorption system or other individual or cluster type sewage treatment system.

Sexually Oriented Business. Any use, including, but not limited to, adult movie theaters, adult mini-movie theaters, adult motion picture arcades, adult novelty businesses, and adult cabarets, which is conducted exclusively for the patronage of adults and from which minors are excluded by law or by the owners, or

which offer patrons services or entertainment characterized by an emphasis on the presentation, display, depiction, or description of specified anatomical areas or specified sexual activities.

Shared parking means required parking facilities for two or more land uses, structures, or lots or parcels, which are satisfied jointly with the same facilities.

Shopping center. A group of commercial establishments planned, developed, owned, or managed as a unit, related in size (gross floor area) and type of shops to the trade area that the unit serves, and with parking provided on the property.

Short-term rental. As defined in IC 36-1-24.

Sight distance triangle. A triangular shaped portion of land established at street or driveway intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving an intersection. Such triangle shall be defined beginning at the intersection of the projected curb lines of two (2) intersecting streets or at the intersection of projected curb lines where a driveway intersects a street, measured twenty-five (25) feet along each curb line and connected by a diagonal line.

Sign. Any framed, bracketed, free-formed, or engraved surface, which is fabricated to create words, numerals, figures, devices, designs, trademarks, or logos, which is mounted on or affixed to a building or the ground, and which is sufficiently visible to persons not located on the lot where such device is located to attract the attention of such persons or to communicate information to them. Sign includes sign supports.

Sign- Banner. A piece of fabric or similar lightweight material, generally with no enclosing framework, which is designed either for decoration or to provide signage, and which may be mounted to a building at one or more edges.

Sign- Display frame. The display screen on an electronic message board, which includes the message and background, including, but not limited to, words, letters, numbers, characters, symbols, or other graphics displayed thereon.

Sign Element. That portion of a sign that includes graphics, illustrations or text which provides a message to the public. The sign element is also considered the sign face. The sign element shall not include poles, mounting brackets, hinges or other material that supports the sign element.

Sign Face. The entire surface area of the sign within a single continuous rectangular shape upon, against, or through which all elements that form the display, including any background, is exhibited.

Sign Height. The distance from the ground level to the highest point on the sign structure.

Sign Structure: Any structure except a building, including the supports, uprights, bracing and framework that supports or is capable of supporting any sign.

Sign Type: Itemized categories of freestanding or building signs.

Sign, Abandoned. Any sign or its supporting sign structure that conforms to this ordinance where the primary use, which has ceased activity for a period of one (1) year or more, is considered abandoned. Any

sign or its supporting sign structure that does not conform to this ordinance and which has ceased activity for a period of 60 days, or more is considered abandoned. Any sign deemed abandoned will also lose Legally Non-Conforming Status. For purposes of this definition, 'the primary use' refers to the activity occurring on the property and not to the mere generation of income for the property owner, or the intentions of the property owner or any tenant or sub-tenant.

Sign, A-Frame. A pedestrian sign containing two sign faces and whose framing is hinged at the apex at an angle less than 60 degrees.

Sign, animated. Any sign that utilizes movement, change of lighting, or electronic lettering to depict action, create messages, or special effects.

Sign, awning. A sign which is integrated into a roof-like cover, often constructed of fabric, plastic, vinyl, metal, or glass, designed, and intended for protection from the elements or as decorative embellishment and which projects from a wall of a structure. An awning sign will have lettering and/or graphics painted, or screen printed on its exterior surface.

Sign, billboard. A sign which directs attention to a business, product, service, or activity not conducted, sold, or offered upon the premises where such sign is located.

Sign, Building: A sign accessory to the primary use of land that is attached to any part of a building including, but not limited to Projecting Signs, Projecting-Blade Signs, Canopy Signs, Marquee Signs, Pedestrian-Oriented Projecting and Suspended Signs, Skyline Signs and Wall Signs.

Sign, business. A sign that identifies the business, product, service, or activity that is sold or offered upon the premises where such sign is located.

Sign, Canopy. Any building sign that is part of or attached to a canopy as an accessory to the primary use of the land, made of fabric, plastic, or structural protective cover over a door, entrance, or window. A canopy/awning sign is not a marquee and is different from pump island canopy signs.

Sign, changeable copy. A sign, or portion thereof, with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. Such sign shall not include any sign considered to be an animated sign. A reader board sign is to be considered a changeable copy sign.

Sign, Digital billboard. A billboard sign structure displaying static images controlled by electronic communication.

Sign, Drive-Thru. A sign on a lot that includes a drive-through service window and at least one stacking lane that is devoted exclusively to customers of a drive-through service, which is located at the entrance of or along or over one or more such stacking lanes.

Sign, Electronic message board. Any sign that displays a message electronically.

Sign, fade mode. A mode of message transition on an electronic message board accomplished by varying the light intensity, where the display frame gradually reduces intensity to the point of not being legible and the subsequent display frame gradually increases intensity to the point of legibility.

Sign, flashing. A sign, the illumination of which is not always kept constant in intensity when in use.

Sign, Freestanding Sign. Any sign, accessory to the primary use of land, whose primary support is placed on, or anchored in, the ground and is independent from any building or other structure and may include Monument Signs, Pole Signs and Pylon Signs.

Sign, Gateway. A sign indicating entry into a neighborhood or special district.

Sign, Hanging/Suspended. A double-faced sign which hangs from a bracket or support and projects from any horizontal surface.

Sign, Heritage. An existing sign having historical significance, and which advertises an establishment or product no longer in existence or a product no longer being offered on the site, may be designated a heritage sign. An exact replica of an original sign attached to a building that would have been at least 50 years old may be designated a heritage sign.

Sign, Illuminated. A sign having characters, letters, figures, designs, or outlines illuminated by electric lighting or luminous tubes as a part of the sign.

Sign, Illumination (pertaining to sign and billboard regulation): The lighting of a sign with an artificial light source incorporated internally or externally to emanate light from, or direct light to a sign's surface, whole or in part, or that is created by the projection of light onto a surface such as a building wall.

Sign, Illumination, Digital Display. Any portion of a sign, such as an electrically or electronically controlled message center, where the characters, letters, or illustrations can be changed or rearranged either non- manually in the field, or from a remote location, without physically altering the face or the surface of the sign. This may include an electronic variable message sign or projected image onto a building. This shall not be construed as a prohibition on the use of LED technology.

Sign, Illumination, Dissolve mode. A mode of message transition on an electronic message board accomplished by varying the light intensity or pattern, where the display frame gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the next display frame.

Sign, Illumination, External. A lighting method provided by an external light source.

Sign, Illumination, Halo. A lighting method provided by concealing the light source behind three-dimensional opaque letters, numbers, or other characters of a sign, resulting in the nighttime perception of a halo around the silhouette of each sign character. This is also referred to as "reverse channel" or "reverse lit" illumination. A sign with Halo Illumination is not considered an internally illuminated sign for the purpose of this Ordinance.

Sign, Illumination, Internal. Illumination created by a light source internal to the sign, transparent or translucent material from a light source within the sign structure or panel, or exposed lighting on the sign face.

Sign, Illumination, Scroll mode. A mode of transition on an electronic message board where the display frame or message moves or appears to move vertically on the board.

Sign, Illumination, Travel mode. A mode of message transition on an electronic message board where the message moves or appears to move horizontally on the board.

Sign, Incidental. A permanent sign which has a purpose that is secondary and incidental to the use of the lot on which it is located, such as “hours of operation”, “loading zone only,” “air,” “building directory, “and “visitor parking,” and which carries no commercial message that is legible beyond the lot on which the sign is located, except for a registered logo on a premises with two or more separately-operating businesses.

Sign, Inflatable. Lighter-than-air or gas-filled balloons or other similar devices used to advertise or define a fixed location are prohibited, except in compliance with the Sign Section.

Sign, Integrated Center: An area of development (commercial, Manufacturing or any combination of commercial, Manufacturing, and residential uses) that includes multiple businesses or uses in one or more buildings that share common-site facilities.

Sign, Joint identification. A sign which serves as a common or collective identification for a group of businesses or occupations operating on the same zoning lot and not including any other advertising.

Sign, Marquee. A building sign painted, mounted, constructed, or attached in any manner on a marquee and may accommodate changeable copy signs or digital displays.

Sign, Monument. A freestanding sign, accessory to the primary use of land, whose sign face is attached to a proportionate sign base or structural frame that maintains a minimum width, without opening, greater than 80% of the width of the widest part of the sign face a constant width, without opening.

Sign, Multi-Tenant. A single sign structure accommodating multiple sign faces dedicated to individual tenants.

Sign, Nameplate. A sign which states the name or address, or both, of the occupant of the lot where the sign is located.

Sign, Off-premises. A sign that directs attention to a business, profession, commodity, or service offered on the property other than that on which the sign is located. This limitation does not apply to the content of noncommercial messages.

Sign, On-premises. A sign that directs attention to a business, profession, commodity, or service offered on the property on which the sign is located. This limitation does not apply to the content of noncommercial messages.

Sign, Outdoor Advertising. See “Sign, Off-premises”

Sign, Pavement. A sign built into or affixed to the sidewalk or pavement, typically at the entrance of a building.

Sign, Pole. A freestanding sign, accessory to the primary use of land, which has as its support structure one or more poles anchored in the ground as it extends upward from grade level

Sign, Portable. A sign without a sign structure or building, or with a sign structure lacking a permanent foundation or that is otherwise not permanently attached to a fixed location, which can be carried, towed,

hauled, or driven, and is primarily designed to be moved rather than be limited to a fixed location regardless of modifications that limit its movability, including but not limited to signs on trailer frames, whether or not the trailer wheels have been removed. This definition does not include pedestrian signs.

Sign, Primary Building. A wall sign, canopy sign, marquee sign, skyline sign, roof-integral sign, projecting blade sign, projecting sign or a sign that is not pedestrian-oriented, or other permanent sign, accessory to the primary use of land, that is attached or affixed to a building, and that is not one of the types specified as a secondary building sign.

Sign, Primary Freestanding. A monument, pylon or pole sign or other freestanding permanent sign, accessory to the primary use of land, and that is not one of the types specified as a secondary freestanding sign.

Sign, Projecting – Blade. A building sign that is a type of projecting sign mounted on a building facade or storefront pole or attached to a surface perpendicular to the normal flow of traffic.

Sign, Projecting. A building sign that is affixed to a building or wall at an angle in such a manner that its leading edge extends more than 18 inches beyond the surface of such building or wall face.

Sign, Public. A sign that is constructed, placed or maintained by the federal, state or local government for the purpose of carrying out an official duty or responsibility or a sign that is required to be constructed, placed or maintained by a federal, state or local government either directly or to enforce a property, including but not limited to signs which promote safety, no trespassing, or traffic signs; memorial plaques; signs of historical interest; notices of pending governmental action and signs directing people to public and semi- public facilities; public transit service signs, utility information signs, public restroom or telephone signs, trespassing signs, legal notices; signs of public service companies indicating danger and aids for service or safety.

Sign, Pump Island Canopy. Any sign that is part of or attached to the pump island canopy.

Sign, Pylon. A freestanding sign, accessory to the primary use of land, with its sign face attached to a sign base consisting of one or more supports that, from grade level to the sign face, maintains a minimum width extending upward from grade level of 20% up to 100% of the width of the widest part of the sign face.

Sign, Roof-Integral. Any building sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, so that no part of the sign extends vertically above the roof.

Sign, Rotating. Any sign or portion of a sign designed to revolve or move in an equivalent manner by means of electrical or wind power.

Sign, Secondary Building. A window sign, a pedestrian-oriented projecting sign, suspended sign, or incidental sign, which is a permanent building sign, accessory to the primary use of land, and that is not one of the types specified as a primary building sign.

Sign, Secondary Freestanding. A vehicle entry point sign, incidental signs, drive-thru sign, auto and bike sharing sign or other permanent sign accessory to the primary use of land and that is not one of the types specified as a primary freestanding sign.

Sign, Skyline. A sign attached to the topmost band or bands of the building façade.

Sign, Temporary. A sign that is authorized for a period, not to exceed 10 days. One-time event temporary signs may be a freestanding or building sign. One-time event temporary signs may be made of nondurable materials, such as pennants, banner, flags (unofficial or official), air-filled, as well as more durable materials such as wood, metal, plastic.

Sign, T-Frame. A pedestrian sign containing two sign faces and whose framing consists of a base perpendicular to the sign face.

Sign, wall. A sign which is attached to the wall of a building, with the sign face in a plane parallel to such wall, not extending more than eighteen (18) inches from the face of such wall.

Sign, window. Any sign, lettering, pictures, symbols, or combination thereof, designed to communicate information about a business, product, service, or activity that is placed upon a window and meant to be visible from the exterior of the building.

Sign, Yard. Freestanding sign, accessory to the primary use of land that is located in the yard of a lot, for temporary purposes only. Examples include signs posted by a real estate professional, land developer, builder, home improvement company, garage sale advertising, and signs expressing an opinion. A yard sign may be a maximum of six (6) square feet in size.

Site plan. An integral set of documents which may consist of both drawn and written materials whose purpose is to provide the necessary information for an approving authority to decide whether the proposed development will comply with the standards and regulations of this ordinance. A site plan is stamped drawing by a licensed civil engineer or landscape architect.

Site. Any lot or parcel or combination of lots or parcels assembled for the purpose of development.

Solar Access. The ability of one property to continue to receive sunlight across property lines without obstruction from another's property that contains buildings, foliage, or another impediment.

Solar Array. Multiple solar panels combined to create one system.

Solar Battery Back-Up. A battery system that stores electrical energy from a solar PV system, making the electricity available for future use. Battery Back-Up systems are common in Off-Grid Systems and Hybrid Systems.

Solar Carport. A solar energy system of any size that is installed on a carport structure that is accessory to a parking area, and which may include electric vehicle supply equipment or energy storage facilities.

Solar Collector. A solar PV cell, panel, array, or solar thermal collector device, which relies upon solar radiation as an energy source for the generation of electricity or for the transfer of stored heat.

Solar Easement: An easement recorded pursuant to IC 32-23-4, obtained for the purpose of insuring exposure of a solar energy device or a passive solar energy system to the direct rays of the sun. Solar easements are to follow the State requirements of Recording (IC 32-23-2-5).

Solar Energy System (SES). The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing, buffer yard, and landscaping. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems. Regulated systems fit into one of three (3) system types:

1) **Commercial – small scale (CS-SES)** A utility-scale commercial facility that converts sunlight into electricity with the primary purpose of wholesale or retail sales of generated electricity. Concentrated Solar Thermal (CST) is not permitted or considered a CS-SES for the purpose of this Section. A CS-SES is typically established by a public utility and produces between 1MW and 15MW.
2) **Commercial – large scale (CL-SES)** A utility-scale commercial facility that converts sunlight into electricity with the primary purpose of wholesale or retail sales of generated electricity. Concentrated Solar Thermal (CST) is not permitted or considered a C-SES for the purpose of this Section. A CL-SES will produce 15MW or greater.
3) **Noncommercial (NC-SES) I**ncludes any photovoltaic, solar thermal, or solar hot water devices that are accessory to, and incorporated into, the development of an authorized use of the property, and which are designed for the purpose of reducing or meeting on- site energy needs. An NC-SES will produce 1MW or less.As applicable to this ordinance a SES does not include concentrated solar thermal systems and such systems are not permitted.

Solar Glare. The potential for solar panels to reflect sunlight, with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Solar Hot Air System. (Also referred to as Solar Air Heat or Solar Furnace) A solar energy system that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air. The most efficient performance includes a solar collector to preheat air or supplement building space heating, typically using a vertically mounted collector on a south-facing wall.

Solar Panel (or module). A device for the direct conversion of sunlight into usable solar energy (including electricity or heat).

Solar photovoltaic (Solar PV) System. Solar systems consisting of photovoltaic cells, made with semiconducting materials, which produce electricity (in the form of direct current (DC) when they are exposed to sunlight. A typical PV system consists of PV panels (or modules) that combine to form an array. Other system components may include racks and hardware, wiring for electrical connections, power conditioning equipment, such as an inverter and/or batteries.

Solar Thermal System (aka Solar Hot Water or Solar Heating Systems). A solar energy system that directly heats water or other liquid using sunlight. Consists of a series of tubes that concentrate light to heat either water or a heat-transfer fluid (such as food-grade propylene glycol, a non-toxic substance) in one of two types of collectors (flat-plate collectors and evacuated tube collectors). The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

Solar, Ground-Mounted System: A solar energy system that is directly installed on specialized solar racking systems, which are attached to an anchor in the ground and wired to connect to an adjacent home,

building or utility. Ground-mount systems may be applicable when insufficient space, structural and shading issues or other restrictions prohibit rooftop solar.

Solar, Hybrid Solar Photovoltaic Systems (aka grid-tied PV with battery back-up): Solar photovoltaic electricity generation systems designed to serve the electricity needs of the building to which it is connected, thus offsetting a home or business's electricity usage, while also utilizing a battery back-up in the event of a power outage. This is the only system that provides the ability to have power when the utility grid is down. Typical system components include PV panels, inverter(s) and required electrical safety gear, batterybank, and a charge controller.

Solar, Inverter: A device that converts the direct current (DC) electricity produced by a solar photovoltaic system to usable alternating current (AC).

Solar, Large-Scale Solar Energy System: A commercial solar energy system that converts sunlight into electricity for the primary purpose of wholesale sales of generated electricity. A large-scale solar energy system will have a project size greater than 5 acres and is the principal land use for the parcel(s) on which it is located.

Solar, Off-Grid Solar Photovoltaic Systems with battery back-up: Solar photovoltaic electricity systems designed to operate independently from the local utility grid and provide electricity to a home, building, boat, RV (or remote agricultural pumps, gates, traffic signs, etc.). These systems typically require a battery bank to store the solar electricity for use during nighttime or cloudy weather (and/or other back-up generation). Typical system components include PV panels, battery bank, a charge controller, inverter(s), required disconnects, and associated electrical safety gear.

Solar, Passive: Techniques, design, and materials designed to take advantage of the sun's position throughout the year (and the local climate) to heat, cool, and light a building with the sun. Passive solar incorporates the following elements strategically to maximize the solar potential of any home or building (namely, maximizing solar heat gain in winter months and minimizing solar heat gain in summer months to reduce heating/cooling demand and maximizing the use of daylighting to reduce demand for electricity for lighting): strategic design and architecture, building materials, east west and building lot orientation, windows, landscaping, awnings, and ventilation.

Solar, Photovoltaic (PV) System: A solar energy system that produces electricity using semiconductor devices, called photovoltaic cells, which generate electricity when exposed to sunlight. A PV system may be roof-mounted, ground- mounted, or pole-mounted.

Solar, PV-Direct Systems: The simplest of solar photovoltaic electric systems with the fewest components (no battery back-up and not interconnected with the utility) designed to only provide electricity when the sun is shining. Typical system components include PV panels, required electrical safety gear, and wiring.

Solar, Racking: Solar energy systems are attached securely and anchored to structural sections of the roof-mounted or pole-mounted systems. Specially designed metal plates called flashings prevent leaks and are placed under shingles and over bolts to create a water-tight seal.

Solar, Roof-Mount System (aka rooftop mounted, building mounted). A solar energy system consisting of solar panels are installed directly on the roof of a home, commercial building, and/or an accessory structure, such as a garage, pergola, and/or shed. Solar panels are mounted and secured using racking systems specifically designed to minimize the impact on the roof and prevent any leaks or structural damage. Roof-mount systems can be mounted flush with the roof or tilted toward the sun at an angle.

Solar, Switching station. An apparatus/structure in the system similar to a substation but not necessarily increasing into the grid.

Solar-Ready Design. The design and construction of a building that facilitates and makes feasible the installation of rooftop solar.

Solid waste disposal facility means any facility involved in the storage or disposal of non-liquid, non-soluble materials ranging from municipal garbage to Manufacturing wastes that contain complex and sometimes hazardous substances. Solid waste also includes sewage sludge, agricultural refuse, demolition wastes, mining wastes, and liquids and gases stored in containers.

Special Use. Uses publicly or municipally operated and those uses traditionally affected with a public interest and those uses entirely private in character but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property and public facilities. A Special Use must be heard by the Board at a public hearing. The Board will then make a recommendation to the Gary Common Council pursuant to I.C. 36-7-4-918.6.

Sports and health facility. A facility, for profit or nonprofit, where members or nonmembers pay a fee to use equipment or space for the purpose of physical exercise, including but not limited to swimming, court games, aerobics, jogging, and muscular exercise programs. Such facility may include as an accessory use personal services to patrons, including but not limited to therapeutic massage, tanning, saunas, whirlpools, and locker rooms.

Steep slope. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped, and described in available City soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over fifteen (15) percent over horizontal distances of fifty (50) feet or more and that are not bluffs.

Street Banner: A message applied to cloth, paper, fabric, or flexible plastic, with any such non-rigid material for background suspended across a street for a temporary period.

Street furniture/furnishings means benches, lighting, bicycle racks, drinking fountains, mail boxes, kiosks, or similar pedestrian amenities; may be located within a street furnishing zone or building from zone of a sidewalk or in a plaza (see also "pedestrian amenity").

Street, arterial. A street or highway that provides for rapid and efficient movement of large volumes of through traffic between sections of the City and across the urbanized area. It is not primarily intended to provide land access service.

Street, collector. A street that provides for traffic circulation within residential areas. Land access is a secondary function of the collector. The collector distributes trips from the arterial streets to the local street network.

Street, cul-de-sac. A street with only one (1) outlet and having an appropriate turnaround for the safe and convenient reversal of traffic movement.

Street, local. A street that provides direct traffic access to abutting land in residential areas.

Street, private. An easement that affords principal access to property abutting thereon, which easement is owned, controlled, and maintained by persons other than the public.

Street, public. A right-of-way that affords the principal means of vehicular access to property abutting thereon which right-of-way has been dedicated to the public for such use.

Street. A right-of-way that affords a primary means of motor vehicle access to abutting property.

Structure. A walled and roofed building, including a gas or liquid storage tank, decks, fences, towers, flag poles, signs and other similar objects which is principally above ground. The term includes a manufactured home, as well as a prefabricated building. It also includes recreational vehicles installed on a site for more than 180 consecutive days.

Structural alteration. Any change in the supporting members of a building, such as bearing walls, beams, or girders, or any change in the dimension or configuration of the roof or exterior walls.

Structure, Accessory. See Building, Accessory.

Structure, Primary. See Building, Primary.

Subdivision. The separation of an area, parcel, or tract of land under single ownership into two (2) or more parcels, tracts, lots, or long-term leasehold interests, and may include planned unit developments.

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred “repetitive loss” or “substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements.

Taproom. A licensed premises up to twenty-five (25) percent of the gross floor area within a brewery that offers on-sale and/or off-sale purchases and consumption of the malt liquor manufactured at the adjoining brewery and retail sales of related merchandise.

Temporary Structure. (Not to exceed 6 months). Any constructed or erected structure, including (but not limited to) a shed, building, vehicle, trailer, tent, or enclosure of any kind used for personal, commercial, or

business purposes and which any person or business intends to place on the same lot with or on any lot adjacent to, any permanent structure used for personal, business, or commercial purposes.

Tower. A ground pole, spire, structure, or combination thereof including supporting lines, cables, wires, braces, and masts intended primarily for the purpose of mounting an antenna, a meteorological device, or other similar apparatus aboveground for use as a wireless telecommunications facility. Also known as any freestanding structure designed specifically to elevate an antenna, satellite dish or similar apparatus.

Townhouse. Single-family attached units in structures housing three (3) or more dwelling units, contiguous to each other, only by the share of common walls, and each dwelling unit shall have separate and individual front and rear entrances. Such structures to be of the row or group house type as contrasted to multiple dwelling apartment-type structures. No single structure shall contain in excess of eight (8) dwellingunits.

Toxic and infectious materials means those materials, compounds, or mixtures used in the manufacturing process or generated as a product or waste which as discharged and upon exposure, ingestion, or inhalation may be dangerous, hazardous or injurious to any organism or the environment. Those materials identified as toxic in any of the following:

1) The most recent edition of the United States Department of Transportation's Guidebook for Hazardous Material Incidents;
2) Any material safety data sheet (MSDS) that is available for that material, compound or mixture;
3) The most recent edition of Hawley's Condensed Chemical Dictionary; or
4) The most recent of Sax's Dangerous Properties of Industrial Materials.

Trailer park, house, means any premises on which are parked one or more vehicles designed, intended, arranged or used for living or sleeping purposes, or any premises used or held out for the purpose of supplying to the public a parking space for two or more such vehicles, whether such vehicles stand on wheels or rigid supports. This is a grandfathered land use and no longer allowed in the City of Gary.

Transition. The means by which an electronic message board changes from one (1) message to another; or from one (1) message segment to the next in cases where the message is conveyed by using more than one

Truck stops, motor freight terminals or truck fuel sales means any place, building, site, or portion thereof, where trucks, trailer trucks, buses, tankers, and other vehicles, primarily used for freight transport and cartage make their stop for the purpose of loading and unloading freight; dispatching, storage of cargo; and also any place, building, site or portion thereof dispensing gasoline, diesel fuel, kerosene, stored only in underground tanks; lubricating oil or grease for operation of freight vehicles offered for sale directly to the public on the premises including minor accessories and services such as restaurants or lounge, weight scales, showers, convenient stores, and any other ancillary services.

Unified Development Ordinance. Land Use and Subdivision Control Ordinance for City of Gary, Indiana.

Unnecessary/Undue Hardship. The land in question cannot reasonably be put to a conforming use. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by

competent financial evidence; that the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood; that the requested use variance, if granted, will not alter the essential character of the neighborhood; and that the alleged hardship has not been self- created.

Use. The purpose or activity for which the land or buildings thereon are designated, arranged, intended, occupied, or maintained.

Use, Accessory. A use of land or of a building or portion thereof, incidental and subordinate to a principal use.

Use, Conditional. A use which, because of its unique characteristics, cannot be properly classified as a permitted use in a district but which may be allowed in such zoning district upon demonstrating that such use will comply with all of the conditions and standards of this development ordinance.

Use, Permitted. A use which may be lawfully established in a particular district or district, provided it conforms to all requirements, regulations, and performance standards of such districts.

Use, Principal. The main use of land as distinguished from subordinate or accessory uses. The principal use may be either permitted or conditional.

Use, Temporary. Any use designed, built, erected, or occupied for short and/or intermittent periods of time and shall include tents, lunch wagons, dining cars, trailers, and other roofed structures on wheels or other supports used for business, storage, Manufacturing, institutional, assembly, educational or recreational purposes.

Variance (Floodplain). A grant of relief from the requirements of the floodplain ordinance consistent with the variance conditions herein.

Variance- Development Standards. The departure from the literal requirements in instances where strict adherence to this Ordinance would cause practical difficulties due to unique circumstances related to the property.

Variance- Special Use. A use that is potentially appropriate for a zoning district but requires individual review by the Board of Zoning Appeals (BZA) to ensure it meets specific criteria. It is considered a "permitted" use provided the applicant meets the specific conditions established by the Plan Commission and City Council.

Variance- Use. The departure from the literal requirements in instances where strict adherence to this Ordinance would cause unnecessary hardship due to unique circumstances related to the property.

Vegetative clearing, intensive. The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

Vehicle Entry Point Sign. A Secondary, freestanding, permanent on-premises sign, accessory to the primary use of land, located within 10 feet of the right-of-way and the pavement of a driveway.

Vehicle, commercial. A motor vehicle designed and registered as a truck and licensed under motor carrier laws of the State of Indiana for the transportation of property but not persons, or a motor vehicle designed primarily for the movement of property or special purpose equipment, or a motor vehicle that is designed to carry ten (10) or more persons or any number of persons for a fee. Commercial vehicle includes vehicles commonly called trucks, delivery vans, buses, taxicabs, limousines, and other similarvehicles.

Vehicle, inoperable. A vehicle that is abandoned or lacking vital component parts essential to its mechanical functioning, including, but not limited to, the engine, drive train, and wheels; or a vehicle that is so mechanically defective as to be unsafe for operation; or a vehicle that does not display a current license plate, current license tab, or current registration, or which does not meet all vehicle requirements for operation on public rights-of-way.

Vehicle, motor. A vehicle that has its own motive power and that is used for the transportation of people or goods on streets. Motor vehicles include passenger automobiles, trucks and commercial vehicles, and recreational vehicles with motive power.

Vehicle, passenger. A motor vehicle designed to carry less than ten (10) people, including the driver. Passenger automobiles include vehicles commonly called cars, minivans, passenger vans, sport utilities, motorcycles, and pickups.

Violation. The failure of a structure or other development to be fully compliant with this ordinance.

Visibly Obstructed. The view of an object that is blocked by a building or other manufactured structure so as to be incapable of being seen from that line of sight.

Waiver Agreement. An agreement to modify the standard required in this Section which is entered into by and between the landowner burdened by lessening the standard required by this Section and the landowner requesting the modification of the standard required by this Section. An agreement to modify a standard required by this Section, or a "waiver agreement," is permissible only when a waiver of such standard is specifically authorized by this Section. In order to be valid, a "waiver agreement" must: (1) Be in writing; (2) Specifically state that the document is a waiver agreement; (3) Briefly describe the standard or requirement which is being modified; (4) Briefly describe the standard agreed upon by the parties to the waiver agreement; (5) Be executed in a manner free from coercion or duress; (6) Be executed by both parties to the waiver agreement; (7) Be subject to the approval of the Plan Commission Director; and (8) Filed with the Planning Department.

Walled and roofed. A building that has two or more exterior rigid walls and a fully secured roof and is affixed to a permanent site.

Waste collection areas means areas set aside or designed to be used for garbage collection and collection of materials for recycling. Waste collection areas include areas occupied by dumpsters and other solid waste receptacles.

Watercourse. A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Water-oriented accessory structure or facility. A small aboveground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

Watts (W). A measure of the use of electrical power; [power (Watts) = voltage (volts) x current (Amps) or by the formula W=VA].

WECS project. The collection of WECS(s), and substations as specified in the siting approval application pursuant to this ordinance.

WECS tower height. The distance from the rotor blade at its highest point to the top surface of the WECS foundation.

WECS tower. The support structure to which the nacelle and rotors are attached, free standing monopole structure that supports a wind turbine generator.

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

WECS, Substation. Apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility's transmission lines.

Wetland. A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (current edition).

Wholesale establishment. A business establishment engaged primarily in selling to retailers for resale.

Wind Energy Conversion System (WECS) means all necessary devices that together convert wind energy into electricity and deliver the electricity to a utility's transmission lines, if applicable, including but not limited to the rotor, nacelle, generator, WECS tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS tower to the substation(s), switching stations, meteorological towers, communications facilities, and other required facilities and equipment, as related to the WECS project.

Wind energy conversion system (WECS). An aggregation of parts including the base, tower, generator, rotor, blades, supports, and accessory facilities, including, but not limited to power lines, transformers, substations, and meteorological towers, which operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

Wind turbine. Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy, including the tower, hub, and rotor blades.

Window Sign: Any sign, accessory to the primary use of land, placed, attached, or painted on a window surface.

Wireless telecommunications facility. A wireless telecommunications facility consists of the equipment and structures utilized to transmit and or receive telecommunication signals to and from any communications source which may also be connected to a mobile and or stationary unit with land-based facilities including but not limited to all antennas, towers, and accessory structures.

Wireless telecommunications service. Licensed public commercial wireless telecommunications services, including but not limited to cellular, digital, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and other similar services that are marketed to the general public.

Yard, corner side. A space extending from the front yard to the rear yard between the principal building and a side lot line which runs along a private or public street, measured perpendicular to the building at the closest point to the side lot line.

Yard, front. A space extending across the full width of the lot between any building and the front lot line and measured perpendicular to the building at the closest point to the front lot line.

Yard, rear. A space extending across the full width of the lot between any building and the rear lot line and measured perpendicular to the building at the closest point to the rear lot line.

Yard, side. A space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular to the building at the closest point to the side lot line.

Yard. An open space that lies between the principal building or buildings and the nearest lot line.

Zero lot line. The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

Zoning certificate (Verification letter). A certificate issued by the City Planner certifying that any proposed use, building, or structure to be located on a lot is in compliance with all of the regulations of this ordinance.

Zoning district. An area or areas within the limits of the City's Planning Department jurisdiction within which there are uniform regulations and requirements governing the use, placement, spacing, and size of land and buildings.

Zoning map. The map or maps, referenced by this ordinance, which delineate the boundaries of the zoning districts within the City.

SECTION 3. PERMITTED USE TABLE

CITY OF GARY PERMITTED USE TABLE

"x" = permitted use; "SU"= Special Use Variance required; "UV"= Use Variance Required

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z
1		SMALL	LARGE	2-3 A	4-19 A	20+ A	LIMITED	LARGE	WHOL	AUTO	LIMIT	MANU	HEAVY	ENT	PARK	SCHOOL	CITY	INSTI	DWTN	NGHBR						
2	LAND USE DESIGNATION	R1	R2	R3	R4	R5	B1	B2	B3	B4	M1	M2	M3	E	DP	DS	DC	DI	DMX	NMX	WIND	SOLAR	AOD	PUD	FLP	Rail
3	Above ground water/oil storage tank										x	x	x													
4	Accessory dwelling unit	x	x	x																				x		
5	Accessory off-street parking lots											x	x										x	x		
6	Accessory Structure (Floodplain)																							x	x	
7	Accessory Structure- Commercial						x	x	x															x		
8	Accessory Structure- Residential	x	x	x	x	x																		x		
9	Advertising signs (billboards)							x	x																SU	
10	Agricultural uses, including nurseries and community gardens, excluding livestock, provided no odor or dust is created and there is no sale of products not produced on premises. See Animal Standards.		x	x			x		x																x	
11	Airport Structure																						x			
12	Amusement, athletic, and entertainment establishments, including bowling alleys, pool halls, dancehalls, skating rinks, stadiums, arenas, etc.						x	x						x	x			x	x					x		
13	Animal hospitals, clinic, veterinarian services (completely enclosed)						x	x																		
14	Antenna								x		x	x	x										x			x
15	Art galleries						x	x							x		x	x	x	x				x		
16	Asphalt and asphalt products												x													
17	Automobile car wash									x																
18	Automobile convenience facility									x																
19	Automobile fueling station									x														x		
20	Automobile repair, major									x																
21	Automobile repair, minor									x																
22	Automobile service station									x																
23	Automobile wrecking yard									x																
24	Automotive dependant and related retail and service establishments									x																
25	Bakeries, wholesale								x																	
26	Bank machines and freestanding ATMS, Accessory Structure					x	x	x	x					x	x	x	x	x	x	x			x	x		
27	Banks and financial institutions						x	x																x		
28	Banquet halls						x	x						x	x				x					x		
29	Bar						x	x						x					x	x				x		
30	Beauty shops, barbershops						x	x											x	x				x		
31	Bed and breakfast	SU	SU																					x		
32	Beverage, nonalcoholic, bottling/distribution								x															x		
33	Bottling works											x														
34	Building material wholesale								x		x	x														
35	Bus garages, transportation oriented maintenance terminals									x	x												x			
36	Bus terminal, depot, or station																		x	x						
37	Campsite														x										x	
38	Carpenter shops for custom woodworking and furniture										x	x												x		
39	Carriage House	x	x																					x		

CITY OF GARY PERMITTED USE TABLE

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	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z
1		SMALL	LARGE	2-3 A	4-19 A	20+ A	LIMITED	LARGE	WHOL	AUTO	LIMIT	MANU	HEAVY	ENT	PARK	SCHOOL	CITY	INSTI	DWTN	NGHBR						
2	**LAND USE DESIGNATION**	**R1**	**R2**	**R3**	**R4**	**R5**	**B1**	**B2**	**B3**	**B4**	**M1**	**M2**	**M3**	**E**	**DP**	**DS**	**DC**	**DI**	**DMX**	**NMX**	**WIND**	**SOLAR**	**AOD**	**PUD**	**FLP**	**Rail**
40	Casino													x												
41	Catering establishments						x	x																x		
42	Cellular, radio, television, satellite, or cable transmission/reception towers; utiltiy							x	x		x	x	x				x	x								x
43	Cemeteries																x	x								
44	Churches, temples, mosques, or other places of religious worship with tax exempt status, including rectors and parish houses.	UV	UV	UV	UV													x						x		
45	Club or lodge (private), assembly hall						x	x										x	x	x				x		
46	Coal, coke, and tar products, including gas manufacturing												x													
47	Colleges and universities							x										x		x				x		
48	Community and recreation centers													x	x	x	x	x	x	x				x		
49	Concentrated Solar Thermal Power (CST) (aka Concentrated Solar Power (CSP)																					x				SU
50	Concrete, asphalt, and rock crushing facility												x													
51	Condominium			x	x	x													x	x				x		
52	Contractor yard								x		x															
53	Convalescent home		x	x																				x		
54	Crematorium							x			x													x		
55	Data center								SU			x														
56	Daycare, commercial						x									x		x	x	x				x		
57	Daycare, residential	SU	SU																							
58	Distribution establishments								x																	
59	Dispensory, cannibus, CBD, etc.						SU	SU											UV	UV						
60	Dry cleaning and laundry facilities, drop off only																							x		
61	Dry-cleaning establishments onsite										x															
62	Dwelling Attached home, duplex			x																				x		
63	Dwelling, multiple family				x	x																		x		
64	Dwelling, single-family detached	x	x																					x		
65	Electric and gas facilities - utilities																									
66	Electrical supply manufacturing, such as wire and cable, switches, lamps, insulation, and dry cell batteries											x	x													
67	Entertainment, general							x						x										x		
68	Entertainment, limited						x							x	x			x	x	x				x		
69	Establishments engaged in production, testing, processing, cleaning, or repair not listed as a permitted use including (1) insecticides, (2) food processing (3) welding										x	x												x		
70	EV Charging Station				x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x			x	x		
71	Explosives, retail sales						x	x																		
72	Fire stations																x							x		
73	Food processing and combining, except meat/fish, baking, boiling, canning, cooking, dehydrating, freezing, frying, grinding, mixing, and pressings								x		x	x														
74	Food processing, packaging, including meat/fish											x														

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	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z
1		SMALL	LARGE	2-3 A	4-19 A	20+ A	LIMITED	LARGE	WHOL	AUTO	LIMIT	MANU	HEAVY	ENT	PARK	SCHOOL	CITY	INSTI	DWTN	NGHBR						
2	LAND USE DESIGNATION	R1	R2	R3	R4	R5	B1	B2	B3	B4	M1	M2	M3	E	DP	DS	DC	DI	DMX	NMX	WIND	SOLAR	AOD	PUD	FLP	Rail
75	Food stores, including grocery stores, meat markets, bakeries, candy and ice creams shops, delicatessens						x	x										x	x	x						
76	Foundry											x	x													
77	Funeral parlors and undertaking establishments, with required parking facilities							x																x		
78	Furniture stores							x																x		
79	Garages, model display and sales									x																
80	Garden supply and seed stores							x																		
81	Golf courses (excluding commercially operated driving ranges and miniature golf courses)													x	x									x		
82	Greenhouses								x		x														x	
83	Grocery or convenience stores, less than 6,000 sq. ft. located on corner lots or in mobile home parks						x												x	x				x		
84	Group care facility (monitored living)		UV		x																					
85	Group home private secure care institution				SU													SU								
86	Group living structure				x	x																				
87	Hardware and home improvement stores							x												x				x		
88	Health clinic						x	x									x	x	x	x				x		
89	Health/fitness centers						x	x									x	x	x	x				x		
90	Hobby stores, including but not limited to collection of coins, stamps, limited edition goods						x	x											x	x				x		
91	Home occupation	x	x	x	SU	SU																		x		
92	Hospital																	x						x		
93	Hotel							x						x				x	x	x				x		
94	House trailer sales								x																	
95	Industrial research facilities										x															
96	Junkyard										x															
97	Kennel								x		x															
98	Laboratories										x	x														
99	Laboratories, provided there is no danger from fire or explosion nor of offensive noise, vibration, smoke, dust, odors, heat, glare, or other objectionable influences								x		x	x												x		
100	Lifestyle center							x											x	x				x		
101	Logistics facilities								x		x															
102	Machine shops for tool, die, and pattern making										x															
103	Machinery sales or repair									x	x															
104	Manufactured homes	x	x																					x		
105	Manufacturing Facility - Major community impact												x													
106	Manufacturing Facility - Moderate community impact											x	x													
107	Massage therapy						x	x										x	x	x				x		
108	Medical and dental offices or clinics						x	x										x	x	x				x		
109	Medical waste facilities											x												x		
110	Medical laboratory						x	x										x						x		

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2	LAND USE DESIGNATION	R1	R2	R3	R4	R5	B1	B2	B3	B4	M1	M2	M3	E	DP	DS	DC	DI	DMX	NMX	WIND	SOLAR	AOD	PUD	FLP	Rail
111	Microbreweries						x	x											x	x				x		
112	Mixed-use development													x	x	x	x	x	x	x				x		
113	Modular home	x	x																					x		
114	Monument sales								x																	
115	Motor freight terminal (“Trucking”)											x											x			
116	Motor vehicle sales, including servicing and minor repairs for vehicles under 1.5 tons									x																
117	Movie theaters, indoor							x						x					x	x				x		
118	Museums/cultural facilities						x							x	x			x	x	x				x		
119	Newspaper printing and publishing								x		x													x		
120	Non-boarding elementary and high schools, playgrounds, athletic fields auxiliary thereto															x								x		
121	Offices: business and professional						x	x									x	x	x	x			x	x		
122	Outdoor commerical use						UV	UV	x																	
123	Outdoor storage							UV	x	UV	x	x	x										x			
124	Package Liquor Store						UV	x											UV	UV				x		
125	Packing and crating										x															
126	Paint, lacquer, shellac, varnishes sales						x	x											x	x				x		
127	Parking lot, surface	not permitted in any District as a primary use																								
128	Parking garage													x		x	x	x	x	x				x		
129	Pawnshops, Consignment stores						x																	x		
130	Pet shops, sale of domestic animals and aquarium fish							x																x		
131	Petroleum and petroleum products, refinery												x													
132	Place of assembly													x	x	x	x	x						x		
133	Police stations													x	x	x	x	x	x	x				x		
134	Post offices						x	x	x								x	x	x	x				x		
135	Production or processing										x	x	x													
136	Professional offices for law, medicine, dentistry, architecture, engineering and other similar professions, limited to the ground floor, with the exception of signage.						x	x									x	x	x	x				x		
137	Public libraries															x	x	x	x	x				x		
138	PV Direct Systems - Solar																					x		x	x	x
139	Radio/television stations						x												x	x				x		
140	Rail terminals & facilities																x									x
141	Railroad passenger stations																		x							x
142	Railroad right of ways																									x
143	Railroad switching and classification yards																									x
144	Refuse and/or Recycling facilities											UV														
145	Restaurant						x	x						x	x		x	x	x	x			x	x		
146	Restaurant, drive-through						x	x																x		
147	Retail drive-through facility						x	x																x		
148	Retail stores						x							x			x	x	x	x				x		
149	Salvage yard											x														
150	Schools, including music, dance, trade or business						x	x								x			x	x				x		

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	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z
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2	**LAND USE DESIGNATION**	**R1**	**R2**	**R3**	**R4**	**R5**	**B1**	**B2**	**B3**	**B4**	**M1**	**M2**	**M3**	**E**	**DP**	**DS**	**DC**	**DI**	**DMX**	**NMX**	**WIND**	**SOLAR**	**AOD**	**PUD**	**FLP**	**Rail**
151	Scrapyard											x														
152	Self storage facility								x	x																
153	Sewage treatment system											x														
154	Sexually oriented businesses										x															
155	Shelter - Emergency				x	x												x								
156	Shopping center, mulitple retail stores							x																x		
157	Short-term rental	SU	SU																							
158	Solar, for commercial sale																					x				SU
159	Solar, for private consumption	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x				x		
160	Soldering and welding										x															
161	Stadium/ Sports complex													x	x			x								
162	Storage of flammable liquids												x													
163	Taproom						x	x						x	x		x	x	x	x				x		
164	Tattoo and body piercing established (licensed by the state)						x							x					x	x				x		
165	Textiles, not including bleaching										x	x														
166	Theater (dramatic, operatic, musical, or other live performance)													x	x			x	x	x				x		
167	Tool, dye, and pattern-making										x															
168	Townhouse			x																				x		
169	Truck sales and services facilities									x	x															
170	Truck stops or truck fuel sales									x	x															
171	Vehicle emission testing facility										x															
172	Waste collection areas										x	x	x													
173	Water treatment/purification facility										x	x	x				x									
174	Water-oriented accessory structureor facility																									
175	WECS tower																				x					
176	Wholesale establishment								x																	
177	Wind Energy Conversion System (WECS)																				x					
178	Wind turbine																				x					

SECTION 4. RESIDENTIAL DISTRICTS

A. PURPOSE AND INTENT

The Residential Districts are established to promote stable, safe, and livable neighborhoods across a range of densities and housing types. This Section supports the City of Gary's Comprehensive Plan by encouraging housing diversity, protecting existing neighborhood character, and promoting sustainable, walkable residential development patterns.

These districts ensure orderly growth, provide for transitions between uses, and integrate land use with infrastructure, transportation, and environmental resources.

B. DISTRICT INTENT SUMMARIES

District	***Intent***
R1 –	Smaller-lot single-family and duplex dwellings, supporting infill housing and affordability.
R2 –	Moderate-lot single-family homes, reflecting existing urban neighborhoods with front porches and walkability.
R3 –	Attached single-family dwelling unit.
R4 –	Higher-density housing such as townhomes and apartments near transit, corridors, or institutions.
R5 –	High density apartment dwelling, multi-family units, where units share common walls or floors (ground-to-ceiling).

C. USE AND BULK REGULATIONS.

	R1 SMALL LOT SINGLE FAMILY DETACHED	R2 LARGE LOT SINGLE FAMILY DETACHED	R3 2-3 SINGLE FAMILY ATTACHED	R4 4-19 APARTMENT UNITS	R5 20+ APARTMENT UNITS
BUILDING SETBACK MIN.					
FRONT	ALL DISTRICTS: 25' min. or aligned with the neighboring block average setback of existing structures, not to exceed 40'.				
SIDEYARD, COMBINED	3' min. per side	12' combined, not less than 3' per side.	12' combined, not less than 5' per side	12' combined, not less than 5' per side	24' combined, not less than 10' per side.
REAR	10'	10'	20'	20'	20'
GROSS BLDG FLOOR AREA/LOT AREA MAX	40%	40%	50%	60%	60%
MIN. LOT WIDTH	25'	40'	50'	50'	80'
MIN. PRIMARY BUILDING SQUARE FOOTAGE	900 SF	1200 SF	2100 SF	MIN. LIVING UNIT SIZE 900 SF	MIN. LIVING UNIT SIZE 700 SF
MAX. STRUCTURE HEIGHT, INLC. ROOF AND EQUIPMENT	30'	30'	36'	50'	75'
ACCESSORY DWELLING PERMITTED	YES	YES	YES	NO	NO
ACCESSORY STRUCTURE, MAX QUANTITY	2	2	2	2	2
FENCE HT. MAX	6' max. side/rear yards, 42" max. front yard. No barbed wire.				
TRASH ENCLOSURE	Not Required	Not Required	Not Required	Required. To be screened with a 6' shadow-box (or similar) fence and gate system.	Required. To be screened with a 6' shadow-box (or similar) fence and gate system.
OFF-STREET PARKING REQUIRED	NO	NO	NO	YES, Min. (1) space per unit	YES, Min. (1) space per unit
FARM ANIMALS PERMITTED	NO	YES	NO	NO	NO
DEVELOPMENT PLAN REVIEW	NO	NO	NO	YES	YES

WITH ZONING ADMINISTRATOR					

See also supporting regulations and other Sections of this Ordinance, including but not limited to Landscape, Signs, Fences, Lighting.

D. RESIDENTIAL DESIGN FEATURES

To create variation and interest in the built environment, all residential subdivisions shall incorporate appropriate techniques (e.g., plat restrictions, building setback lines, or other method as approved by the Plan Commission Director) to accomplish the design objectives as set forth below.

Select a minimum of three of the following design features for each façade (a minimum of one feature shall be selected from Group 1, a minimum of one feature from Group 2, and the remaining feature may be selected from either Group 1, Group 2, or Group 3):

GROUP 1—PICK AT LEAST ONE OF THE FOLLOWING:

1. Roof line change (i.e., change in elevation or direction of ridge).
2. Roof with dormers (minimum of two dormers).
3. Covered front porch—Occupying a minimum of 50 percent of the overall width of the single-family dwelling unit containing a dwelling unit.
4. Shed roof accent at front entry (minimum size 4'x10').
5. Minimum 50 percent brick or stone on front façade.
    5.1. Note: Front Façade wall area shall be exclusive of window or door areas and shall include all wall areas oriented to the front of a single-family dwelling unit between the two side walls of such building. Also, Front Façade is to mean any wall that faces any street or open space (such as a park).

GROUP 2—PICK AT LEAST ONE OF THE FOLLOWING:

1. Decorative door surround.
2. Decorative window header.
3. Decorative window surround.
4. Hip roof.
5. Side garage bump-out.
6. Door sidelight(s).
7. Door Transom.

GROUP 3—ADDITIONAL ITEMS:

1. Decorative trim molding (e.g., soffit and corner trim).
2. Accent siding.
3. Windows in garage door.
4. Shutters (all sides).
5. Window awnings.
6. Window grids (permanent).
7. Decorative front door.
8. Decorative gable vents.

9. Keystone.
10. Address block.

In addition, at least two of the following three design objectives shall be met:

1. *Garage off-set*. The front loading garage is off-set and stepped back from the front building line by at least one-half of the depth of the primary building (this design feature may only be counted for dwellings with garages).
2. *Garage as percent of façade*. Garage doors shall not comprise more than 40 percent of the linear length of the ground floor, street facing façade of the primary building containing a dwelling unit (this design feature may only be counted for dwellings with garages).
3. *Covered porch*. Each dwelling unit shall be designed with a covered front porch occupying a minimum of 50 percent of the overall width of the primary building containing a dwelling unit.

SECTION 5. BUSINESS DISTRICTS

A. PURPOSE AND INTENT.

The Business Districts are designed to support a range of commercial activities that serve residents, neighborhoods, and regional visitors. These districts encourage walkable, attractive, and economically vibrant corridors while minimizing negative impacts on nearby residential areas. The intent is to promote small business growth, adaptive reuse, infill development, and mixed-use opportunities.

B. DISTRICT INTENT SUMMARIES.

District	Intent
B1 – Limited Retail and Service	Small-scale retail and service uses integrated into residential neighborhoods; pedestrian-oriented design.
B2 – Large or Multi-Tenant Retail	Large-scale shopping centers and service nodes that serve multiple neighborhoods.
B3 – Wholesale and Distribution	Accommodates establishments primarily engaged in selling merchandise to retailers, industrial, commercial, or professional business users, rather than the general public. It serves as the bridge between manufacturers and the retail market.
B4 – Automotive	Accommodates commercial activities that are "auto-oriented," meaning they serve customers traveling by car or provide services directly to the vehicles themselves. Examples include car wash, gas station, car sales lot, auto mechanic shop, etc.

C. USE AND BULK REGULATIONS.

	B1 LIMITED RETAIL AND SERVICE	B2 LARGE OR MULTI-TENANT RETAIL	B3 WHOLESALE AND DISTRIBUTION	B4 AUTOMOTIVE
BUILDING SETBACK MIN. FRONT	12', or 0' if along Broadway or 5th Avenue	50'	106'	80'
BUILDING SETBACK MIN. SIDEYARD, each	0', unless adjacent to Residential, then 5'	10', unless adjacent to Residential, then 30'	10', unless adjacent to: Residential- 30' B1- 20'	10', unless adjacent to: Residential- 30' B1- 20'
BUILDING SETBACK MIN. REAR	0', unless adjacent to Residential, then 15'	10', unless adjacent to Residential, then 30'	10', unless adjacent to: Residential- 30' B1- 20'	10', unless adjacent to: Residential- 30' B1- 20'
GROSS BLDG FLOOR AREA/LOT AREA MAX MAX.	40%	50%	50%	40%
HARD SURFACE COVERAGE MAX MAX.	80%	70%	70%	80%
MIN. LOT WIDTH	50'	100'	150'	100'
MAX. STRUCTURE HEIGHT, INLC. ROOF AND EQUIPMENT	28', no more than 2 stories	40'	45'	20'
MIN. BUILDING SQUARE FOOTAGE	1,000 SF	15,000 SF	25,000 SF	2,000 SF
ACCESSORY BUILDING PERMITTED	NO	NO, however outdoor sales permitted if attached to building	YES	NO
ACCESSORY STRUCTURE, MAX QUANTITY	0	0	2	0
FENCE HT. MAX	NOT PERMITTED	NOT PERMITTED	8' max. side/rear yards, 6' max. front yard. No barbed wire.	6' max.. No barbed wire.
TRASH ENCLOSURE	Required. To be screened with a 6' shadow-box (or similar) fence and gate system.	Required. To be screened with a 6' shadow-box (or similar) fence and gate system.	Required. To be screened with a 6' shadow-box (or similar) fence and gate system.	Required. To be screened with a 6' shadow-box (or similar) fence and gate system.

	B1 LIMITED RETAIL AND SERVICE	B2 LARGE OR MULTI-TENANT RETAIL	B3 WHOLESALE AND DISTRIBUTION	B4 AUTOMOTIVE
MIN. OFF-STREET PARKING REQUIRED	1 space per 300 square feet of gross floor area, or **Restaurant**: 1 space per 3 seats SEE PARKING	SEE PARKING	1 space per 1,000 SF	**Gas Station:** 1 space per 200 SF **Dealer:** 1 employee and 1 customer space per 15 vehicles displayed **Car wash:** 1 space per 200 SF **Mechanic/Repair:** 3 spaces per service bay.
MAX. OFF-STREET PARKING				1 space per 320 SF of asphalt, incl. displayed cars.
LOADING BERTH, LOADING AREA/YARD	Not permitted	Minimum 12' wide, 14' vertical clearance. Shall be facing the Rear Yard.	Minimum 12' wide, 14' vertical clearance. Shall be facing the Rear Yard.	Not permitted
PASSENGER LOADING, PACKAGE DROP-OFF	Provide a min. of 1 parking space dedicated to valet, passenger drop-off, and/or package drop-off. Spaces may be off-street or on-street.	Provide a min. of 2 parking spaces dedicated to valet, passenger drop-off, and/or package drop-off. Spaces may be off-street or on-street.		
BICYCLE PARKING MAX.	1 dedicated space with rack per 20 parking spaces.	1 dedicated space with rack per 40 parking spaces.		
OUTSIDE STORAGE	Not permitted	Permitted with 6' opaque fence	Permitted with 6' opaque fence	**Gas Station:** permitted under canopy only **Dealer:** not permitted **Car wash:** not permitted **Mechanic/Repair:** permitted with 6' opaque fence

DEVELOPMENT PLAN REVIEW WITH ZONING ADMINISTRATOR	YES	YES	YES	YES

See also supporting regulations and other Sections of this Ordinance, including but not limited to Landscape, Signs, Fences, Lighting.

SECTION 6. MANUFACTURING DISTRICTS

A. PURPOSE AND INTENT.

The Manufacturing Districts are intended to accommodate a wide range of employment-generating uses including light industry, advanced manufacturing, logistics, warehousing, and heavy industry. These districts protect the integrity of industrial zones, promote sustainable and resilient job growth, and mitigate conflicts with nearby residential and commercial areas.

B. DISTRICT INTENT SUMMARIES

District	*Intent*
M1 – Limited Manufacturing	Allows clean industries such as technology assembly, research & development, artisan production, and small-scale logistics with limited external impacts.
M2 – Manufacturing and Production	Permits moderate-intensity operations including fabrication, warehousing, and repair facilities with appropriate buffering.
M3 – Heavy Industrial	Designed for large-scale and potentially impactful industrial uses such as chemical processing, steel production, and bulk material storage.

C. USE AND BULK REGULATIONS.

	M1 LIMITED MANUFACTURING	M2 MANUFACTURING AND PRODUCTION	M3 HEAVY INDUSTRIAL
BUILDING SETBACK MIN. FRONT	50’	106’	106’
BUILDING SETBACK MIN. SIDEYARD, each	20’, unless adjacent to: Residential- 40’ B1, B2- 30’	20’, unless adjacent to: Residential- 100’ B1, B2- 50’	50’, unless adjacent to: Residential- 100’ B1, B2- 75’
BUILDING SETBACK MIN. REAR	20’, unless adjacent to: Residential- 30’	30’, unless adjacent to: Residential- 50’	50’, unless adjacent to: Residential- 100’ B1, B2- 75’
GROSS BLDG FLOOR AREA/LOT AREA MAX	50%	50%	50%
MIN. BUILDING SQUARE FOOTAGE	5,000	20,000	100,000
HARD SURFACE COVERAGE MAX	70%	70%	70%
MIN. LOT WIDTH	150’	150’	300’
MAX. STRUCTURE HEIGHT, INLC. ROOF AND EQUIPMENT	45’	55’	80’
ACCESSORY BUILDING PERMITTED	YES	YES	YES
FENCE HT. MAX	8’ max. side/rear yards, 6’ max. front yard. No barbed wire.	8’ max.	8’ max.
TRASH ENCLOSURE	Required. To be screened with a 6’ shadow-box (or similar) fence and gate system.	Required. To be screened with a 6’ shadow-box (or similar) fence and gate system if adjacent to Residential, B1, B2.	
MIN. OFF-STREET PARKING REQUIRED	1 space per 2 employees	1 space per 3 employees	1 space per 4 employees
LOADING BERTH, LOADING AREA/YARD	Minimum 12’ wide, 14’ vertical clearance. Shall be facing the Rear Yard.	Minimum 12’ wide, 14’ vertical clearance.	Minimum 12’ wide, 14’ vertical clearance.
OUTSIDE STORAGE	Permitted with 8’ opaque fence. Storage shall not extend beyond the height of the fence.	Permitted without fence unless adjacent to Residential, B1, B2, then permitted with 8’ opaque fence. Storage shall not extend	Permitted

		beyond the height of the fence.	
DEVELOPMENT PLAN REVIEW WITH ZONING ADMINISTRATOR	YES	YES	YES

See also supporting regulations and other Sections of this Ordinance, including but not limited to Landscape, Signs, Fences, Lighting.

SECTION 7. ENTERTAINMENT DISTRICTS

A. PURPOSE AND INTENT

The Entertainment District (ED) is designed to support vibrant, year-round entertainment, cultural, and hospitality uses that attract both residents and visitors. This district encourages compact, walkable development with active ground floors, extended hours of operation, and a mix of dining, nightlife, event, and lodging options.

The ED supports tourism, creative industries, and local entrepreneurship while ensuring safe, accessible, and well-managed public spaces. It provides a regulatory framework for balancing economic activity with quality of life and urban design excellence.

B. DISTRICT CHARACTER AND OBJECTIVES

The ED District is intended to be a vibrant, active, and safe destination characterized by:

1) A high concentration of entertainment, dining, and specialty retail establishments.
2) A pedestrian-friendly environment with inviting streetscapes, public art, and outdoor activity areas.
3) Buildings with active ground-floor uses and transparent facades that engage the public realm.
4) A diverse range of entertainment options appealing to various age groups and interests.
5) Efficient transportation access, including pedestrian, bicycle, and public transit options, with reduced reliance on private vehicle parking.
6) A strong sense of place and identity that reflects the unique culture and aspirations of Gary, Indiana.

C. DISTRICT INTENT SUMMARY

Zoning District	***Intent***
ED – Entertainment District	High-intensity, destination-based commercial activities that draw visitors from outside the local community. It is designed to accommodate large crowds, significant traffic, and 24-hour operations that would be incompatible with standard neighborhood retail zones.

D. USE AND BULK REGULATIONS.

	E - ENTERTAINMENT
BUILDING SETBACK MIN. FRONT	50’
BUILDING SETBACK MIN. SIDEYARD, each	0’, unless adjacent to Residential, then 25’
BUILDING SETBACK MIN. REAR	0’, unless adjacent to Residential, then 45’
GROSS BLDG FLOOR AREA/LOT AREA MAX	50%
HARD SURFACE COVERAGE MAX	80%
MIN. LOT WIDTH	300’
ACCESSORY BUILDING PERMITTED	NO
FENCE HT. MAX	Not permitted unless screening mechanical equipment
TRASH ENCLOSURE	Required. To be screened with a 6’ shadow-box (or similar) fence and gate system.
MIN. OFF-STREET PARKING REQUIRED	1 space per 750 square feet of gross floor area, and/or **Restaurant**: 1 space per 4 seats **Concert Venue:** 1 space per 3 seats
LOADING BERTH, LOADING AREA/YARD	Minimum 12’ wide, 14’ vertical clearance. Shall be facing the Rear Yard.
PASSENGER LOADING, PACKAGE DROP-OFF	Provide a min. 3 of parking spaces dedicated to valet, passenger drop-off, and/or package drop-off. Spaces may be off-street or on-street.
BICYCLE PARKING MAX.	1 dedicated space with rack per 100 parking spaces.
OUTSIDE STORAGE	Not permitted
DEVELOPMENT PLAN REVIEW WITH ZONING ADMINISTRATOR	YES

See also supporting regulations and other Sections of this Ordinance, including but not limited to Landscape, Signs, Fences, Lighting.

E. DESIGN STANDARDS

1) **Architectural Character:** Buildings shall be designed to contribute to a vibrant and unique architectural character. Emphasis shall be placed on high-quality materials, varied facades, and architectural details.

2) **Ground Floor Activation:** Ground floors of all buildings fronting public streets shall be designed for active uses (e.g., retail, restaurant, lobby) with a minimum of 60% of the street-facing facade as transparent glass to promote visibility and interaction.

3) **Pedestrian Orientation:**

   a) Primary building entrances shall face and be directly accessible from the public sidewalk.

   b) Awnings, canopies, and architectural features that provide shelter and visual interest at the pedestrian level are encouraged.

c) Outdoor seating areas shall be designed to enhance the pedestrian experience without obstructing public access.

d) Connect to adjacent pedestrian network systems.

4) **Materials and Finishes:** Durable, high-quality materials such as brick, stone, architectural concrete, and metal panels are encouraged. Avoid large expanses of undifferentiated, blank walls.

5) **Public Art and Street Furniture:** Integration of public art, benches, trash receptacles, bicycle racks, and other street furniture is encouraged to enhance the pedestrian environment and district identity.

F. PARKING AND LOADING

1) **Maximum Parking:** The maximum number of parking spaces provided shall not be 120% of the minimum required spaces.

2) **Shared Parking:** Shared parking arrangements between adjacent or nearby establishments with complementary peak demands (e.g., daytime office use sharing parking with nighttime entertainment venues) are highly encouraged and may further reduce individual parking requirements, subject to a shared parking study and agreement approved by the City.

3) **Loading Zones:** Dedicated off-street loading zones shall be provided for all establishments requiring regular deliveries, designed to minimize disruption to pedestrian and vehicular traffic on public streets. Loading activities shall be restricted to specific hours (e.g., 6:00 AM to 10:00 AM).

4) **Valet Parking:** Valet parking services are encouraged to manage parking demand and may be permitted as an accessory use, subject to a plan approved by the City.

G. OUTDOOR ACTIVITIES

1) **Outdoor Seating Areas:** Permitted on private property and, with proper permits, within the public right-of-way (e.g., sidewalk cafes). Such areas shall maintain clear pedestrian pathways (minimum 8’ width) and be designed to integrate with the building and streetscape.

2) **Hours of Operation:** While the district encourages late-night activity, specific hours of operation for outdoor amplified sound or highly impactful outdoor activities may be limited, particularly when adjacent to non-commercial zoning districts.

3) Noise Control

i) **Performance Standards at Property Lines:** All establishments within the Entertainment District shall comply with the following maximum noise levels, measured at the property line of any adjacent non-commercial zoning district:

ii) **Daytime (7:00 AM - 10:00 PM):** 65 dBA Leq (equivalent continuous sound level)

iii) **Nighttime (10:00 PM - 7:00 AM):** Specify dBA Limit, e.g., 55 dBA Leq

iv) Higher instantaneous peaks (Lmax) may be permitted but subject to limits (e.g., 75 dBA Lmax at night).

v) **Sound Insulation:** New construction or significant renovation of Live Entertainment Venues and Nightclubs shall incorporate sound insulation measures to ensure that interior noise levels in adjacent noise-sensitive uses (if any exist) do not exceed dBA Limit, e.g., 45 dBA Leq.

vi) **Noise Management Plan:** Conditional Use Permit applications for uses generating significant noise shall include a detailed noise management plan outlining mitigation measures (e.g., soundproofing, directional speakers, operational protocols).

H. SECURITY AND PUBLIC SAFETY

1) **Lighting:** All public and private areas within the Entertainment District, including parking lots and pedestrian pathways, shall be adequately lit to enhance safety and visibility during nighttime hours.

2) **Surveillance:** Businesses, particularly those operating late at night, are encouraged to install security cameras covering their premises and adjacent public areas.

3) **Public Safety Plan:** Conditional Use Permit applications for high-occupancy venues shall include a public safety plan detailing crowd management, emergency procedures, and coordination with Gary Police and Fire Departments.

4) **Waste Management:** (1) Street-side trash bin shall be located every 500 feet. All establishments shall provide adequate, screened, and regularly serviced waste and recycling receptacles to maintain cleanliness within the district. The primary tenant is responsible for emptying the trash bins when full.

SECTION 8. DESTINATION DISTRICTS

A. PURPOSE AND INTENT

The Destination Districts are intended to promote strategic redevelopment, regional attractions, and catalytic investment nodes in the City of Gary. These districts support vibrant public spaces, entertainment, tourism, innovation, and cultural destinations through flexible design and coordinated infrastructure. Each subdistrict fosters a unique mix of land uses while protecting community character and facilitating major private-public partnerships.

Properties in these districts are owned by the City of Gary or a non-profit organization serving as a foundational institution within the City of Gary. These parcels may have multiple buildings and uses.

B. DISTRICT INTENT SUMMARIES

Zoning District	***Intent***
DP – Destination Park	civic parks and recreational tourism uses.
DS – Destination School	public or private educational facilities and the ancillary activities necessary for their operation. It recognizes that schools have unique infrastructure needs, such as high-volume bus traffic and large recreational footprints.
DC – Destination Civic	Governmental and community-focused facilities that provide essential services to the public. Unlike commercial or industrial zones, these areas are dedicated to the administration and safety of the municipality rather than private profit.
DI – Destination Institution	large-scale, high-intensity complexes that provide essential services to the region. Unlike standard commercial zones, these districts treat the entire campus as a single cohesive unit rather than a collection of individual lots.

All Destination districts may be single or mixed use. The intent is to have an anchor primary use and all supporting uses immediately surrounding the anchor.

C. USE AND BULK REGULATIONS.

	DP Destination Park	DS Destination School	DC Destination Civic	DI Destination Institution
BUILDING SETBACK MIN. FRONT	Match the block average			
BUILDING SETBACK MIN. SIDEYARD, each				
BUILDING SETBACK MIN. REAR				
GROSS BLDG FLOOR AREA/LOT AREA MAX	20%	50%	50%	50%
HARD SURFACE COVERAGE MAX	50%	70%	70%	70%
MAX. STRUCTURE HEIGHT, INLC. ROOF AND EQUIPMENT	35’	45’	75’	100’
ACCESSORY BUILDING PERMITTED	YES	YES	YES	YES
FENCE HT. MAX	6’ max. No barbed wire.	8’ max. No barbed wire.	8’ max.	6’ max. side/rear yards, 42” max. front yard. No barbed wire.
TRASH ENCLOSURE	Required. To be screened with a 6’ shadow-box (or similar) fence and gate system.			
MIN. OFF-STREET PARKING REQUIRED	N/A	N/A	N/A	N/A
LOADING BERTH, LOADING AREA/YARD	Minimum 12’ wide, 14’ vertical clearance. Shall be facing the Rear Yard.	Minimum 12’ wide, 14’ vertical clearance. Shall be facing the Rear Yard.	Minimum 12’ wide, 14’ vertical clearance. Shall be facing the Rear Yard.	Minimum 12’ wide, 14’ vertical clearance. Shall be facing the Rear Yard.
OUTSIDE STORAGE	Permitted with 6’ zero-through visibility fence	NOT PERMITTED	Permitted	NOT PERMITTED
DEVELOPMENT PLAN REVIEW WITH ZONING ADMINISTRATOR	NO	YES	NO	YES

See also supporting regulations and other Sections of this Ordinance, including but not limited to Landscape, Signs, Fences, Lighting.

D. DESIGN STANDARDS

1) **Architectural Character:** Buildings shall be designed to contribute to a vibrant and unique architectural character. Emphasis shall be placed on high-quality materials, varied facades, and architectural details.

2) **Pedestrian Orientation:**

   a) Primary building entrances shall face and be directly accessible from the public sidewalk.

   b) Awnings, canopies, and architectural features that provide shelter and visual interest at the pedestrian level are encouraged.

   c) Outdoor seating areas shall be designed to enhance the pedestrian experience without obstructing public access.

   d) Connect to adjacent pedestrian network systems.

3) **Materials and Finishes:** Durable, high-quality materials such as brick, stone, architectural concrete, and metal panels are encouraged. Avoid large expanses of undifferentiated, blank walls.

4) **Public Art and Street Furniture:** Integration of public art, benches, trash receptacles, bicycle racks, and other street furniture is encouraged to enhance the pedestrian environment and district identity.

E. OUTDOOR ACTIVITIES

1) **Outdoor Seating Areas:** Permitted on private property and, with proper permits, within the public right-of-way (e.g., sidewalk cafes). Such areas shall maintain clear pedestrian pathways (minimum 8' width) and be designed to integrate with the building and streetscape.

2) **Hours of Operation:** While the district encourages late-night activity, specific hours of operation for outdoor amplified sound or highly impactful outdoor activities may be limited, particularly when adjacent to non-commercial zoning districts.

3) Noise Control

   i) **Performance Standards at Property Lines:** All establishments within the Entertainment District shall comply with the following maximum noise levels, measured at the property line of any adjacent non-commercial zoning district:

   ii) **Daytime (7:00 AM - 10:00 PM):** 65 dBA Leq (equivalent continuous sound level)

   iii) **Nighttime (10:00 PM - 7:00 AM):** Specify dBA Limit, e.g., 55 dBA Leq

   iv) Higher instantaneous peaks (Lmax) may be permitted but subject to limits (e.g., 75 dBA Lmax at night).

   v) **Sound Insulation:** New construction or significant renovation of Live Entertainment Venues and Nightclubs shall incorporate sound insulation measures to ensure that interior noise levels in adjacent noise-sensitive uses (if any exist) do not exceed dBA Limit, e.g., 45 dBA Leq.

   vi) **Noise Management Plan:** Conditional Use Permit applications for uses generating significant noise shall include a detailed noise management plan outlining

mitigation measures (e.g., soundproofing, directional speakers, operational protocols).

F. SECURITY AND PUBLIC SAFETY

1) **Lighting:** All public and private areas within the District, including parking lots and pedestrian pathways, shall be adequately lit to enhance safety and visibility during nighttime hours.

2) **Surveillance:** Businesses, particularly those operating late at night, are encouraged to install security cameras covering their premises and adjacent public areas.

3) **Public Safety Plan:** Conditional Use Permit applications for high-occupancy venues shall include a public safety plan detailing crowd management, emergency procedures, and coordination with Gary Police and Fire Departments.

4) **Waste Management:** (1) Street-side trash bins shall be located every 500 feet. All establishments shall provide adequate, screened, and regularly serviced waste and recycling receptacles to maintain cleanliness within the district. The primary tenant is responsible for emptying the trash bins when full.

SECTION 9. MIXED-USE DISTRICTS

A. PURPOSE AND INTENT.

The Mixed-Use Districts are designed to promote walkable, vibrant, and integrated neighborhoods where residential, commercial, civic, and recreational uses coexist. These districts support smart growth, housing diversity, economic development, and transportation alternatives by enabling compact, human-scaled development with active street life. The mix of uses may be on the same parcel, adjacent parcel, or same block; meaning the district has a mix of uses. The Plan Commission Director shall determine the appropriate density and mix of uses.

The **Downtown Mixed-Use (DMX)** and **Neighborhood Mixed-Use (NMX)** districts encourage infill development and redevelopment in key corridors and nodes, supporting Gary's goals for sustainability, equity, and place-based economic revitalization.

B. DISTRICT INTENT SUMMARIES.

District	*Intent*
DMX – Downtown Mixed-Use	Anchors the city's core with higher-density, transit-accessible development combining residential, retail, office, and civic uses. Supports multistory buildings, active storefronts, and a 24/7 environment.
NMX – Neighborhood Mixed-Use	Provides for office, commercial services, housing, and/or community facilities in walkable, neighborhood-focused settings. Designed to serve local residents and encourage reinvestment in corridors.

C. USE AND BULK REGULATIONS.

	DMX DOWNTOWN MIXED USE	NMX NEIGHBORHOOD MIXED USE
BUILDING SETBACK MIN. FRONT	0’	0’
BUILDING SETBACK MIN. SIDEYARD, each	0’, unless adjacent to Residential, then 5’	10’, unless adjacent to Residential, then 30’
BUILDING SETBACK MIN. REAR	0’, unless adjacent to Residential, then 15’	10’, unless adjacent to Residential, then 30’
GROSS BLDG FLOOR AREA/LOT AREA MAX	80%	70%
HARD SURFACE COVERAGE MAX	85%	80%
MIN. LOT WIDTH	30’	60’
MAX. STRUCTURE HEIGHT, INLC. ROOF AND EQUIPMENT	100’	50’
FRONT FAÇADE TRANSPARENCY	60% MIN.	60% MIN.
ACCESSORY BUILDING PERMITTED	NO	NO
FENCE HT. MAX	NOT PERMITTED	NOT PERMITTED
TRASH ENCLOSURE	Required. To be screened with a 6’ shadow-box (or similar) fence and gate system.	Required. To be screened with a 6’ shadow-box (or similar) fence and gate system.
MIN. OFF-STREET PARKING REQUIRED	**Dwelling:** 1 space per unit **Restaurant**: 1 space per 3 seats **Office:** 1 space per 400 SF **Retail/Business:** 1 space per 200 SF Shared parking is acceptable to a maximum reduction of 20%.	**Dwelling:** 1 spaces per unit **Restaurant**: 1 space per 4 seats **Office:** 1 space per 400 SF **Retail/Business:** 1 space per 200 SF Shared parking is acceptable to a maximum reduction of 20%.
GARAGE/ PARKING LOT	Access off non-primary street or parking lot.	Access may not face the front yard.
LOADING BERTH, LOADING AREA/YARD	Minimum 12’ wide, 14’ vertical clearance. Shall be facing the Rear Yard.	Minimum 12’ wide, 14’ vertical clearance. Shall be facing the Rear Yard.

	DMX DOWNTOWN MIXED USE	NMX NEIGHBORHOOD MIXED USE
PASSENGER LOADING, PACKAGE DROP-OFF	Provide a min. of 3 parking spaces dedicated to valet, passenger drop-off, and/or package drop-off. Spaces may be on-street.	Provide a min. of 2 parking spaces dedicated to valet, passenger drop-off, and/or package drop-off per building (if multiple buildings are proposed). Spaces may be off-street or on-street.
BICYCLE PARKING MAX.	1 dedicated space with rack per 20 parking spaces.	1 dedicated space with rack per 20 parking spaces.
OUTSIDE STORAGE	Not permitted	Not permitted
DEVELOPMENT PLAN REVIEW WITH ZONING ADMINISTRATOR	YES	YES

See also supporting regulations and other Sections of this Ordinance, including but not limited to Landscape, Signs, Fences, Lighting.

D. DESIGN STANDARDS

1) **Architectural Character:** Buildings shall be designed to contribute to a vibrant and unique architectural character. Emphasis shall be placed on high-quality materials, varied facades, and architectural details.

2) **Pedestrian Orientation:**

   a) Primary building entrances shall face and be directly accessible from the public sidewalk.

   b) Awnings, canopies, and architectural features that provide shelter and visual interest at the pedestrian level are encouraged.

   c) Outdoor seating areas shall be designed to enhance the pedestrian experience without obstructing public access.

   d) Connect to adjacent pedestrian network systems.

3) **Materials and Finishes:** Durable, high-quality materials such as brick, stone, architectural concrete, and metal panels are encouraged. Avoid large expanses of undifferentiated, blank walls.

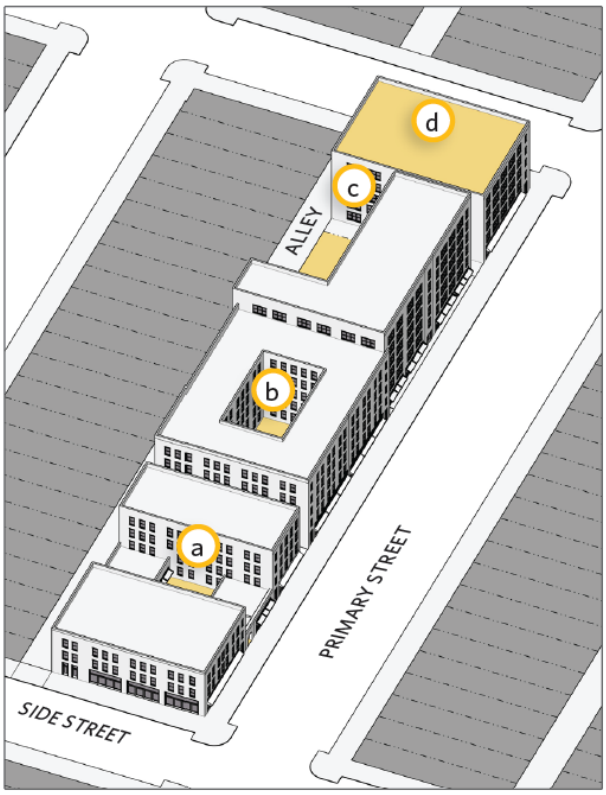
4) **Public Art and Street Furniture:** Integration of public art, benches, trash receptacles, bicycle racks, and other street furniture is encouraged to enhance the pedestrian environment and district identity.

E. ADDITIONAL DESIGN STANDARDS

1. MASSING AND BUILDING ORIENTATION

Permissible Open Space Options: One or more of the On-Site Open Space Types listed below shall be provided on each lot. The required On-Site Open Space shall be generally rectangular in form with the below-listed minimum size requirements, and must be accommodated behind the Primary Street setback line.

a Side Garden	
Minimum Area	15% of total lot area
Minimum Dimensions	20′ x 20′
b Courtyard	
Minimum Area	15% of total lot area
Minimum Dimensions	20′ x 20′
c Backyard	
Minimum Area	15% of total lot area
Minimum Dimensions	20′ x 20′
d Roof Deck	
Minimum Area	15% of total lot area
Minimum Dimensions	20′ x 20′

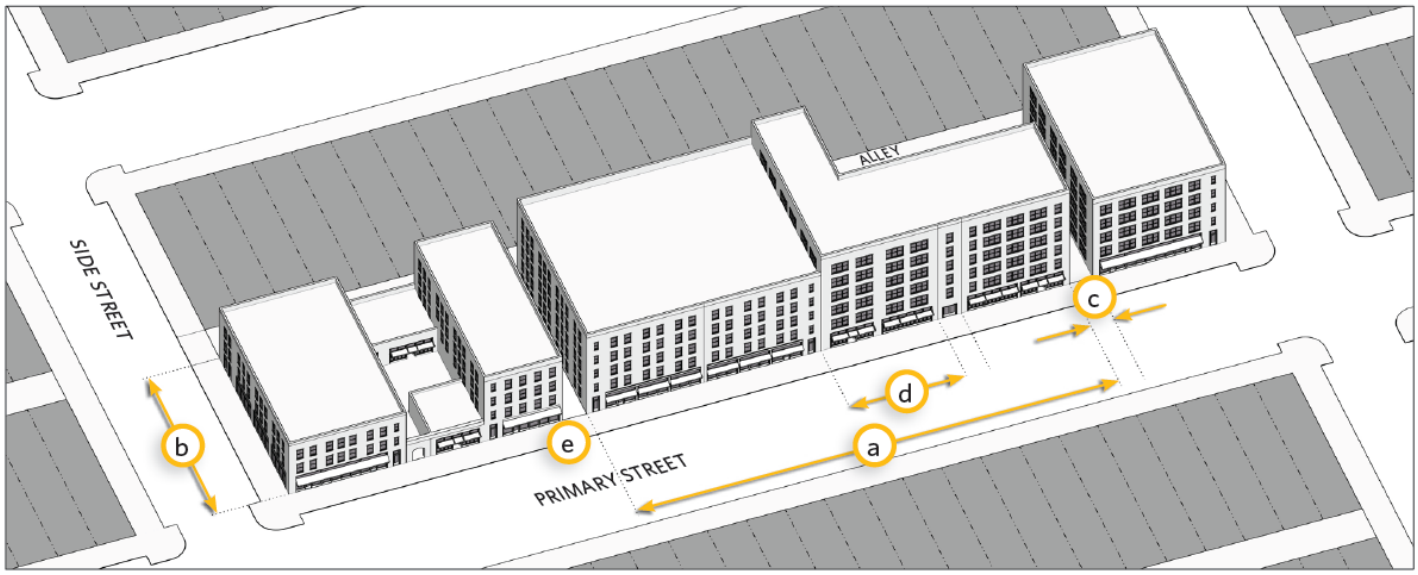


Private On-Site Open Space: Where private open space in the form of a yard, balcony, or roof deck is provided for a residential unit, it shall have a minimum area of 40 sf with a minimum width of 5′.

(INITIATIVE, 2025)

Buildings shall be designed per the following building length and facade increment standards.

a	Building Length along Primary Street	150' max.	
b	Building Length along Side Street	100' max.	
c	Building Separation along Primary Street	15' min.	
d	Facade Increment	75' max.	
e	Recommend adding a minimum of one, ideally two, east-west pedestrian passages on each block.		



(INITIATIVE, 2025)

Required Frontage Elements:
All street- and court-facing building facades shall provide at least one of the frontage elements listed below. Required Frontage Elements may encroach into the Primary Street and Side Street setbacks as measured from the building facade as identified below.

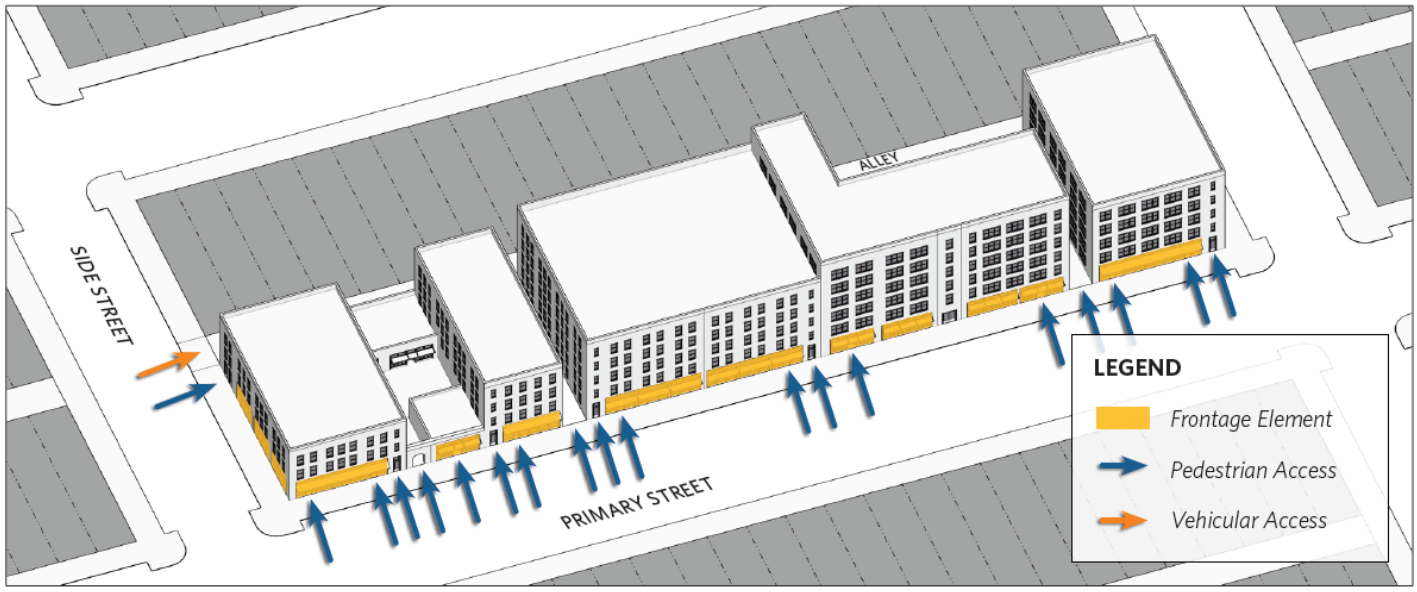
Frontage Element	Encroachment
Shopfront	To R.O.W. line
Stoop	5′
Door Yard	To R.O.W. line

Optional Frontage Elements:
The following Frontage Elements may be provided on all street- and courtyard-facing facades. Optional Frontage Elements may encroach into the Primary Street and Side Street setbacks or right-of-way as measured from the building facade as identified below.

Frontage Element	Encroachment
Balcony (upper floors)	5′ into R.O.W./setback
Bay Window	3′ into R.O.W./setback
Cantilevered Room	2′ into setback
Awning, Canopy	Within 2′ of curb

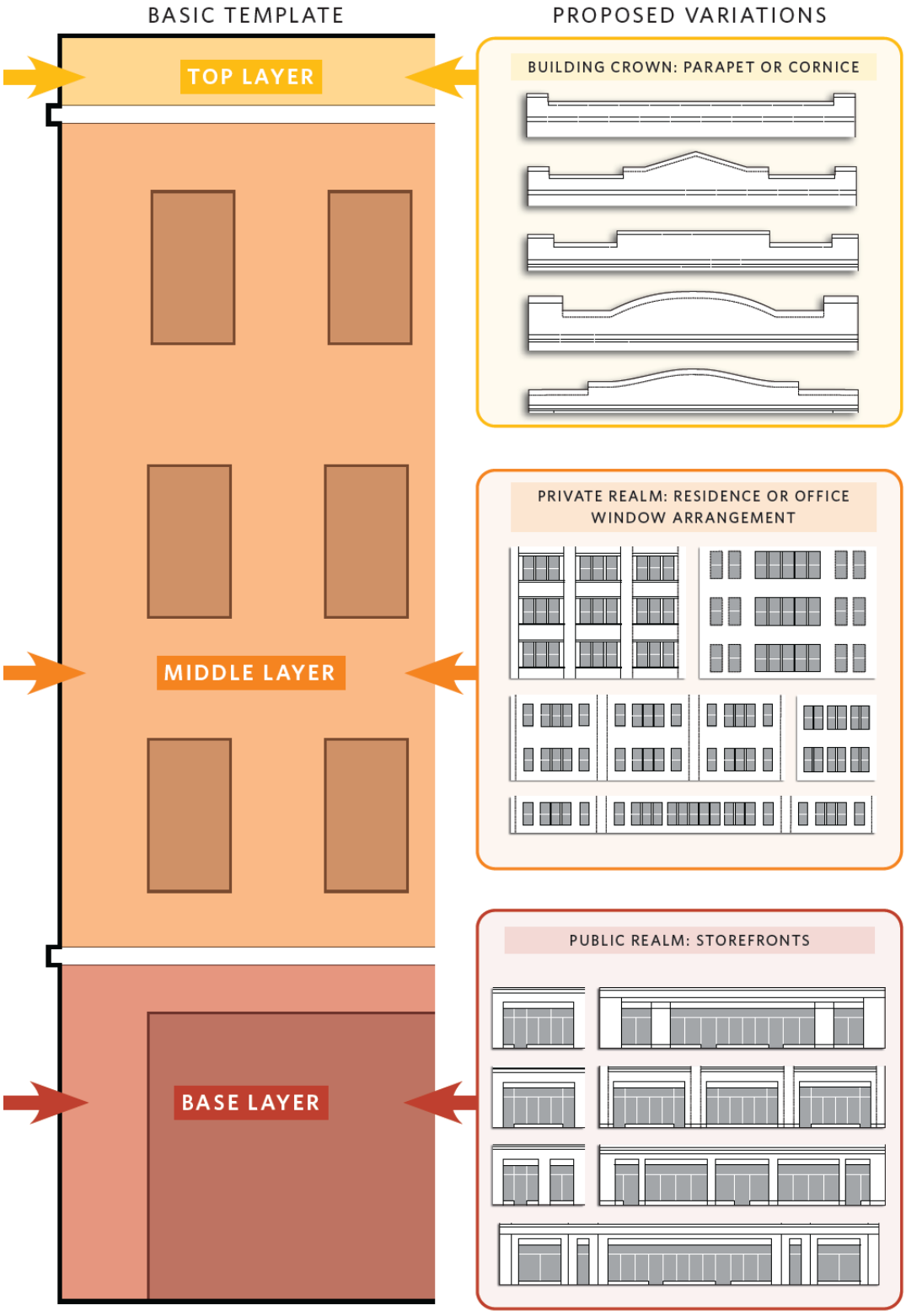
Pedestrian Access:
(a) All ground floors shall be accessed directly from the sidewalk either directly to each unit or commercial space through an appropriate Frontage Element, Lobby, or On-site Open Space, such as a Court.
(b) Upper floor uses may be accessed through an Exterior Stair, Interior Stair, or Lobby.

Vehicular Access:
(a) Parking access from Broadway is prohibited.
(b) Parking shall be accessed from an alley or a side street.
(c) Where an alley is not present (excluding Broadway), parking/service areas may be accessed from primary street. Driveways shall be located as close to the side property line as possible.
(d) Parking/service areas for corner lots shall be accessed from side street.



(INITIATIVE, 2025)

2. DMX- FAÇADE ARTICULATION AND DESIGN



(INITIATIVE, 2025)

(Initiative, 2025)

SECTION 10. WIND ENERGY OVERLAY DISTRICT

A. APPLICATION FOR REZONE

An application for rezoning to a commercial WECS Overlay District must be submitted to the City of Gary Plan Commission provided all property owners within the proposed commercial WECS Overlay District are listed as co- applicants. The application shall also include the following items:

A commercial WECS Project Summary, including, to the extent available:

1) A general description of the project including its total generating capacity, the potential equipment manufacturers, the type of WECS, the number of WECS Towers, the total name plate showing generating capacity of each WECS Tower, the maximum height of the WECS, the maximum diameter of the WECS rotors, and the specific location of the project.
2) A description of the applicant/owner/operator, including their respective business structures.
3) A description of substations, maintenance structures, storage yards, permanent meteorological towers and equipment, and other buildings that are a direct functional part of the WECS project. These structures, within the proposed overlay district, shall be considered accessory uses.
4) The names, addresses and phone numbers of the applicants/owners/operators, and all co-applicants.
5) A topographic map of the project site and the surrounding area which shall encompass an area at least a quarter mile radius from the proposed district with contours of two-foot intervals.

B. WIND ENERGY - SMALL

A WECS facility consisting of not more than one turbine and with a total name plate generating capacity

of no more than 20 Kilowatts (kW) for the purpose of generating supplemental electricity for the parcel on which the facility is located shall be a self-supporting monopole structure or installed or mounted on a non-accessory structure.

1. DEVELOPMENT STANDARDS

SITE LOCATION	Shall not be installed or mounted on any accessory structure.		
FRONT BUILDING SETBACK	Not allowed in the front yard or in front of any existing or future structures/buildings.		
SIDE BUILDING SETBACK	Side and rear yard setback can be no less than 1.5 times the total height of the tower and rotor blades and building/structures on which the small WECS facility is located. MIN		
NOISE	30 dB	MAX	30 dB at all property lines.
COLOR	Non-reflective white or grey		
HEIGHT (including blades and supporting structure/building)	Maximum total height - 60 ft. or less if self-supporting; 95 ft. or less (including height of building/structure on which the small WECS facility		

	is located) if installed or mounted on a non- accessory structure.		
DEVELOPMENT PLAN REVIEW			Required

2. DECOMMISSIONING

Removing inactive or un-maintained WECS - When any part of the WECS is not in use or not adequately maintained for a period of six (6) continuous months the entire WECS facility shall be removed from the property or disassembled and stored within a completely enclosed building.

C. WIND ENERGY CONVERSION SYSTEM (WECS) - MEDIUM

A WECS facility of not more than one turbine with a total name plate generating capacity of greater than 20 kW but no more than one Megawatt (MW) for the purpose of generating supplemental electricity for the parcel on which the facility is located shall be a self-supporting monopole structure.

1. PERMITTED USE

Refer to Permitted Use Table.

2. DEVELOPMENT STANDARDS

SITE LOCATION	Shall not be installed or mounted on any accessory structure.		
FRONT BUILDING SETBACK	Not allowed in the front yard or in front of any existing or future structures/buildings.		
SIDE BUILDING SETBACK	Side and rear yard setback can be no less than 1.5 times the total height of the tower and rotor blades and building/structures on which the small WECS facility is located. MIN		
NOISE	30 dB	MAX	30 dB at all property lines.
COLOR	Non-reflective white or grey		
HEIGHT (including blades and supporting structure/building)	Maximum total height – 150’		
DEVELOPMENT PLAN REVIEW			Required

3. DECOMMISSIONING

Removing in-active WECS - When any part of the WECS is not in use or not adequately maintained for a period of six (6) continuous months the entire WECS facility shall be removed from the property or disassembled and stored within a completely enclosed building.

D. PRIMARY DEVELOPMENT PLAN

Following the creation of a commercial WECS Overlay District, a Development Plan together with a petition for Development Plan review must be submitted to the City of Gary Plan Commission, the City of Gary Engineer.

The petition for Primary Development Plan approval shall include:

1) A site plan at an appropriate scale showing (standard sheet of 36 inches by 24 inches and individual tower sites not greater than one-inch equals 20 feet).
   a) the proposed location of all Wind Energy Conversion System Facilities (including locations of each WECS Tower and anchor bases (if any).
   b) WECS access roads; substations, maintenance structures; storage yards.
   c) temporary and permanent meteorological towers; electrical cabling; ancillary equipment; and any other structures that are a direct functional part of the WECS.
   d) Each tower and/or structure should be assigned a unique identification number on the site plan. In addition, the site plan shall show primary structures within one- quarter mile of any commercial WECS Zone District; property lines, including
      i) identification of adjoining properties.
      ii) setback lines.
      iii) public roads.
      iv) City regulated drains,
      v) open ditches,
      vi) all water bodies and streams.
      vii) location of all above-ground utility lines within a distance of two (2) times the WECS tower height of a WECS tower.
      viii) location of all existing underground utility lines associated with the WECS site.
      ix) recognized historic or heritage sites as noted by the Indiana Department of Natural Resources.
      x) floodplains.
      xi) and any wetlands based upon a delineation prepared in accordance with the applicable U.S. Army Corps of Engineer requirements and guidelines.
   e) This site plan must also be distributed to the City engineer, City health department, emergency management agency, any fire departments serving any part of the site and the City Police's department.
2) A Transportation Plan showing delivery route of all equipment as recommended by the City of Gary Engineering Department.
3) A Drainage Plan approved by the City of Gary Engineer and Board of Works. The Transportation Plan and the Drainage Plan shall establish that all newly constructed WECS access roads shall not impede the flow of water and will comply with the City drainage ordinance and engineering department requirements.
4) A Projected Sound Emissions Study for the proposed WECS.
5) A Decommissioning Plan formulated by the applicant/owner/operator and accepted by the City of Gary Plan Commission and City Council to ensure that the commercial WECS Project is properly decommissioned.

a) The Decommissioning Plan must be updated and approved by the City of Gary Plan Commission and the City of Gary Common Council every five (5) years after the approval of the initial Decommissioning Plan, and in the same manner as the initial plan.
b) The Decommissioning Plan shall include assurance that all facilities will be properly decommissioned/and removed upon the end of the project life or facility abandonment.
c) Applicant(s)/owner(s)/operator(s) obligations with respect to decommissioning shall include removal of all physical equipment pertaining to the project improvements to a depth of 48" beneath the soil surface, and restoration of the area occupied by the project improvements such that it is suitable for an equivalent land use to what existed immediately before construction of such improvements. The applicant/owner/operator shall provide a contractor's cost estimate for demolition and removal of the WECS facility from a licensed engineer approved by the City of Gary Plan Commission.
d) Financial assurance of decommission shall be provided as required.

E. SECONDARY DEVELOPMENT PLAN

The petition for Secondary Development Plan approval shall include:

1) A final revised site plan.
2) A Security and Safety Plan which must include adequate provisions for site security and safety. If the plan includes using City services, then it should include signatures indicating those parties are aware of their role and are capable of performing it.
3) Adequate assurance of the completion and continued operation of the WECS project from the date of the commencement of construction through the life of operation of the WECS. The owner/applicant/operator shall demonstrate such adequate assurance of completion and continued operation of the WECS project by providing evidence of:
   a) adequate funding of one hundred percent (100%) of the estimated cost of construction of the WECS.
   b) performance bonds or other sureties from the owner/applicant/operator and/or major equipment suppliers and contractors.
   c) the existence of written warranties from contractors and/or manufacturers which have demonstrated financial ability to repair and/or replace defective work, materials, and equipment; and
   d) adequate casualty, builders' risk, business interruption, and liability insurance for the replacement of the WECS and the individual components and the payment of all liabilities occurring during, arising from, or related to a casualty loss. The applicant/owner/operator shall provide cost estimates, bids, contracts, warranties, feasibility studies, engineering studies and reports, insurance certificates, loans, and other financing commitments to support the above- mentioned facilities.

F. APPLICABLE STATE AND FEDERAL PERMITS, APPROVALS AND LICENSES.

After Secondary Development Plan approval is obtained, but before any construction commences or Improvement Location Permits issued, all applicable state and federal permits, approvals and licenses must be obtained, and all state and federal statutes and regulations must be complied with, and the following requirements satisfied:

1) The applicant/owner/operator of the WECS shall maintain liability policies covering (1) bodily injury and property damage and (2) environmental contamination arising from construction, operation, maintenance, and decommissioning of the WECS, with nationally recognized, well-capitalized insurance companies initially approved by the Plan Commission and annually thereafter by the director of the Plan Commission and name City of Gary as an additional insured. Limits on the bodily injury and property damage policy shall be of at least $2 million per occurrence and $5 million in the aggregate with a deductible of no more than $20,000.00 and on the environmental contamination policy shall be of at least $1 million per occurrence and $2 million in the aggregate with a deductible of no more than $50,000.00.
2) The applicant/owner/operator shall establish a 24-hour toll-free phone number for the registering of complaints and concerns. This number shall be posted at every road intersection throughout the project area before Improvement Location Permits are issued and before any construction or earth moving can commence. If legitimate complaints are not remedied within 48 hours, the City may address these complaints with any expenses incurred to be reimbursed by the WECS applicant.
3) Required toll-free number - sign example:

1-800-000-000	Orange, Square 30" by 30" Sign,
Call to report problems related to Wind Farm construction	
	Insert your 1-800 number in place of the sample one.

4) The applicant/owner/operator must attend a pre-construction meeting between the City of Gary Plan Commission Director, the City of Gary Building Commissioner, the City of Gary Engineer, and any other public officer or official whose input is deemed appropriate and the WECS applicant/owner/operator will verify that all requirements in the City of Gary Zoning Ordinance have been met. Once reviewed, if all requirements have been met, the WECS applicant/owner/operator may then obtain Improvement Location Permits/building permits. If any requirements have not been met, then further pre-construction meetings will be held until it can be verified that the identified issues have been resolved.

G. PLAN REVIEW

The rezoning application, the Development Plan (including but not limited to Decommission Plan and each update thereof and the assurance of completion and continued operations) and the Improvement Location Permit/building permit applications shall be reviewed by Plan Commission staff; counsel; an independent professional engineer, if needed; and any other professionals deemed necessary as selected or approved by the Plan Commission. Within 30 days of submission, the owner/applicant/operator shall reimburse the Plan Commission for all costs and expenses associated with the initial or any subsequent review of the Development Plan including but not limited to the employment of a professional engineer, financial consultant, or other professional advisors consulted by the Plan Commission. A profession engineer shall certify, as part of the Improvement Location Permit application/building permit that the foundation and tower design of the WECS is within accepted professional standards, given local soil roadway and climate conditions.

H. APPROVAL

In order for a commercial WECS Overlay District to be approved the Plan Commission and the board of commissioners shall determine in writing:

1) That the proposed commercial WECS Overlay District will not be injurious to the public health, safety, morals, or general welfare of the community; and
2) That the use and value of the area adjacent to the proposed commercial WECS Overlay District will not be affected in a substantially adverse manner; and
3) That the proposed commercial WECS Overlay District does not interfere substantially with the comprehensive plan.

I. CONSTRUCTION AND STANDARDS

1) RESPONSIBILITY. Prior to and during construction the applicant/owner/operator shall be responsible for:

   a) Implementing dust control measures during construction per City of Gary Standards.
   b) Repairing all damages to City regulated waterways, drainage ditches, field tiles, or any other infrastructures caused by the construction or maintenance of the WECS. Damages must be completely repaired to original or better condition within 48 hours of notification and approved by the City of Gary Board of Works and in such a manner so as not to impede the flow of water. WECS owner/operator/applicant shall be responsible for loss or damage proximately resulting from its impairment of such drainage structures.
   c) *Installing permanent, visible markers where directional boring is used*. Markers shall be placed within the line of sight indicating directional changes and borings.
   d) Submitting a weekly plan of work to the Plan Commission; City engineer, to the Soil and Water Conservation District, to the superintendent(s) of the school district(s) in which construction is occurring and to all emergency services within jurisdiction over the areas in which construction is occurring. This plan shall include details of where construction and transportation activities will occur, notification of any oversize or overweight loads entering or exiting the project each day as well as any work on roads and drainage areas including access roads.
   e) **Adhering to the approved Transportation Plan.** The City of Gary Engineer shall conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage. Applicant may be required to make spot improvements, such as improving the radii at intersections to accommodate the large load movement. The City Engineer may choose to require remediation of road damage during or upon completion of the project and is authorized to collect fees for oversized load permits. If the applicant/owner/operator does not make repairs in 48 hours after notification the City engineer is authorized to make repairs and charge the applicant/owner/operator a fee to cover the costs of repair. Such fees shall be established at the start date of construction and may be revised at three-month intervals. Further, a corporate surety bond shall be required as approved by the City of Gary Engineer to ensure that future repairs are completed to the satisfaction of the City. The cost of bonding is to be paid by the applicant/owner/operator. A $1,000.00 fine shall be assessed for each occurrence where

WECS oversize or overweight construction and maintenance equipment utilizes any route(s) in violation of the approved Transportation Plan. If the applicant/owner/operator or its contractors require material changes from the approved Transportation Plan or if post completion repairs, improvements, or expansions require oversize and overweight loads or involve new routes, an amended Transportation Plan must be approved in the same manner as the initial plan. When all road repairs are completed to the satisfaction of the City of Gary Engineer a City Remediation Release Form will be issued.

f) **Adhering to the approved Development Plan**. All proposed changes, modifications, or amendments to the Development Plan must be approved by the director of the City of Gary Plan Commission and/or may require the amended Development Plan be submitted for approval by the City of Gary Plan Commission and the City of Gary Commissioners. The director shall have the authority and discretion, considering all relevant factors, to determine whether the proposed Development Plan change is material.

2) DESIGN AND INSTALLATION
   a) Commercial WECS towers shall conform to applicable industry standards. Applicant/owner/operator shall submit a manufacturers' Certificate of Design Compliance indicating that the wind turbine complies with Underwriters Laboratories, Det Norske Veritas, Germanishcher Lloyd Wind Energie, or an equivalent third party.
   b) All commercial WECS towers shall be installed with a tubular, monopole type tower. Meteorological towers shall also be of monopole construction. All structures shall be uniform in design and appearance. Maximum height for commercial WECS tower including total height of blades is 300 feet.
   c) All commercial WECS towers shall be equipped with a redundant braking system. This includes both aerodynamic over-speed controls, (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.
   d) All electrical components and collectors of the WECS shall conform to applicable local, state, and national codes, and relevant national and international standards. All WECS collector power lines between WECS towers shall be located underground.
   e) Towers and blades shall be painted with non-reflective white or gray color. The application shall comply with all applicable Federal Aviation Administration color requirements. No advertising or signage shall be allowed on a commercial WECS tower, except for manufacturers name on the nacelle.
   f) A visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
   g) All commercial WECS tower designs must include features to deter climbing or be protected by anti-climbing devices such as:
      i) fences with locking portals at least eight feet high,
      ii) anti-climbing devices 15 feet vertically from the base of the WECS tower, and
      iii) locked WECS tower doors.
   h) Red strobe lights are requested during the night to reduce impacts on migrating birds and red pulsating incandescent lights shall be avoided. White strobe lights at night are not allowed. All lighting shall also be in compliance with applicable Federal Aviation

Administration regulations. All security lights shall be shielded so that no glare extends beyond the boundaries of the wind farm facilities.

i) At any non-co-applicant residential structure, public school, or public library, the audible A- weighted sound pressure levels as a result of the sound emitted by the WECS shall not exceed either, the greater of 45 decibels or five (5) decibels above the Ambient Baseline Sound Pressure Level of the wind farm project area. The Ambient Baseline Sound Pressure Level, if used, shall be determined by an Acoustical Sound Specialist funded by the applicant/owner/operator. All methods for measuring and reporting acoustic emissions shall be equal to or exceed the minimum standards for precision described in the International Electrotechnical Commission IEC 61400-11 Standard: *Wind turbine generator systems – Part 11: Acoustic noise measurement techniques*. Noise and vibration levels shall also be in compliance with all other applicable City, state, and federal regulations.

j) The minimum distance between the ground and any protruding blade(s) utilized on a WECS shall be 50 feet, as measured at the lowest point of the arc of the blades. The minimum distance shall be increased as necessary to provide for vehicle clearance in locations where oversized vehicles might travel.

k) Setbacks shall be as follows:

   i) No commercial WECS shall be constructed within any setback, dedicated public easement, or proposed public right-of-way without an approved variance from the City of Gary Board of Zoning Appeals.

   ii) Except as provided herein, installation of a commercial WECS or a temporary or permanent meteorological tower may not be nearer than 1.5 times the height of the WECS including the blade at its highest point, to any property lines, proposed right-of-way line, co-applicant residences, railroad right-of- way, overhead electrical transmission, or distribution lines. Also, the minimum setback distance for all substations, maintenance structures, storage yards, and other buildings that are a direct functional part of the WECS shall be not less than 500 feet from any non-co-applicant resident or public building. New structures built adjacent to wind power facilities shall maintain these same minimum setback requirements. The setback distance will be followed except in specific instances allowed by the board of zoning appeals at a variance hearing.

   iii) Each individual WECS tower shall require an area of ground (site area) of no lessthan

3) 40.0 acres using existing roads, property lines and/or water courses as area/site boundaries.

   i) The commercial WECS tower shall not be any nearer than 1.5 times the height of the WECS tower including the blade at its highest point to any other WECS tower.

4) POST-CONSTRUCTION AND CONTINUED MAINTENANCE

   a) Prior to the issuance of the Improvement Location Permit/building permit the owner/applicant/operator shall secure and provide to the City of Gary Plan Commission a performance bond, surety bond, letter of credit, or other forms of financial assurance that is acceptable to the Plan Commission and the "decommissioning security" equal to the estimated cost of decommissioning the WECS pursuant to the Decommission Plan.

   b) The decommissioning security, in computing the estimated cost of decommissioning, shall consider and deduct the net salvage value of the WECS. The amount of the

decommissioning security shall be adjusted annually by January 31 of each year by an amount equal to the increase in the CPI Index. "CPI Index" shall mean the Consumer Price Index for all "Urban Consumers, U.S. City Average, All Items", issued by the Bureau of Labor Statistics of the United States Department of Labor, or, if discontinued or no longer published, such other governmental index that most closely matches the manner in which inflation had been previously tracked as selected by the City of Gary Plan Commission.

c) All applicants/owners/operators shall provide an updated Decommissioning Plan every five (5) years commencing with the operation of the WECS. The updated Decommissioning Plan shall be reviewed and approved by a licensed engineer approved by the City of Gary Plan Commission and provide an estimate of the cost of decommissioning of the WECS and the net salvage value of the WECS (the professional engineer).

d) A new decommissioning security in an amount equal to the cost of the estimated cost of decommissioning after deducting the net salvage value of the WECS shall be provided within 60 days of the approval of the updated Decommissioning Plan or by no later than January31 of each year.

e) All waste whether generated from supplies, equipment, parts, packaging, operation, or maintenance of the facility, including old parts and equipment, shall be removed from the site within 15 days upon written notice to the project manager. All hazardous waste generated by the operation and maintenance of the facility, including but not limited to lubricating materials, shall be handled in a manner consistent with all local, state, and federal rules and regulations.

5) AS-BUILT PLAN REQUIREMENTS: Upon the completion of each commercial WECS tower and all associated equipment areas the applicant/owner/operator shall submit to the City of Gary Plan Commission office a copy of the final as-built construction plans with the exact measurements showing location of utilities and all structures erected. Plans shall be provided electronically (shape file) and hard copy.

6) CHANGE IN OWNERSHIP: It is the responsibility of the applicant/owner/operator listed on the application to inform theCity of Gary Plan Commission Director of all changes in ownership and operation during the life of the project including the sale or transfer of ownership or operation.

SECTION 11. COMMERCIAL SOLAR ENERGY SYSTEMS (SES) OVERLAY DISTRICT

A. PURPOSE AND INTENT

1) Regulate solar systems that serve as a utility.
2) To assure safe and effective development of solar-generated electricity.
3) To facilitate economic opportunities for City of Gary and its residents.
4) To assist in the reduction of carbon-based emissions and the dependence of petroleum and coal- based energy systems.
5) To develop standards for solar generated energy, utilize natural resources and ecologically sound energy sources, support Indiana's alternative energy sources potential and other such economic development tools; and
6) Regulate the construction, modification, and operation of Solar Energy Systems, subject to reasonable restrictions, to preserve the public health, safety, general welfare and avoid the adverse impacts of such operations on the community and the area's natural and constructed resources while still accommodating the need for solar energy production.

B. CREATION OF SES OVERLAY DISTRICT

The Commercial Solar Energy System Overlay District is hereby created as an overly zoning district within the Land Use and Development Code of City of Gary, Indiana (Zoning Ordinance). The Commercial Solar Energy System Overlay District may be referred to as the "SES Overlay District." Notwithstanding anything in the Zoning Ordinance to the contrary, an SES is a permitted use in the SES Overlay District.

C. APPLICATION

The provisions of this Section are applicable to those zoning districts which allow or may allow Solar Energy Systems (SES), including the SES Overlay District, and govern the siting, development, operation, rehabilitation, decommissioning, and restoration of SESs, which generate electricity to be sold in the wholesale market or retail market, or which are utilized to generate electricity for private use and public use.

Exemptions (electrical permit still required): SES constructed prior to the effective date of this Section shall not be required to meet the terms and conditions of this Ordinance. Any physical modification to an existing SES whether existing prior to the effective date of this Section that materially alters the SES shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a permit.

D. APPLICATION FOR REZONE

An application for rezoning to a commercial SES District must be submitted to the City of GaryPlan Commission provided all property owners within the proposed commercial SES Overlay District are listed as co- applicants. The application shall also include the following items:

A commercial SES Project Summary, including, to the extent available:

1) A general description of the project including its total generating capacity, the potential equipment manufacturers, the type of SES, the number of SES panels, a total name plate showing generating capacity of each SES panel, the maximum height of the SES, the minimum spacing of the SES panels, and the specific location of the project.
2) A description of the applicant/owner/operator, including their respective business structures.
3) A description of substations, maintenance structures, storage yards, permanent meteorological towers and equipment, and other buildings that are a direct functional part of the SES project. These structures, within the proposed overlay district, shall be considered accessory uses.
4) The names, addresses and phone numbers of the applicants/owners/operators, and all co-applicants.
5) A topographic map of the project site and the surrounding area which shall encompass an area at least a quarter mile radius from the proposed district with contours of two-foot intervals.

E. PERMITTED USE

Solar energy systems are a Permitted Use within the SES Overlay District in the zoning districts shown as "Permitted" in the Permitted Use Table and subject to requirements as set forth. Solar carports and associated electric vehicle charging equipment are a permitted accessory use on surface parking lots in all districts regardless of the existence of another building.

F. ENVIRONMENTAL PERFORMANCE

All SESs shall meet environmental performance requirements in addition to satisfying dimensional and site-condition standards. Requirements include not causing nuisance glare or noise, and follow tree preservation, habitat protection, and erosion control and stormwater management standards. Widespread tree removal is prohibited, and post-construction stormwater runoff volume and quality shall mimic or improve upon pre-development conditions.

APPROVED SOLAR COMPONENTS

Electric Equipment must have an Underwriters Laboratory (UL), or equivalent listing and solar hot water systems must have a Solar Rating & Certification Corporation (SRCC) or equivalent rating.

COMPLIANCE WITH BUILDING, ELECTRIC AND PLUMBING CODES

All SESs shall meet approval of local building code officials, consistent with the State of Indiana Building Code, and solar thermal systems shall comply with HVAC-related requirements of the Energy Code.

All applicable portions of a SES shall comply with the Indiana State Electric Code. Solar thermal systems shall comply with applicable Indiana State Plumbing Code requirements.

All SESs, regardless of this Ordinance, shall receive all appropriate permits for construction and operation.

UTILITY NOTIFICATION

It is recommended that the interconnection application be submitted to the utility prior to applying for required rezone. Grid-tied solar energy systems shall comply with interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

GENERAL REGULATIONS

A Pre-application meeting is required with the Plan Commission Plan Commission Director before filing an application for an SES, including a rezoning petition to the SES Overlay District.

1) CONTACT INFORMATION

   a) The SES owner and/or operator shall maintain a phone number and identify a person responsible for the public to contact with inquiries and complaints throughout the life of the project and provide this number and name to the Zoning Director. The SES owner and/or operator shall make reasonable efforts to respond to the public's inquiries and complaints.

2) STANDARDS FOR C-SES

   a) Horizontal extension for C-SES: The furthest horizontal extension of a C-SES, excepting the C-SES collection system, C-SES transmission lines, ingress/egress road and C-SES access roads/lanes, shallnot extend into a setback which is otherwise required for the zoning district in which the C-SES is located or into a required buffer yard or into a setback required for an adjacent zoning district nor be less than fifteen (15') feet from any structure or public right-of-way easement for any above-ground telephone line, electrical transmission line, electrical distribution line or other above ground communication or transmission line.

3) SAFETY PROVISIONS FOR C-SES

   a) The SES owner and/or operator shall maintain an emergency response plan for the C-SES, which shall include (i) emergency contact information, including mobile telephone numbers, for the operator of the C-SES and, if applicable, the utility company that is purchasing the electricity generated by the C-SES, information regarding the presence of any explosive, toxic, hazardous or highly flammable materials that, if exposed to fire or ignited, would be reasonably likely to pose a threat to emergency response persons or surrounding persons or property, (iii) a plan for dealing with a fire in any part of the C-SES. The plan shall be updated not less than once per year, and a copy shall be provided to the Chief of the Fire Departments that may respond to an emergency at the C-SES along with the Plan Commission Director of City of Gary Emergency Management.

4) HEIGHT
   a) Building- or roof- mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For purposes for height measurement, solar energy systems other than building-integrated systems shall be given an equivalent exception to height standards as building-mounted mechanical devices or equipment.
   b) Ground- or pole-mounted solar energy systems shall not exceed 15 feet in height when oriented at maximum tilt.
   c) Solar carports in all districts shall not exceed 20 feet in height
5) VISIBILITY
   a) Solar energy systems in residential districts shall be designed to minimize visual impacts from the public right-of-way to the extent that doing so does not affect the cost or efficacy of the system. Visibility standards do not apply to systems in non-residential districts, except for historic building or district.

b) **Building Integrated Photovoltaic Systems**: Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from the public right-of- way, provided the building component in which the system is integrated meets all required setback, land use or performance standards for the district in which the building is located.

c) **Aesthetic restrictions**: Roof- or ground-mounted solar energy systems shall not be restricted for aesthetic reasons if the system is not visible from the closest edge of any public right-of-way other than an alley, or if the system meets the following standards.
   i) Roof-mounted systems on pitched roofs that are visible from the nearest edge of the front right-of-way shall have the same finished pitch as the roof and be no more than ten inches above the roof.
   ii) Roof-mount systems on flat roofs that are visible from the nearest edge of the front right-of-way shall not be more than five feet above the finished roof and are exempt from any rooftop equipment or mechanical system screening.

d) **Reflectors**: All SESs using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties, including public right-of-way.

6) LOT COVERAGE
   a) Ground-mounted SESs within Residential and Commercial Districts shall not exceed the lot coverage standards associated with that District. All other Districts shall not exceed 80% lot coverage.
7) Ground-mounted systems shall be exempt from lot coverage or impervious surface standards if the soil under the collector is maintained in vegetation and not compacted.
8) Ground-mounted systems shall not count toward accessory structure limitations.
9) Solar carports in non-residential districts are exempt from lot coverage limitations.
10) HISTORIC BUILDINGS
   a) SESs on buildings within designated historic districts or on locally designated historic buildings (exclusive of State or Federal historic designation) must receive approval of the City, consistent with the standards for solar energy systems on historically designated buildings published by the U.S. Department of Interior.

11) SETBACK REQUIREMENTS
   a) The minimum setback for solar equipment associated with the C-SES shall be 300 feet from single-family dwellings. A waiver agreement may be utilized to reduce this setback to the minimum setback for each zone district for the appropriate property line building setback for Primary Structures. The minimum setback must include the 20' buffer yard requirement (a waiver agreement with a setback of 20 feet would need to be set at 45 feet).
   b) The minimum setbacks for solar equipment associated with the C-SES shall be the required primary building setback for the zone district and may include a buffer yard around the perimeter of the solar arrays. The setback may be reduced with an approved buffer/landscaping plan and/or waiver agreement. Minimum setbacks are measured from the road right-of-way (ROW) or the property line where there is no ROW present.
   c) Setbacks apply to solar panels, racking, structures, solar collector, and electrical equipment. They do not apply to underground cabling, fencing, access roads/lanes or ingress/egress roads.

d) Minimum setback requirements along all City roads shall be determined by the front yard setback for each zoning district and the road classification as defined by the City Engineer.

12) BUFFER YARD, SCREENIN G & VEGETA TION

a) The width of buffer yards is identified in the table below and are measured from the road right-of-way (ROW) or the property line (PL) where there is no ROW present.

DISTANCE FROM	BUFFER YARD	MINIMUM SETBACK
Residential Districts	30'	200' from a residential district or 300' from a residential primary structure (includes 25' buffer yard)
Parks & Recreation (PR) & Institutional (IS) Districts	30'	Required building setbacks + an additional 45' (includes 25' buffer yard)
Commercial Districts	30'	Required building + an additional 45' (includes 25' buffer yard)
Manufacturing / Manufacturing Districts	30'	Required building + an additional 45' (includes 25' buffer yard)
Public Street or Road Right-of- way (all zone districts)	30'	Required building setbacks + an additional 20' to 45' (includes required buffer yard)

b) Clearing of natural vegetation for the installation of a solar energy system shall be limited to that which is necessary for the construction, operation and maintenance of the system and as otherwise prescribed by applicable laws, regulations, and ordinances. Existing topsoil shall not be removed from the site though it may be redistributed within the site as necessary for construction.

c) All trees to be removed to accommodate the installation of a solar energy system shall be accompanied by a plan demonstrating the need to remove the trees. Any applicant shall locate a solar energy system so that tree removal is not required to the extent practical. Any healthy tree removed over 4" caliper shall be replaced 1:1 on-site or in an agreed upon location within the City of Gary Plan Commission jurisdiction. Tree health shall be determined by a certified arborist.

d) No trees or other landscaping otherwise required by the Ordinance or attached as a condition of approval of any plan, application, or permit may be removed for the installation or operation of a C-SES

e) A C-SES may only be located on a parcel larger than 5 acres.

f) All Buffers requiring landscaping/screening shall have 100% opacity year round

g) Only the following improvements shall be permitted within the buffer yard:

i) Vehicular ingress/egress drives which tie into approved access points as determined by INDOT and/or the City Engineer

ii) Landscaping and landscaping fixtures

iii) Lighting
iv) Fencing
v) Signage
vi) Underground utility lines
vii) Overhead utility lines
viii) Drainage or storm water detention or retention areas

13) LANDSCAPING/SCREENING REQUIREMENTS

a) All other roads and/or ROW in all other zone districts require a 25' buffer yard with opaque (100% opacity) landscaping/screening but may receive a reduction in opacity with a Landscaping and Screening Plan approved by the BZA with proper notice and hearing.
b) A visually opaque (100% opacity) landscaping/screen shall be provided for any adjacent property that is zoned Residential, and/or has an existing residential use. An opaque screen is intended to exclude visual contact with the solar equipment from any protected property. An opaque screen may be composed of landscaping, landscaped berm. The opacity, buffer yard width, and method of screening may be waived by the adjacent property owner(s) with a waiver agreement.
c) Natural areas as detailed below may also be used to meet screening requirements.
d) An existing vegetated area located on the same property as the solar farm; is within or includes the required buffer; and is of sufficient height, length, and depth and contains adequate and sufficient healthy vegetation to provide a visually opaque screen where required. The Director may determine that further screening improvements shall not be required.
e) Buffers adjoining Commercial or Manufacturing Zone Districts may use a screen to block, or obscure the view, composed of landscaping, a landscaped berm, or any combination thereof to screen from those districts as approved by the Plan Commission Director. The Plan Commission Director should take into consideration the design wishes of the adjacent property owner/operator. Fencing and walls shall not be used for screening however this requirement may be waived by the adjoining property owner(s) with a waiver agreement.
f) Landscaping required within buffer yards shall have a minimum height that exceeds the maximum panel height (15' max.) within three (3) years. The intent is to provide visually opaque screening year-round, through a combination of buffers, fencing, landscaping, and/or landscaped berms to obscure the solar equipment from exterior view from adjoining residential uses and specified public right of ways.
g) Grass or ground cover shall be planted on all portions of the required buffer yard not occupied by other landscaped material.
h) All landscaping materials shall be installed and maintained according to accepted nursery industry procedures. The owner of the property shall be responsible for the continued property maintenance of all landscaping materials and shall keep them in a proper, neat, and orderly appearance free from refuse and debris at all times.
i) Unhealthy and dead plants shall be replaced within one (1) year of being provided written notice from the Plan Commission Director of the violation. The determination of whether a plant is unhealthy shall be at the discretion of the Plan Commission Director or a recognized landscape professional.

j) The effectiveness of screening shall be maintained as the plant materials mature.
k) A clear sight triangle shall be maintained at all intersections and ingress/egress locations.
l) The C-SES shall be planted and maintained free of invasive or noxious species, as listed by the Indiana Invasive Species Commission. No insecticide use is permitted on the site. This provision does not apply to insecticide use in on-site buildings, in and around electrical boxes, spot control of noxious weeds, or as otherwise may be deemed necessary to protect public health and safety.
m) Ground area under solar panels and in project site buffer areas shall be planted, established, and maintained for the life of the project in perennial vegetated ground cover meeting the definition of Pollinator- Friendly Solar Energy, which is the requirements of the Current Indiana Solar Site Pollinator Habitat Planning Scorecard developed by Purdue University.
n) Applicant shall submit a completed pollinator-friendly solar scorecard.

14) If the scorecard results demonstrate that the C-SES does not qualify as pollinator- friendly, the applicant shall submit a landscaping plan detailing site conditions that

15) prevent the site from being qualified and an alternative plan of meeting the water quality and habitat goals of the pollinator-friendly standard.

16) Applicant shall install native species in array, perimeter and buffer areas that are in excess of 75% as per the Scorecard. No invasive species shall be permitted. If the scorecard results demonstrate that the C-SES does not qualify as 'provides exceptional habitat', the applicant shall submit a landscaping plan, to be approved by the Plan Commission Director, detailing site conditions that prevent the site from being so qualified and an alternative plan for meeting the water quality and habitat goals of the exceptional habitat standard.

17) FOUNDATIONS

a) A qualified engineer shall certify, prior to application for building permits, that the foundation and design of the solar panel racking, and support is within accepted professional standards, given local soil and climate conditions.

18) COLOR, FINISH, AND GLARE

a) In addition to any applicable FAA requirements that now exist and the same are amended from time to time, the following shall also apply:
b) The C-SES shall remain painted or finished in the color or finish that was originally applied by the manufacturer provided the exterior surface of any visible components are non-reflective, a neutral color like white, grey or another non-obtrusive color. Finishes shall be matte or non-reflective.
c) To the extent reasonably possible, solar energy panels and arrays, regardless of how they are mounted, shall be oriented and/or screened year-round so that glare is directed away from adjacent properties, structures, and roadways.
d) The applicant has the burden of proving that any color, finish, or glare produced does not have significant adverse impact on adjacent uses either through siting or mitigation.

19) MATERIALS HANDLING, STORAGE, AND DISPOSAL SOLID WASTES

a) All solid wastes whether generated from supplies, equipment, parts, packaging, operation, maintenance, rehabilitation, decommissioning, restoration of the facility, or

otherwise, including, but no limited to, old parts and equipment related to the maintenance, rehabilitation, decommissioning, or restoration of any C-SES shall be removed from the site promptly and disposed of in accordance with all federal, state, and local regulations, laws, and ordinances. The C-SES owner and C-SES operator shall have the same responsibility for compliance hereof.

b) Hazardous materials: All hazardous materials or hazardous waste related to the construction, operation, maintenance, rehabilitation, decommissioning, or restoration of any C-SES or otherwise generated by the facility shall be handled, stored, transported, and disposed of in accordance with all applicable local, state, and federal regulations and laws. The C-SES owner and the C-SES operator shall have the same responsibility for compliance hereof.

20) SEWER AND WATER

a) All C-SES facilities shall comply with the septic system and well regulations as currently required or as hereinafter amended, of the City of Gary Health Department and the State of Indiana Department of Public Health.

21) UTILITY INTERCONNECTION

a) A C-SES, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the interconnection agreement with the electrical utility, as any applicable federal and state regulations now exist and as the same are from time to time amended.

22) SIGNAGE

a) Signs will comply with Ordinance Sign Standards.

b) Development Signs: An identification sign relating to a C-SES may be located on each side of the fenced facility area provided that there shall be no more than one (1) sign located on any side of the C-SES fenced facility area unless additional identification signs are required to provide reasonable notice to the general public

c) A sign shall be securely posted on each gate entry point clearly displaying an emergency telephone number(s) and other contact information

d) All ingress/egress roads to a C-SES shall have posted in a conspicuous location a 911 Address Road sign indicating the assigned address for that location

e) Warning signs shall comply with applicable laws

f) No portion of the C-SES shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the C-SES provided they comply with the prevailing sign regulations

g) All signage required or permitted by this Section shall be made of materials and constructed in a manner to be durable and long lasting. The same shall be painted or made of material with a distinct, high contrast background and be weatherproof paint or other weatherproof material to promote safety and protect the public from hazards and/or potential hazards.

23) FENCE

a) For security, all ground-mounted C-SES shall be completely enclosed by a minimum six

b) (6) foot high fence with a locking gate accessed by a keypad or Knox box with key.

c) Signage will be permitted as specified in this Section.
d) The fence should be located between the access road/lane and any required landscaping in the Buffer Yard unless otherwise approved.
e) A fence in an agriculture zone located on the property lines is the sole responsibility of the C-SES owner/operator.
f) Any fences located within the Regulated Drain must seek approval from the City of Gary.

24) NOISE
a) No operating C-SES shall produce noise that exceeds any of the following limitations except during construction. Adequate setbacks, barriers, enclosures, use of quieter equipment, or other effective means of reducing noise shall be used to comply with these limitations:
b) Fifty (50) dBA, as measured at the property line of any adjacent residentially zoned lot.
c) Forty-five (45) dBA, as measured at any existing adjacent residence between the hours of nine p.m. and seven a.m.; and
d) Sixty (60) dBA, as measured at the property lines of the project boundary, unless the owner of the affected property agrees to a higher noise level, as follows: The owner of an adjacent property that would otherwise be protected by the sixty dBA noise limitations may voluntarily agree, by written waiver, to a higher noise level. Any such agreement must specifically state the noise standard being modified, the extent of the modification, and be in the form of a legally binding contract or easement between the landowner (including assignees in interest) and the solar energy system developer, effective for the life of the project. This waiver must be recorded and cross-referenced with the affected property (properties).
e) The Plan Commission Director may hire an appropriate company, at the C-SES's owner or C- SES's operator's expense, to determine if noise levels have been exceeded.

25) INGRESS/EGRESS AND PERIMETER ACCESS
a) At a minimum, a 20' wide ingress/egress road must be provided from a public street, legally established access drive/road or another roadway into the site. This access shall be paved a minimum of 12', and the design accepted by the Plan Commission Director upon written approval of the City Fire Chief. Approvals must meet all State and Federal regulations.
b) At a minimum, a 12' wide perimeter access road/lane shall be provided around the perimeter of the C-SES between the solar arrays and required fence to allow access for maintenance vehicles and emergency management vehicles including fire apparatus and emergency vehicles. Part of this access may be a mown well maintained grass lane. The design of the perimeter access road/lane shall be accepted by the Plan Commission Director upon written approval from the local Fire Chief. Approvals must meet all State and Federal regulations.
c) Lighting: The ground mounted CS-SES shall not be artificially lit except to the extent required for safety or applicable federal, state, or local authority. Such lighting shall be shielded and downcast so as not to affect adjacent properties.

26) SUB-SURFACE AND SURFACE DRAINS (REGULATED AND NON-REGULATED)
a) Owner must locate all public and private subsurface drains prior to construction. Provide information on the Drainage Plan. Approval is needed by the City.

b) Damages, including but not limited to damming, cutting, removing, and blocking, to surface, sub-surface drains, or any other drainage infrastructure, by any cause connected with the project during construction, post construction, while in operation, or before the decommissioning is complete, must be restored by the solar owner/operator to a condition that is equal to or better than the pre-existing conditions within 10 days after receipt of notice of such damage, unless such repair is rendered impractical by weather or other natural force. The solar operator/owner shall be responsible for all expenses related to repairs, relocations, reconfigurations, and replacements of drainage infrastructure and systems that are damaged.
    i) The solar owner/operator shall post a "5A" surety bond in an amount determined by the City Board of Works, payable to the City of Gary to address any need for drainage tile repair, replacement or re-routing caused by construction activities or installation of the Project, such bond to be posted within 45 days prior to commencement of the construction of the C-SES and C-SES facilities.
    ii) The bond is to remain in effect for a minimum period of five (5) years after the first day the C-SES is complete of all phases and in operation. The Board of Works shall determine and adjudicate whether claims brought by an adjacent property owner for damage was and is a direct result from the project based on substantial evidence.
    iii) The Board of Works may waive the posting of a bond or modify the requirements of this section.

c) The solar owner/operator of the CS-SES shall fully comply with Indiana Code requirements regarding regulated drains except as otherwise approved by the Board of Works and any other necessary bodies, including, but not limited to, the Storm Water Management Ordinance.

d) The solar owner/operator, and/or petitioner shall enter into an agreement with the City Board of Works to retain an appropriate inspector, at the owner/operator's sole expense. The inspector will ensure that all drainage infrastructures were installed according to specifications of the drainage plans and according to the requirements in the Storm Water Management Ordinance and any additional written requirements from the Board of Works. The fees to cover the inspection costs shall be fair and reasonable. The Board of Works may waive the requirements of this section.

27) OPERATIONS AND MAINTENANCE

a) SES owner and/or operator shall repair, maintain, and replace the SES and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the SES in good repair and operating condition.

b) The applicant shall submit a plan for the operation and maintenance of the SES, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operation and maintenance of the installation.

c) Physical Modifications: Any physical modification to any SES or a part thereof which materially alters the mechanical load, mechanical load path, or major electrical components shall require re-certification by all appropriate regulatory authorities. Like-kind replacements shall not require re-certification, unless required by a regulatory authority. Prior to making any material physical modification, other than a like-kind modification, the owner or operator of such SES shall confer with the Plan Commission

Director, City Engineer, and any other appropriate regulatory authority as to whether or not the proposed physical modification requires re-certification of such SES.

28) NUISANCE

a) **Declaration of Public Nuisance**: Any SES declared unsafe by the Board of Works by being in breach of, or out of compliance with its SES permit(s) may seek to be rehabilitated and declared safe by appropriate repair(s) and other essential steps necessary to eliminate the breach(es) so as to be in compliance with such SES permit(s). An SES declared by the Board of Works by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage, abandonment or as provided herein to be determined unsafe, is hereby declared to be a public nuisance. A Rehabilitation Plan should be submitted to the Board of Works within 60 days. This plan shall provide procedures to rehabilitate the SES in a time not to exceed three hundred sixty-five (365) days except in the event of force majeure, including but not limited to unavailability of components or parts, strikes, and moratoriums which said majeure extends said time to 18 months total or a reasonable extension agreed to by the Board of Works. In the absence of an approved Rehabilitation Plan or meeting the agreed to time schedule(s), or failure to execute the required repair(s), in the time determined reasonable by the Board of Works, such SES shall be demolished and removed in accordance with the Decommissioning-Restoration Plan and Agreement.

b) **Public Nuisance Waiver:** In the instance that an unavoidable Act of God inhibits, damages, or destroys part of, or the majority of, the SES, the three hundred sixty-five (365) day public nuisance removal timeline may be waived so long as the SES owner and/or SES operator provides a Rehabilitation Plan to remedy the damage and said plan is submitted to, and approved by, the Board of Works. Said plan will outline the necessary protocol and time schedule for returning the SES to energy production and must be submitted to the City within sixty (60) days of the date the damage was incurred, or a time determined reasonable by the Board of Works.

c) **Adverse Effects:** To the extent possible the SES owner and/or operator shall minimize and/or mitigate all adverse effects created by the development of a SES.

   i) Failure to Remedy a Complaint: Penalty

      (1) If an agreement to remedy a known adverse effect is not reached within one hundred eighty (180) days from the date of the written complaint or if an agreement to remedy is reached, however, the agreement is not implemented and completed within thirty (30) days of the date of such agreement i.e. the remedy is not fully implemented by the owner and/or operator of the SES causing such adverse effect, unless all parties agree in writing to an extension of time, the complainant may file a complaint with the Plan Commission Director. The Plan Commission Director shall make an appropriate investigation and determine if the complaint is meritorious, and if so, refer the same to the BZA for determination as to whether or not the BZA seek remedies available to it including, but not limited to, fines and/or injunctive relief, temporary or permanent, which may result in an order requiring the offending SES to be enjoined from operating.

      (2) In order for a complainant to have a valid complaint, specific evidence shall be presented to the Plan Commission Director. This complaint should not exceed specific standards specified in Safety Design and Installation Standards contained

herein. The Plan Commission Director shall make this evidence part of the investigation of the complaint.

29) LIABILITY INSURANCE

a) The owner and operator of an SES shall maintain a commercial general liability policy covering death, bodily injury and property damage, which may be combined with umbrella coverage, and said policy shall carry dollar amounts satisfactory to the Board of Works and with agreed upon dollar amount limits per occurrence, aggregate coverage, and deductible amounts, all of which shall be agreed upon by the owner and operator and said Board of Works and provided in the Decommissioning-Restoration Plan and Agreement or other appropriate plan or agreement between the Board of Works and SES owner and SES operator.

b) The SES owner and/or operator shall furnish a certificate of insurance and annual renewal certificate of insurance to the Board of Works prior to commencing construction and thereafter by January 5th of each year pursuant to thisprovision.

30) DRAINAGE EASEMENT

a) Provide a 30' drainage easement around the property, separate from the buffer yard, in favor of the City of Gary or its designee.

31) SUBSTATION

a) The substation setbacks shall be the same as those of a C-SES. An adjacent landowner may waive this setback requirement by execution of a Waiver Agreement.

32) POLES AND UNDERGROUND WIRING

a) Underground wiring is required for all on-site and off-site connection infrastructure. All poles carrying overhead wiring and underground wiring connecting the racks and components of a C-SES and/or to connect a C-SES to a substation for connection to or other direct connection to a utility's electric transmission line, there are no setback requirements from property lines of adjoining landowners so long as the poles and underground wiring are located within a recorded easement for such purpose.

b) Ground-mounted C-SES shall not be placed within any legal easement or right- of-way location, or be placed within any storm water conveyance system, Regulated Drain easement, Special Flood Hazard Area, or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system except by written permissions granted by the City Board of Works, and owner of the land and/or right-of-way and/or easement. This would include but not be limited to State, City, and/or private owned waterways, ditches, drainage tiles, retention areas and designated swales

c) Any inverter shall be a minimum of seven hundred fifty (750) feet from any dwelling. This requirement may be reduced with an approved variance from the BZA only if the inverter is to be encapsulated.

d) Ingress/egress into a C-SES shall be no closer than 300 feet from the property line of an adjoining landowner.

33) POWER AND COMMUNICATION LINES

a) Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Variances may be granted by the BZA in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible.
b) Power and communication lines between the project and the point of interconnection with the transmission system may be overhead.

34) COLLECTION CABLE/ LINES
a) Collection cables, collection lines, and communication lines installed as part of any C-SES shall not be considered essential services.

35) OTHER APPURTENANCES

a) No appurtenances other than those associated with the C-SES construction operations, maintenance, repair, replacement, rehabilitation, decommissioning, restoration, removal, and permit requirements shall be connected to the C-SES area except after notice of hearing and the hearing before the BZA pursuant to the applicable Section(s) of this Ordinance.

36) EQUIPMENT TYPE
a) All C-SES shall be constructed of commercially available equipment and in conformance with this Section. All panel brands and models used must have a full Toxicity Characteristic Leaching Procedure test showing that the proposed model of panels will not be considered hazardous waste at the end of life of the panel. Panels may not include Gen-X chemicals, P-FAS compounds, or heavy metals that are exposed to precipitation. Provide a report to the Plan Commission Director indicating compliance with this requirement.
b) Experimental or proto-type equipment still in testing which does not fully comply with industry standards, may be used so long as it meets the requirements of this Section.
c) When solar storage batteries are included as part of the solar energy collector system, they must be placed in a secure container or enclosure meeting the requirements of the Indiana Building Code and IDEM regulations when in use and when no longer used shall be disposed of in accordance with all applicable laws and regulations.
d) All C-SESs shall conform to applicable industry best practice standards, as well as all local state and federal regulations. An applicant shall submit certificate(s) of design compliance that solar manufacturers have obtained from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyed Solar Energie, or an equivalent third party.

37) ELECTRICAL COMPONENTS
a) Electrical components of all C-SESs shall conform to applicable local, state, and national safety codes for similar C-SESs.
b) Cables and lines
    i) All cables and lines on site, except transmission cables and lines, shall be buried no less than thirty-six (36”) inches underground. Transmission cables and lines shall be buried no less than sixty (60”) inches underground with a warning mesh located at thirty-six inches (36”) deep. No plow type installations are permitted, only open trenching or boring installations. All underground cabling will be marked at road

crossings, creeks, riverbeds and property lines with a metal or fiberglass post at least 5 feet in height.

ii) For any installation method of cables and lines except as provided herein, applicant shall apply for a variance before the BZA pursuant to this Zoning Ordinance.

38) PLANS AND AGREEMENTS

a) All reasonable attorney fees incurred in the preparation of any agreement or plan required hereunder shall be borne by the applicant.

b) Aggregated plans and agreements for all C-SESs must be approved by the Plan Commission and, if a rezoning to the SES Overlay District is filed, the Board of Works, and shall include, singly or in combination, all the following:

39) The following plans shall be submitted with any required approval for a C-SES under this Section:

a) Emergency Response Plan
   i) The owner/operator of the SES shall conduct create and update annually, at the expense of the owner/operator, an emergency response plan that includes requirements for annual training drills with local emergency responders. Equipment needed specifically to manage emergency issues at the SES and the SES facilities shall be contributed to the appropriate emergency response agency at the owner/operator's expense as part of the plan.

b) Decommissioning-Restoration Plan
   i) Prior to receiving a solar permit, under this Section, the applicant, owner, and operator shall submit a Decommissioning-Restoration Plan outlining the anticipated means, costs, and method of payment of all costs in carrying out such Decommissioning-Restoration Plan and Agreement at the end of the SES life or the life of any part of a SES, upon becoming an abandoned use, or being declared a public nuisance as provided by this Section. Such plan shall include, but is not limited to, the requirements of this Section.
   ii) Discontinuation and abandonment
      (1) Owner operator shall give written notice of intent to abandon use of an SES facility 60 days prior to the discontinuation of electrical production to the Board of Works and Plan Commission.
   iii) An SES or portion of an SES shall be considered an abandoned use after one (1) year without energy production unless a Rehabilitation Plan developed by the SES owner and SES operator is submitted to, and approved by, the Plan Commission outlining the necessary procedures and time schedule for commencing or returning the SES to energy production as provided in this Section. Failure by the SES owner and/or operator to commence, energy production at such SES or return such SES to energy production within the time schedule which has been approved by the Plan Commission, said SES or portion of SES shall be considered an abandoned use and/or a public nuisance.
   iv) Upon decommissioning and removal, the SES owner and/or the SES operator is required to remove all physical material pertaining to the SES above ground level and all improvements of said SES below ground level for all SES's declared irreparably

damaged, and/or an abandoned use and/or a public nuisance. All materials shall be so removed, and the SES site restored within three hundred sixty-five (365) days of the discontinuation of energy production or in accordance with Agreements. An SES which is irreparably damaged, abandoned or declared to be a public nuisance shall within said time limit (365 days) require the SES owner and/or SES operator to have completed restoration of the SES site to as near as practicable to the original condition of the SES site prior to the development of such SES. If the property has been timbered or trees removed within two (2) years prior to the initial landowner agreements, the original condition means replanted with trees of similar species as originally removed (no waiver or variance is allowed for this portion of the requirement). If any portion of the SES is found to be hazardous in nature by State or Federal regulatory agency(ies) or required to be recycled the SES owner and/or SES operator is required to remove in a manner as prescribed by law.

v) Identification and Removal of Hazardous Materials: throughout the removal and restoration the SES owner/operator shall identify all hazardous materials asregulated by State and Federal regulatory agencies (such as the EPA and IDEM) as well as non-hazardous materials and indicate the appropriate handling, storage, and transport during Disposal and/or Diversion of both.

c) Performance Guarantee

i) Prior to issuance of a solar permit, the applicant must provide the City with a performance guarantee in the form of a bond, irrevocable letter of credit and agreement, or other financial security acceptable to the Plan Commission in the amount of 125% of the estimated decommission and restoration cost minus the documented salvage value factor. Estimates shall be determined by a licensed engineer.

ii) Unless otherwise agreed to by all parties, every three (3) years a new engineer's estimate of probable cost of Decommissioning and Restoration, shall be submitted to the Planning Plan Commission Director for approval in the same manner as the initial submission, and the bond, letter of credit, or other financial security acceptable to the City shall be adjusted upward or downward as necessary. A new estimate will be submitted to the Plan Commission Director prior to the sale of any portion of the SES and the Performance Guarantee adjusted appropriately and made part of the sales agreement.

iii) All expenses involved in such removal and restoration shall be paid by the SES owner and SES operator, or removal and restoration will be completed by City of Gary at the SES owner's expense and SES operator's expense as specifically provided by the Decommissioning-Restoration Plan.

iv) Written notices: Prior to implementation of any procedures or remedy for the resolution of any SES owner's and/or operator's failure to decommission the SES pursuant to the Decommissioning-Restoration Plan and/or this Section, the Plan Commission Director shall first provide written notice to the owner and/or operator, setting forth the alleged default(s). Such written notice shall provide the owner and/or operator a reasonable time period not to exceed sixty (60) days, except upon such longer time that the Plan Commission Director may approve, to resolve the default(s).

In the event the negotiations fail to resolve the default issue(s), either party may pursue all remedies available by the terms of the Ordinance and/or Decommissioning-Restoration Plan.

d) Access or Road Plan
   i) Identification of road and services: All roads and services, to the extent that all proposed routes that will be used for transportation of construction materials, construction of the SES, and/or maintenance of the SES shall be identified. If the route includes a public road, such route shall be approved by the City of Gary Engineer. To the extent possible State or Federal Highways shall be utilized for the purposes of transporting any component of an SES, substation and/or any other equipment for the construction, operation, or maintenance of an SES.
e) Drainage Plan
   i) A Drainage, as defined and required by the City of Gary Board of Works, shall be submitted to, and approved by the City Surveyor and, if applicable, the City of Gary Board of Works, prior to the issuance of a Solar Permit. The Drainage Plan must prescribe or reference provisions to address field tile damages and repairs thereof for any field tile owned by City of Gary.
f) Written Commitments
   i) In addition to any other commitments (as defined in Indiana Code 36-7-4-1015) that are required as a condition of approval of any permit for a C-SES, the owner of the property on which the C-SES is to be constructed shall execute and record in theOffice of the Recorder of City of Gary, Indiana, a set of commitments that includes all required plans, including the Decommissioning-Restoration Plan, the Emergency Response Plan, the Drainage Plan and the Access or Road Plan.

40) CHANGE IN OWNERSHIP

a) Change in Ownership It is the duty and responsibility of the SES applicant, SES owner and/or SES operator and any subsequent SES owner and SES operator to notify by written notice the Board of Works and Plan Commission Director of any change in the ownership of the SES or any part of the ownership thereof to and through the time that all applicable acceptances, releases and performance standards of any description have been met and concluded and accepted by the appropriate local, state, federal or private authority, department, agency, and person(s) and all financial payments or other financial obligations are fully satisfied and all appropriate parties are in receipt thereof. In order for the owner and/or operator to inform said Board of Works and Plan Commission Director of the required information regarding changes as herein provided, said notice shall be sent by certified mail with certified funds for any required recording fees and any other applicable fee(s) to the City of Gary Board of Board of Works, and Plan Commission Director of the Plan Commission of City of Gary, Indiana, or by personally delivering the same to said Board of Works and Plan Commission Director.

41) ADDITIONAL PLANS AND DRAWINGS

a) Emergency Services Plan
   i) Prior to issuance of a building or solar permit, the SES owner or operator shall provide a plan including but not limited to the project summary, electrical schematic, and site plan to the appropriate local safety officials including the City of Gary Emergency Management, Police Department, the Fire Department, and Building Commissioner. Upon request the owner or operator shall cooperate with local safety officials in developing an emergency response plan. Any specialized training necessary will be provided at the operator's expense. Knox boxes and keys shall be provided at locked entrances for emergency personnel access.
   ii) All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

b) Operation and Maintenance Plan
   i) The applicant shall submit a plan for the operation and maintenance of the SES which shall include measures for maintaining safe access to the installation, storm water, as well as general procedures for operation and maintenance of the facility.
   ii) Maintenance of vegetation within the buffer strip and underneath the ground mounted solar arrays should be included in the plan and consistent with the requirements in this Section.

c) Erosion Control Plan
   i) An erosion control plan developed in accordance with the Natural Resources Conservation Services (NRCS), and any storm water quality management plan adopted by the applicable jurisdiction(s).
   ii) The area beneath the ground mounted SES is considered pervious cover. However, use of impervious construction materials within the SES would cause areas to be subject to the impervious surface's limitations for the applicable Zoning District. Natural (pervious) ground covers are required beneath the solar arrays.
   iii) Submit erosion control plans for approval.

d) Solar Easements
   i) If necessary, an SES owner and/or operator may obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s). Copies of such easements shall be submitted as part of the application process with proof of recording in the Lake County Recorder's Office.

e) Amendments and Changes to the Preliminary Site Plan
   i) Any material changes of location of the SES fenced boundary and any material change in the location of SES facilities outside of the SES fenced boundary shall be furnished to the Director, City Engineer, and any other person(s) designated and authorized by the Board of Works. It shall be the duty and responsibility of the applicant, owner and/or operator to obtain any variance required by such change and to comply with any other requirement necessitated by such change. Any variance required by this Section shall be obtained prior to construction or implementation of such change.

f) As-Built Plans Requirement
   i) Where upon completion of all development, the exact measurements of the location of utilities, structures and components erected during the development are necessary for public record and shall therefore be recorded. The applicant, owner, and/or operator shall submit a copy of the final as built survey to the Director with the locations of the SES facilities shown thereon. Said Director, after being satisfied that the locations of the SES facilities are substantially similar to the locations on the originally approved final plan(s) or as the same were from time to time amended, shall approve, date and sign said as-built survey for the SES, which the applicant, owner, and/or operator shallthen record and provide Plan Commission a copy of said recorded Plans.

42) CONSTRUCTION
   a) Pre-construction requirements for an SES
      i) Avoidance and Mitigation of Damages to Public Infrastructure
      ii) In addition to complying with the approved Road Use and Maintenance Agreement, an applicant, owner, and/or operator proposing to use any City road(s), for the purposes of transporting any component of an SES, substation and/or any other equipment for the construction, operation or maintenance of an SES shall comply with the following pre- construction requirements.
   b) Pre-construction survey
      i) The applicant, owner and/or operator shall conduct a pre-construction baseline survey in coordination with, and acceptable to, the City of Gary Engineer and such survey shall be a part of the Road Use and Maintenance Agreement to determine existing road conditions for assessing current needed improvements and potential future damage. The survey shall include, but not be limited to, photographs, and/or video, or a combination thereof, and a written agreement to document the condition of the public facility asthe same exists on the date of the baseline survey.
   c) Construction Requirements
      i) During construction, the applicant shall demonstrate and document to the satisfaction of the City Engineer, and any other person(s) designated and authorized by the Board of Works, that the following requirements are being met:
      ii) Dust control: All reasonable dust control measures required by the Board of Works during construction of the SES are being followed together with any additional steps or adjustments for dust control which may from time to time be required by the Board of Works.
      iii) Drainage: Reasonable storm water best management practices as required by the approved Drainage Plan/Agreement.
      iv) Noise: Near a residence or public use noise shall be kept to a minimum during the hours of 7pm to 7am
   d) Post-Construction Requirement
      i) Road and Drainage Repairs: Any road or drainage damage caused by the transport of any matter or material utilized in any way regarding the SES, in the construction of the SES, the installation of the same, and/or the removal and decommissioning of the

same, shall be repaired to the satisfaction of the City of Gary Engineer (as per the Road Use and Maintenance Agreement).

ii) The City Engineer may choose to require either remediation of road(s) upon completion of the SES or said Engineer is authorized to collect fees for oversized load permits. Further, a surety bond or letter of credit in an amount to be determined by the City Engineer may be required by the City to ensure that future repairs are completed to the satisfaction of the Board of Works.

iii) The cost of such bond or letter of credit shall be paid by the SES owner and said bond shall remain in full force and affect until the decommissioning and restoration is fully completed as prescribed by this Zoning Ordinance and the Decommissioning-Restoration Plan and Agreement.

G. APPLICATION FOR A COMMERCIAL SES

1) GENERAL APPLICATION REQUIREMENTS

a) Community Meeting (C-SES): Prior to submission of an application for Administrative Solar Permit, a community information meeting shall be organized and hosted by the project developer. The purpose of the meeting is outreach, with the intent of providing complete information to the community in an informal setting. The meeting shall not be construed to be a local government meeting or formal public hearing. The meeting shall be conducted in accordance with the following protocol:

i) Notification: The applicant shall notify the Plan Commission Director, the City Engineer, and all property owners withinone half (1/2) mile of the proposed C-SES a minimum of ten (10) days prior to the community meeting.

ii) Meeting Date/Time/Location: The meeting shall be held on a weeknight (Monday thru Thursday) at an accessible location within 10 miles of the proposed project.

iii) Content of Meeting: The informational meeting shall be arranged and hosted by the applicant or a qualified representative and shall at a minimum include a detailed explanation of the project, the site plan for the proposed project, anticipated construction schedule, the landscaping and screening plan, and the decommissioning plan.

iv) Response to Concerns: The project developer shall solicit and accept all comments, questions, and concerns of the citizens at the meeting, and respond to the identified concerns with reasonable, practical means and methods of mitigating undue impact to the surrounding area.

v) Meeting Summary and Report: A summary and report regarding the community meeting shall be submitted to the Department at the time of the application for the Permit. The report shall include a list of the landowners who were invited, a record of attendees, and copies of all written comments received. The report shall itemize the concerns stated by the citizens and shall include a statement of reasonable, practical mitigation the proposer will undertake to address those concerns and minimize impact to the community. This report shall be used by the Plan Commission Director to establish suitable conditions of approval on the C-SES permit application.

H. APPLICATIONS

1) Contact information of SES Applicant
2) The name(s), address(es), telephone number(s) and e-mail address(es) (if available) of the applicant(s), together with a description of the applicant's business structure and overall role in the proposed project.
3) Contact information of SES Owner
4) The name(s), address(es), telephone number(s) and e-mail address(es) (if available) of the SES owner(s), together with a description of the owner's business structure and overall role in the proposed SES, and documentation of real estate ownership of any real property upon which any part of the proposed SES is to be located. The SES owner shall inform the Plan Commission Director of any change of SES ownership, in whole or part, and shall furnish the required information regarding such owner.
5) Contact information of SES Operator
6) The name(s), address(es), telephone number(s) and e-mail address(es) (if available) of the operator(s), as well as a description of the operator's business structure and overall role in the proposed project. The SES operator shall inform the Plan Commission Director of any change of the SES operator and furnish the required information regarding such operator.
7) Legal description: The legal description and the 911 Emergency Address of the real property upon which the SES is to be located.
8) SES Description: The SES description and information including, but not limited to the following:
    a) Type of solar technology (e.g., solar panels, solar shingles, etc.)
    b) Solar panel mounting technique (e.g., ground-mount, roof-mount, etc.).
    c) Solar panel installation height.
    d) Name plate generating capacity.
    e) The means of interconnecting with the electrical grid.
    f) The potential equipment manufacturer(s); including information sheets and installation manuals.
    g) Accessory structures and other appurtenances

I. PRELIMINARY SITE PLAN

1) A site plan, drawn to scale, including distances pertaining to all applicable setback and buffer requirements. All drawings shall be at a scale of one (1") inch equals thirty(30') feet. Any other scale must be approved by the Plan Commission Director. No individual sheet or drawing shall exceed twenty-four (24") inches by thirty-six (36") inches without the prior consent of the Plan Commission Director.
2) The preliminary site plan shall illustrate the following:
    a) Property lines upon tract(s) subject to the application, together with property lines and with the names of owners or record of each adjacent tract(s).
    b) Location and name/number of public roads surrounding, abutting, and/or traversing the SES and any SES ingress/egress road.
    c) Substations: location
    d) Location of electrical cabling outside of fenced areas

e) Ancillary equipment

3) Proposed solar arrays, connecting lines, and all affiliated installations and structures
4) Proposed Access points, interior drives, security features, and fencing
5) Surface water drainage patterns
6) Woodlands, Grasslands, and Farmland identification
7) Soil types
8) Area designated Prime Farmland on each participating parcel
9) Any structure within one quarter (1/4) mile of the proposed SES boundary.
10) The location of any airport within one (1) mile of the proposed SES boundary.
11) Setback lines: Distances from the SES to each setback requirement.
12) The location of any historic or heritage sites as recognized by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources, within one (1) mile of a proposed SES.
13) The location of any wetlands based upon a delineation plan prepared in accordance with the applicable U.S. Army Corps of Engineers requirements and guidelines, within one (1) mile of a proposed SES.
14) Location of any Special Flood Hazard Area as determined by the Federal Emergency Management Agency (FEMA) and by the Indiana Department of Natural Resources (IDNR), whichever is more stringent.
15) Location and height of fencing, access roads, berms and landscaping associated with any buffer zone.
16) All other information reasonably requested by the BZA, Plan Commission and the Plan Commission Director.
17) Topographic Map: A United States Geological Survey (USGS) topographical map, or map with similar data, of the property and the surrounding area, with contours of not more than two (2') foot intervals.
18) Wetland Delineation: A Wetland delineation and report shall be submitted on properties proposed for use as a CS-SES or a CL-SES.
19) **Engineering Certification:** For all SES and SES facilities, the manufacturer's engineer or another qualified registered professional engineer shall certify, as part of the Improvement Location Permit Application, that all structural aspects of the SES design are within accepted professional standards, and the structure or substrate the solar technology will be affixed to will tolerate the installed weight of said technology (e.g., roof structure, soils, etc.).
20) **Proof of Correspondence and Cooperation with Wildlife Agencies:** For the purposes of demonstrating compliance with required permits, the applicant shall provide written documentation that the applicant is in direct correspondence, cooperation and in compliance and shall remain in compliance with all applicable regulations and requirements of the U.S. Fish and Wildlife Service and the Indiana Department of Natural Resources.
21) **Aggregated SES Application:** Aggregated SESs may jointly submit a single application and be reviewed under joint proceedings, including notices, hearing, and reviews, and asappropriate, approvals.
22) **Fees:** as prescribed by the City's Schedule of Fees

J. PRIMARY DEVELOPMENT PLAN

Following the creation of a commercial SES Overlay District, a Development Plan together with a petition for Development Plan review must be submitted to the City of Gary Plan Commission for approval pursuant to the 1400 SERIES of the Indiana Code.

The petition for Primary Development Plan approval shall include:

1) A final site plan at an appropriate scale showing (standard sheet of 36 inches by 24 inches and individual tower sites not greater than one-inch equals 20 feet).
   a) the proposed location of all SES Facilities (including locations of each SES panel and anchor bases (if any), including Battery Back-Up equipment.
   b) If a Battery Back-Up is included, the design of the Battery Back-Up, its manufacturer, and provisions within the applicable plans for the decommissioning and emergency response issues associated with the Battery-Back-Up.
   c) SES access roads; substations, maintenance structures; storage yards.
   d) temporary and permanent meteorological towers; electrical cabling; ancillary equipment; and any other structures that are a direct functional part of the SES.
   e) Each tower and/or structure should be assigned a unique identification number on the site plan. In addition, the site plan shall show primary structures within one- quarter mile of any commercial SES Zone District; property lines, including
      i) identification of adjoining properties.
      ii) setback lines.
      iii) public roads.
      iv) City regulated drains,
      v) open ditches,
      vi) all water bodies and streams.
      vii) location of all above-ground utility lines within a distance of two (2) times the SES panel height of a SES panel.
      viii) location of all existing underground utility lines associated with the SES site.
      ix) Solar Easements
      x) recognized historic or heritage sites as noted by the Indiana Department of Natural Resources.
      xi) floodplains.
      xii) and any wetlands based upon a delineation prepared in accordance with the applicable U.S. Army Corps of Engineer requirements and guidelines.
2) Transportation Plan showing delivery route of all equipment as recommended by the City of Gary.
3) Drainage Plan approved by the City of Gary Engineer and Board of Works. The Transportation Plan and the Drainage Plan shall establish that all newly constructed SES access roads shall not impede the flow of water and will comply with the City drainage ordinance and engineering department requirements.
4) Decommissioning Plan.
5) An Emergency Services Plan
6) An Operation and Maintenance Plan
7) Erosion Control Plan

8) A Security and Safety Plan which must include adequate provisions for site security and safety. If the plan includes using City services, then it should include signatures indicating those parties are aware of their role and are capable of performing it.
9) Adequate assurance of the completion and continued operation of the SES project from the date of the commencement of construction through the life of operation of the SES. The owner/applicant/operator shall demonstrate such adequate assurance of completion and continued operation of the SES project by providing evidence of:
    i) adequate funding of one hundred percent (100%) of the estimated cost of construction of the SES; and
    ii) performance bonds or other sureties from the owner/applicant/operator and/or major equipment suppliers and contractors.

K. APPLICABLE STATE AND FEDERAL PERMITS, APPROVALS AND LICENSES.

After Development Plan approval is obtained, but before any construction commences or Improvement Location Permits issued, all applicable state and federal permits, approvals and licenses must be obtained, and all state and federal statutes and regulations must be complied with, and the following requirements satisfied:

1) The applicant/owner/operator of the SES shall maintain liability policies covering (1) bodily injury and property damage and (2) environmental contamination arising from construction, operation, maintenance, and decommissioning of the SES, with nationally recognized, well-capitalized insurance companies initially approved by the Plan Commission and annually thereafter by the director of the Plan Commission and name City of Gary as an additional insured. Limits on the bodily injury and property damage policy shall be of at least $2 million per occurrence and $5 million in the aggregate with a deductible of no more than $20,000.00 and on the environmental contamination policy shall be of at least $1 million per occurrence and $2 million in the aggregate with a deductible of no more than $50,000.00.
2) The applicant/owner/operator shall establish a 24-hour toll-free phone number for the registering of complaints and concerns. This number shall be posted at every road intersection throughout the project area before Improvement Location Permits are issued and before any construction or earth moving can commence. If legitimate complaints are not remedied within 48 hours, the City may address these complaints with any expenses incurred to be reimbursed by the SES applicant.

Required toll-free number – sign example:

1-800-000-000	Orange, Square 30” by 30” Sign,
Call to report problems related to Solar Farm construction	Insert your 1-800 number in place of the sample one.

3) The applicant/owner/operator must attend a pre-construction meeting between the City of Gary Plan Commission Director, the City of Gary Plan Commission President, the City of Gary Building Commissioner, the City of Gary Engineer, and any other public officer or official whose input is deemed appropriate, and the SES applicant/owner/operator will verify that all

requirements in the City of Gary Zoning Ordinance have been met. Once reviewed, if all requirements have been met, the SES applicant/owner/operator may then obtain Improvement Location Permits/building permits. If any requirements have not been met, then further pre-construction meetings will be held until it can be verified that the identified issues have been resolved.

4) PLAN REVIEW

The rezoning application, the Development Plan (including but not limited to Decommission Plan and each update thereof and the assurance of completion and continued operations) and the Improvement Location Permit/building permit applications shall be reviewed by Plan Commission staff; counsel; an independent professional engineer, if needed; and any other professionals deemed necessary as selected or approved by the Plan Commission. Within 30 days of submission, the owner/applicant/operator shall reimburse the Plan Commission for all costs and expenses associated with the initial or any subsequent review of the Development Plan including but not limited to the employment of a professional engineer, financial consultant, or other professional advisors consulted by the Plan Commission. A professional engineer shall certify, as part of the Improvement Location Permit application/building permit that the foundation and panel design of the SES is within accepted professional standards, given local soil roadway and climate conditions.

a) **Prior to the issuance** of an Improvement Location Permit (solar permit), and in addition to all other application requirements and any other requirements for the applicant, owner and/or operator to be in compliance with the Ordinance, the following shall be submitted to the Plan Commission Director:
   i) Form, Content and Title of Agreements
   ii) The plans and agreements. Any agreement title or document name/designation made by the parties shall be sufficient provided such plans and agreements follow the requirements of the Ordinance and all other requirements of applicable federal,state, and local laws, rules, regulations, and ordinances.

b) **Waivers**: All waiver agreements shall be in writing and follow the requirements specified in this Section (definitions). Copies of all waivers are required as part of the SES application.

SECTION 12. FLOODPLAIN DISTRICT (FLP)

A. PURPOSE AND INTENT

The flood hazard areas of City of Gary are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. To minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

B. STATUTORY AUTHORIZATION

The Indiana Legislature has in IC 36-1-4-11 granted the power to local government units to control land use within their jurisdictions.

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1) Protect human life and health.
2) Minimize expenditure of public money for costly flood control projects.
3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
4) Minimize prolonged business interruptions.
5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight area.
7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
8) Minimize the impact of development on adjacent properties within and near flood prone areas.
9) Ensure that the flood storage and conveyance functions of the floodplain are maintained.
10) Minimize the impact of development on the natural, beneficial values of the floodplain.
11) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
12) Meet community participation requirements of the National Flood Insurance Program.

C. IMPROVEMENT LOCATION PERMIT

The Plan Commission shall keep and maintain all records, including all first-floor elevations, certificates, plans, and other materials associated with any permit or variance issued within the floodplain.

The Plan Commission shall not issue a building permit within the floodplain until the applicant submits evidence that:

1) A proper permit or letter of recommendation for it has been granted by the Indiana Department of Natural Resources.
2) All buildings or additions to existing buildings shall have flood protection grades at least two feet above the regulatory flood; and
3) No use shall increase the base flood level of a regulatory flood.

The Plan Commission shall not issue a building permit for a mobile home in a floodway except for placement in a mobile home park existing on the date of enactment of this ordinance, or in a mobile home subdivision existing on that date.

When applying for a certificate of occupancy involving new construction or substantial improvement to existing buildings the owner shall produce an elevation certificate which needs to be completed by the applicant and have the lowest floor elevation certified to by a licensed professional engineer or land surveyor shall be presented to the Plan Commission Director

D. METHODS OF REDUCING FLOOD LOSS

In order to accomplish its purposes, these regulations include methods and provisions for:

1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities.
2) Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction.
3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters.
4) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and,
5) Preventing or regulating the construction of flood barriers, which will divert flood, waters or which may increase flood hazards in other areas.

E. LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazard (SFHAs) within the jurisdiction of City of Gary Plan Commission, Indiana.

F. AREAS OF SPECIAL FLOOD HAZARD

1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of City of Gary Plan Commission, delineated as an “AE Zone” on the City of Gary, Indiana and Incorporated Areas Flood Insurance Rate Map dated November 19, 2014 shall be determined from the one-percent annual chance flood profiles in the Flood Insurance Study of City of Gary, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Maps (FIRM) dated November 19, 2014 as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. Should the floodway limits not be delineated on the Flood Insurance Rate Map for a studied SFHA designated as an “AE Zone”, the limits of the floodway will be according to the best available flood layer as provided by the Indiana Department of Natural Resources.

2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of City of Gary Plan Commission, delineated as an "A Zone" on the City of Gary, Indiana and Incorporated Areas Flood Insurance Rate Map, dated November 19, 2014, as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best available flood layer provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available flood layer data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.
3) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best available flood layer as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile.
4) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

G. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

H. DISCREPANCY BETWEEN MAPPED FLOODPLAIN AND ACTUAL GROUND ELEVATIONS

1) In cases where there is a discrepancy between the mapped floodplain (SFHA) with base flood elevations provided (riverine or Zone AE) on the FIRM and the actual ground elevations, the elevation provided on the profiles or table of still water elevations shall govern.
2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
3) If the natural grade elevation of the site in question is at or above the base flood elevation and a LOMA or LOMR-FW is obtained, the floodplain regulations will not be applied provided the LOMA or LOMR-FW is not subsequently superseded or invalidated.

I. INTERPRETATION

In the interpretation and application of this ordinance all provisions shall be:

1) Considered as minimum requirements.
2) Liberally construed in favor of the governing body; and
3) Deemed neither to limit nor repeal any other powers granted under state statutes.

J. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of City of Gary, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance, or any administrative decision made lawfully thereunder.

K. SEVERABILITY

If any section, subsection, sentence, clause, or phrase of these regulations is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared.

L. COMPLIANCE

1) No structure shall hereafter be located, extended, converted, or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations.
2) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the most conservative (highest) base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.
3) No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

M. PENALTIES FOR VIOLATION

1) Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for City of Gary. All violations shall be punishable by a fine not to exceed $7,500 per violation and each day in violation constitutes a new violation. The City of Gary Plan Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
2) Nothing herein shall prevent City of Gary from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

N. ADMINISTRATOR

The Mayor of Gary hereby appoints the Plan Commission Director of the Plan Commission to determine the best city employee to best administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

O. FLOODPLAIN DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS

An application for a floodplain development permit shall be made to the Floodplain Administrator for all development activities located wholly within, partially within, or in contact with a special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Such applications shall include, but not be limited to plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

1) Application Stage
   a) A description of the proposed development.
   b) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
   c) A legal description of the property site.
   d) For the reconstruction, rehabilitation, or improvement of an existing structure, or an addition to an existing building, a detailed quote and description of the total work to be completed including but not limited to interior work, exterior work, and labor as well as a certified valuation of the existing (pre-improved or pre-damaged) structure.
   e) A site development plan showing existing and proposed development locations and existing and proposed land grades.
   f) A letter from a licensed professional surveyor or engineering noting that an elevation reference benchmark has been established or confirmed for those projects requiring elevations to be met.
   g) Verification that connection to either a public sewer system or to an approved on-site septic system is available and approved by the respective regulatory agency for proposed structures with plumbing.
   h) Plans showing elevation of the top of the planned lowest floor (including basement) of all proposed structures in Zones A, AE, AH. In Zone AO, plans must show the height of the top of the lowest floor above the highest adjacent grade. Elevation should be in NAVD 88.
   i) Plans showing elevation (in NAVD 88) to which any non-residential structure will be floodproofed.
   j) Plans showing location and specifications for flood openings for any proposed structure with enclosed areas below the flood protection grade.
   k) Plans showing materials to be used below the flood protection grade for any proposed structure are flood resistant.
   l) Plans showing how any proposed structure will be anchored to resist flotation or collapse.
   m) Plans showing how any electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities are designed and/or located. Elevation should be in NAVD 88.
   n) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering analysis is required, and any watercourse changes submitted to DNR for approval. Once DNR approval is obtained, a FEMA Conditional Letter of Map Revision must be obtained prior to construction.

o) Any additional information, as requested by the Floodplain Administrator, which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.

2) Construction Stage
   a) Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator an elevation certificate for the building under construction. The Floodplain Administrator shall review the elevation certificate. Any deficiencies detected during the review shall be corrected by the applicant before work is allowed to continue. Failure to submit the survey or failure to make said corrections required hereby shall be caused to issue a stop-work order for the project.
3) Finished Construction
   a) Upon completion of construction of any structure requiring certification of elevation, an elevation certificate which depicts the "as-built" lowest floor elevation and other applicable elevation data is required to be submitted by the applicant to the Floodplain Administrator. The elevation certificate shall be prepared by or under the direct supervision of a registered land surveyor and certified by the same.
   b) Upon completion of construction of an elevated structure constructed on fill, a fill report is required to be submitted to the Floodplain Administrator to verify the required standards were met, including compaction.
   c) Upon completion of construction of a floodproofing measure, a floodproofing certificate is required to be submitted by the applicant to the Floodplain Administrator. The floodproofing certificate shall be prepared by or under the direct supervision of a registered professional engineer or architect and certified by same.

P. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

Duties and Responsibilities of the Floodplain Administrator shall include, but are not limited to:

1) Enforce the provisions of this ordinance.
2) Evaluate application for permits to develop in special flood hazard areas to assure that the permit requirements of this ordinance have been satisfied.
3) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
4) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met or refuse to issue the same in the event of noncompliance.
5) Advise permittee that additional Federal, State and/or local permits may be required. If specific Federal, State and/or local permits are known, require that copies of such permits be provided and maintained on file with the floodplain development permit.
6) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.

7) For applications to improve structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator shall:
   a) Verify and document the market value of the pre-damaged or pre-improved structure.
   b) Compare the cost to perform the improvement; or the cost to repair a damaged building to its pre-damaged condition; or, the combined costs of improvements and repair, if applicable, to the market value of the pre- damaged or pre-improved structure. The cost of all work must be included in the project costs, including work that might otherwise be considered routine maintenance. Items/activities that must be included in the cost shall be in keeping with guidance published by FEMA to ensure compliance with the NFIP and to avoid any conflict with future flood insurance claims of policyholders within the community.
   c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement' for proposed work to repair damage caused by flood, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of substantial damage; and
   d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the applicable general and specific standards of this ordinance are required.
8) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse and submit copies of such notifications to FEMA.
   a) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to this ordinance. Maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
   b) Verify the upstream drainage area of any proposed development site near any watercourse not identified on a FEMA map to determine if all provisions and standards of this Ordinance are applicable.
   c) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood- carrying capacity is not diminished.
   d) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures.
   e) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed.
   f) Make on-site inspections of projects.
   g) Coordinate with insurance adjusters prior to permitting any proposed work to bring any flood-damaged structure covered by a standard flood insurance policy into compliance (either a substantially damaged structure or a repetitive loss structure) to ensure eligibility for ICC funds.

h) Ensure that an approved connection to a public sewer system or an approved on-site septic system is planned for any structures (residential or non-residential) to be equipped with plumbing.
i) Provide information, testimony, or other evidence as needed during variance hearings.
j) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions.
k) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance.
l) Coordinate map maintenance activities and associated FEMA follow-up.
m) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
n) Request any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.

Q. ADMINISTRATIVE PROCEDURES

1) Inspections of Work in Progress. As the work pursuant to a permit progress, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.
2) Stop Work Orders.
   a) Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
   b) Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
3) Revocation of Permits.
   a) The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
   b) The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

4) Floodplain Management Records.
   a) Regardless of any limitation on the period required for retention of public records, records of actions associated with the administration of this ordinance shall be kept on file and maintained under the direction of the Floodplain Administrator in perpetuity. These records include permit applications, plans, certifications, Flood Insurance Rate Maps; Letter of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations required by this ordinance; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance.
   b) These records shall be available for public inspection at the City of Gary Plan Commission
5) Periodic Inspection. Once a project is completed, periodic inspections may be conducted by the Floodplain Administrator to ensure compliance. The Floodplain Administrator shall have a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

R. MAP MAINTENANCE ACTIVITIES

To meet NFIP minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that City of Gary Indiana flood maps, studies and other data identified in this Ordinance accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

1) Requirement to Submit New Technical Data
   a) For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA
   b) Such a submission shall include appropriate supporting documentation made in writing by the President of the Board of Works of City of Gary and may be submitted to FEMA at any time.
   c) These development proposals include:
      i) Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries.
      ii) Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area.
      iii) Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and Subdivision or large- scale development proposals requiring the establishment of base flood elevations.
   d) It is the responsibility of the applicant to have required technical data for a Conditional Letter of Map Revision or Letter of Map Revision and submitted to FEMA. The Indiana Department of Natural Resources will review the submittals as part of a partnership with FEMA. The submittal should be mailed to the Indiana Department of Natural Resources at

the address provided on the FEMA form (MT-2) or submitted through the online Letter of Map Change website. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

e) The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for proposed floodway encroachments that increase the base flood elevation.

f) Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to this section.

2) Right to Submit New Technical Data

a) The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details.

S. VARIANCE PROCEDURES

1) Standard land use variance process shall be followed before the City of Gary Board of Zoning Appeals (BZA).
2) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision according to IC-36-7-4.
3) In passing upon such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
   a) the danger to life and property due to flooding or erosion damage.
   b) the danger that materials may be swept onto other lands to the injury of others.
   c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
   d) the importance of the services provided by the proposed facility to the community.
   e) the necessity to the facility of a waterfront location, where applicable.
   f) the compatibility of the proposed use with existing and anticipated development.
   g) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
   h) the safety of access to the property in times of flood for ordinary and emergency vehicles.
   i) the expected height, velocity, duration, rate of rise, and removal of sediment of the floodwaters at the site; and,
   j) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
4) A written report addressing each of the above factors shall be submitted with the application for a variance.
5) Variances from the provisions of this ordinance shall only be granted when the board can make positive findings of fact based on evidence submitted at the hearing for the following:
   a) A showing of good and sufficient cause.
   b) A determination that failure to grant the variance would result in exceptional hardship.

c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

6) No variance for a residential use within a floodway may be granted.
7) Any variance granted in a floodway will require a permit from the Indiana Department of Natural Resources. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
8) Variances to the Provisions for Flood Hazard Reduction may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
9) Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.
10) Variances may be issued for new construction, substantial improvements, and other development necessary for the conduct of a functionally dependent use.
11) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
12) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
13) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
14) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request.

T. FLOODPLAIN STATUS STANDARDS

FLOODWAYS (RIVERINE)

Located within SFHAs, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. Under the provisions of the Flood Control Act (IC 14-28-1) a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing, and paving undertaken before the actual start of construction of the structure. General licenses and exemptions to the requirements of the Flood Control Act (IC 14-28-1 and 312 IAC 10) may apply to qualified additions/improvements to existing lawful residential structures, rural bridges, logjam removals, wetland restoration, utility line crossings, outfall projects, creek rock removal, and prospecting.

1) If the site is in a regulatory floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for approval for construction in a floodway,

provided the activity does not qualify for a general license or exemption (IC 14-28-1 or 312 IAC 10).

2) No action shall be taken by the Floodplain Administrator until approval has been granted by the Indiana Department of Natural Resources for construction in the floodway, or evidence provided by an applicant that the development meets specified criteria to qualify for a general license or exemption to the requirement of the Flood Control Act. The Floodplain Development Permit shall meet the provisions contained in this article.
3) The Floodplain Development Permit cannot be less restrictive than an approval issued for construction in a floodway issued by the Indiana Department of Natural Resources, or the specified criteria used to qualify for a general license or exemption to the Flood Control Act for a specific site/project. However, a community's more restrictive regulations (if any) shall take precedence.
4) In floodway areas identified on the FIRM, development shall cause no increase in flood levels during the occurrence of the base flood discharge without first obtaining a Conditional Letter of Map Revision and meeting requirements of this Ordinance. A Conditional Letter of Map Revision cannot be issued for development that would cause an increase in flood levels affecting a structure and such development should not be permitted.
5) In floodway areas identified by the Indiana Department of Natural Resources through detailed or approximate studies but not yet identified on the effective FIRM as floodway areas, the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.
6) For all projects involving channel modifications or fill (including levees) City of Gary Office of Sustainability shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

FRINGE (RIVERINE)

If the site is in the fringe (either identified on the FIRM or identified by the Indiana Department of Natural Resources through detailed or approximate studies and not identified on a FIRM), the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in this article have been met.

SFHAS WITHOUT ESTABLISHED BASE FLOOD ELEVATION AND/OR FLOODWAYS/FRINGES (RIVERINE)

1) Drainage area upstream of the site is greater than one square mile:
   a) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.
   b) No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter

of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

c) Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this section have been met.

2) Drainage area upstream of the site is less than one square mile:
   a) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.
   b) Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in this article have been met.

SFHAS NOT IDENTIFIED ON A MAP

1) If a proposed development site is near a waterway with no SFHA identified on a map, the Floodplain Administrator shall verify the drainage area upstream of the site. If the drainage area upstream of the site is verified as being greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.
2) No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.
3) Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this article have been met.

U. STANDARDS

In all areas of special flood hazard, the following provisions are required:

1) All new construction, reconstruction or repairs made to a repetitive loss structure**,** and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
3) New construction and substantial improvements must incorporate methods and practices that minimize flood damage.
4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG for residential structures. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG for non-residential structures. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
5) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
8) Any alteration, repair, reconstruction, or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained inthis ordinance.
9) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.
10) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.
11) Fill projects that do not involve a structure must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3’ horizontal to 1’ vertical.
12) Non-conversion agreements shall be required for all new or substantially improved elevated structures with an enclosure beneath the elevated floor, accessory structures, and open-sided shelters.
13) Construction of new solid waste disposal facilities, hazard waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in areas of special flood hazard; and

14) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be greater to the volume of storage lost (replacement ratio of 3 to 1) due to the fill or structure.
15) The excavation shall take place in the same floodplain on the same property on which the authorized fill or structure is located, provided sufficient space exists. If sufficient space does not exist on the same property, the excavation shall take place in the same floodplain no further than 1000' from the site of the authorized fill or structure, provided authorization/permission has been granted by the owners of any property where the excavation is proposed.
16) Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory floodwater, will not be subject to ponding when not inundated by floodwater, and that it shall not be refilled.
17) The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by floodwater.
18) The excavation shall be sufficiently stabilized and compacted to remain firm and resist erosion.
19) A restrictive covenant which states the approved compensatory cut area (excavation) shall not be altered without approval from the Floodplain Administrator shall be executed and recorded in the City Recorder's Office that runs with the property.
20) The fill or structure shall not obstruct a drainage way leading to the floodplain.
21) The grading around the excavation shall be such that the excavated area is accessible to the regulatory floodwater.
22) The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement. When a structure is placed on fill it shall follow additional requirements of this Ordinance.
23) Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.

V. BUILDING PROTECTION REQUIREMENT

In addition to the general standards, structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

1) Construction or placement of a residential structure.
2) Construction or placement of a non-residential structure.
3) Addition or improvement made to an existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value

of the land). An addition and/or improvement project that is continuous in scope or time is considered as one project for permitting purposes.

4) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred (the costs of any proposed additions or improvements beyond restoring the damaged structure to its before damaged condition must be included in the cost).
5) Installing a travel trailer or recreational vehicle on a site for more than 180 days.
6) Reconstruction or repairs made to a repetitive loss structure; and
7) Addition or improvement made to any existing structure with a previous repair, addition or improvement constructed since the community's first floodplain ordinance.

W. RESIDENTIAL CONSTRUCTION

1) New construction or substantial improvement of any residential structures shall meet provisions and applicable general standards in this Ordinance.
2) In **Zone A and Zone AE,** new construction or substantial improvement of any residential structure shall have the lowest floor, including basement, at or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided. Should fill be used to elevate a structure, the standards of this Ordinance must be met.
3) **Fully enclosed areas** formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:
   a) Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. "(having a total net area of not less than one square inch for every one square foot of enclosed area)"
   b) Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
      i) Provide a minimum of two openings on different sides of an enclosure. If there are multiple enclosed areas, each is required to meet the requirements for enclosures, including the requirement for flood openings in exterior walls.
      ii) The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening.
      iii) Doors and windows do not qualify as openings.
      iv) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
   c) The floor of such enclosed area must be at or above grade on at least one side.
4) A residential structure may be constructed on **fill** in accordance with the following
   a) Fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.

b) Fill shall extend 5 feet beyond the foundation of the structure before sloping below the BFE.
c) Fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical.
d) Fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
e) Fill shall be composed of clean granular or earthen material

5) A residential structure may be constructed using a **stem wall foundation** (also called chain wall, raised-slab- on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation (also called chain wall, raised- slab-on-grade, and slab-on-stem-wall-with-fill) must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

X. NON-RESIDENTIAL CONSTRUCTION

1) New construction or substantial improvement of any non-residential structures (excludes accessory structures) shall meet provisions of this Ordinance
2) In **Zone A and Zone AE**, new construction, or substantial improvement of any commercial, Manufacturing, or non- residential structure (excludes accessory structures) shall either have the lowest floor, including basement and, elevated to or above the FPG or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of this Ordinance.
3) **Fully enclosed areas** formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:
   a) Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
      i) Provide a minimum of two openings on different sides of an enclosure. If more than one enclosed area is present, each must have openings on exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
      ii) The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening.
      iii) Doors and windows do not qualify as openings.
      iv) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

v) Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.

b) The floor of such enclosed area must be at or above grade on at least one side.

4) A nonresidential structure may be **constructed on fill** in accordance with the following:
   a) Shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.
   b) Shall extend 5 feet beyond the foundation of the structure before sloping below the BFE.
   c) Shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical.
   d) Shall not adversely affect the flow of surface drainage from or onto neighboring properties.
   e) Shall be composed of clean granular or earthen material.
5) A nonresidential structure may be **floodproofed** in accordance with the following:
   a) A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the Floodplain Administrator.
   b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity**.**
6) A nonresidential structure may be constructed using a **stem wall foundation** (also called chain wall, raised- slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

Y. MANUFACTURED HOMES AND RECREATIONAL VEHICLES

1) These requirements apply to all manufactured homes to be placed on a site in the SFHA:
   a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
   b) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures.
2) Recreational vehicles placed on a site in the SFHA shall either:
   a) Be on site for less than 180 days and be fully licensed and ready for use on a public highway (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions), or
   b) Meet the requirements for "manufactured homes" as stated earlier in this section.

Z. ACCESSORY STRUCTURES

Within SFHAs, new construction or placement of an accessory structure must meet the following standards:

1) Shall have a floor area of 400 square feet or less.
2) Use shall be limited to parking of vehicles and limited storage.
3) Shall not be used for human habitation.
4) Shall be constructed of flood resistant materials.
5) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
6) Shall be firmly anchored to prevent flotation.
7) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
8) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures and,
9) Shall not have subsequent additions or improvements that would preclude the structure from its continued designation as an accessory structure.

AA. FREE-STANDING PAVILIONS, GAZEBOS, DECKS, CARPORTS, AND SIMILAR DEVELOPMENT

Within SFHAs, new construction or placement of free-standing pavilions, gazebos, decks, carports, and similar development must meet the following standards:

1) Shall have open sides (having not more than one rigid wall).
2) Shall be anchored to prevent flotation or lateral movement.
3) Shall be constructed of flood resistant materials below the FPG.
4) Any electrical, heating, plumbing and other service facilities shall be located at/above the FPG.
5) Shall not have subsequent additions or improvements that would preclude the development from its continued designation as a free-standing pavilion, gazebo, carport, or similar open-sided development.

BB. ABOVE GROUND GAS OR LIQUID STORAGE TANKS

Within SFHAs identified on the best available flood maps all newly placed or replacement aboveground gas or liquid storage tanks shall meet the requirements for a non-residential structure.

CC. STANDARDS FOR SUBDIVISION AND OTHER NEW DEVELOPMENTS

1) All subdivision proposals and all other proposed new developments shall be consistent with the need to minimize flood damage.
2) All subdivision proposals and all other proposed new developments shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
3) All subdivision proposals and all other proposed new developments shall have adequate drainage provided to reduce exposure to flood hazards.

4) In all areas of special flood hazard where base flood elevation data area not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and all other proposed new development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres, whichever is less.
5) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.
6) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).
7) Streets, blocks lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains shall be included within parks or other public grounds.

DD. STANDARDS FOR CRITICAL FACILITIES

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

EE. ANNEXATION / DETACHMENT

Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of City of Gary have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City of Gary, Indiana, and Incorporated Areas Flood Insurance Rate Map accurately represent the City of Gary boundaries, include within such notification a copy of a map of City of Gary suitable for reproduction, clearly showing the new corporate limits or the new area for which City of Gary has assumed or relinquished floodplain management regulatory authority."

SECTION 13. AIRPORT OVERLAY (AOD)

A. PURPOSE AND INTENT

The purpose and intent of the Airport Overlay District (AOD) is to:

1) Promote growth, development, and proper land use within the City of Gary, while maintaining the viability of the Gary/Chicago International Airport (Airport) through a collaborative review between the City of Gary and the Gary/Chicago International Airport Authority (Authority).
2) Address the federal grant assurances that the Authority is obligated to adhere to, related to the Airport, which include but are not limited to:
    a. Federal Grant Assurance 20 which requires airport owners to take appropriate actions to limit objects (buildings, structures, and trees) from obstructing airport approach areas by preventing the establishment or creation of future airport hazards; and
    b. Federal Grant Assurance 21 which requires airport owners to take appropriate action, when reasonable, to adopt zoning laws to restrict the development of land uses which can impact the safe operation of airports and aircraft, as well as impact the safety of people in proximity to the airports.
3) Limit the exposure of impacts to people, property, and facilities in proximity to the airport and protect the approaches to the airport and surrounding airspace within the areas encompassed by the AOD.
4) Protect state, federal, and local investment in the Airport and private investment in surrounding facilities within the AOD.
5) Establish a way the Plan Commission Director and the City of Gary consider factors to make land use decisions on behalf of the City. Notwithstanding anything herein, final decisions on planning matters remain solely with the City of Gary.

B. DISTRICT CHARACTERISTICS AND BOUNDARIES

1) The AOD encompasses the area generally defined by the Federal Aviation Regulations (FAR) Part 77 Objects Affecting Navigable Airspace (FAR Part 77 Surfaces), as defined in Title 14 of the Code of Federal Regulations (CFR), and Federal Aviation Administration (FAA) Advisory Circular (AC) 150/5300-13 *Airport Design*; as well as the Indiana Department of Transportation (INDOT) Noise Sensitive Area as defined in Indiana Code 8-21-10. These surfaces are calculated from either the end of the individual runways or based upon the future airport elevation, as documented in the Airport Layout Plan of record. These surfaces include:
    a. **Runway Protection Zone (RPZ)** is a trapezoidal surface, located 200 feet beyond the end for each runway. The dimensions vary depending on the runway classification and visibility minimums.
    b. **Primary Surface** is a longitudinal surface, centered on a runway, which extends 200 feet beyond the runway end. The width varies based upon the classification of the runway and the visibility minimums.

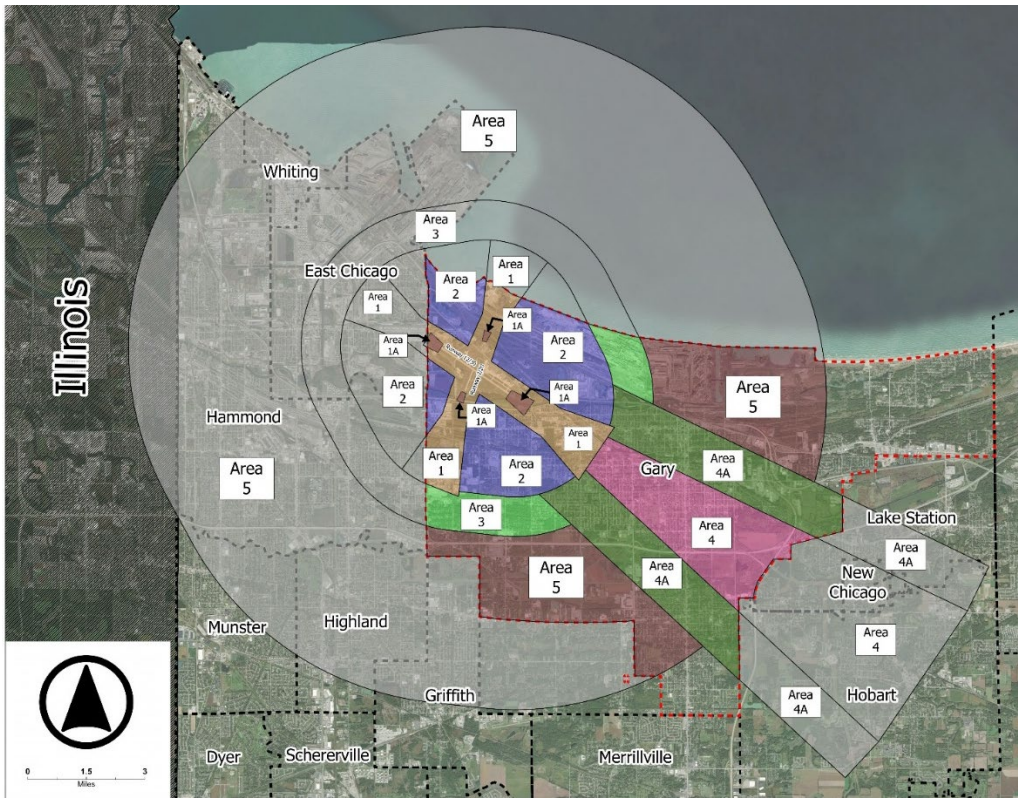
c. **Horizontal Surface** is a horizontal plane 150 feet above the established airport elevation, this is constructed by swinging arcs of a specified radii from the center of each end of the primary surface of each runway at the airport and connecting the adjacent arcs by lines of tangent to those arcs.
d. **Approach Surface** is a surface centered longitudinally on the extended runway centerline and extending outward and upward from each end of the primary surface. The approach size is dependent upon the type of approach currently available to the individual runway end or planned.
e. **Conical Surface** is a surface that extends outward and upward from the outer edge of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
f. **Transitional Surface** extends outward and upward at right angles to the runway centerline and at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surface. For those runways with precision approach surfaces, the transitional surfaces extend a distance of 5,000 feet measured horizontally from the edge of the approach and at right angles to the runway centerline.
g. **INDOT Noise Sensitive Area** includes an area 1,500 feet on either side of the runway centerline and the extended centerline of the runway for one nautical mile.
h. **Extended Conical Area** extends outward and upward from the outer edge of the conical surface at a slope of 20:1 for a horizonal distance of six miles from the end of the primary surface.

2) The Airport Layout Plan (ALP) of record, which is on file with the Airport as well as the City of Gary, illustrates the specific dimensions for each of the FAR Part 77 Surfaces.

C. EXTRATERRITORIAL AUTHORITY

Whenever and wherever enforcement of this chapter necessarily involves property or real estate situated within the boundaries of another municipality, the board of zoning appeals is granted authority to act, if authority is granted by the adjoining municipality, through its board of zoning appeals, or may act jointly with the board of zoning appeals for any other municipality. It is the intention of this section to permit the board of zoning appeals to cooperate and coordinate its efforts with any other agency or board of any adjoining municipality to effectuate the purposes and intent of this chapter.

FIGURE 1 AOD GARY AND EXTRATERRITORIAL AREA



D. ENFORCEMENT

1) Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict be with respect to height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

2) It shall be the duty of the Plan Commission Director to administer and enforce the regulation prescribed herein. Applications required by this chapter to be submitted to the Plan Commission Director shall be promptly considered and granted or denied by the Plan Commission Director. The Plan Commission Director shall consult with the Airport Director, however final decisions shall be made at the sole discretion of the Plan Commission Director, BZA, Plan Commission or appropriate representative of the City of Gary. Application for action by the board of zoning appeals shall be transmitted by the City of Gary Department of Planning.

E. VARIANCES

Any person desiring to erect any structure, increase the height of any structure, permit the growth of any tree, or use his property other than in accordance with the regulations prescribed in this chapter may apply for a variance. The variance may be allowed where a literal application or enforcement of this chapter would result in practical difficulty or unnecessary hardship and where the relief granted would not be contrary to the public interest, would do substantial justice, and be within the spirit of this chapter. Any permit or variance granted shall be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain thereon any markers and lights necessary to indicate to flyers the presence of an airport hazard. All requests for variances shall be in accordance with and governed by the rules and regulations of the board of zoning appeals and all laws now in effect in respect thereto.

F. APPEALS

1) The board of zoning appeals is constituted the proper board to which all appeals from decisions rendered in the enforcement of this chapter or any other zoning law shall be taken. All appeals from the decision or ruling of any board, agency, or department of the city shall follow the rules of the board of zoning appeals and all laws of the state.

2) Whenever notice of any appeal is served on any board, agency, or department of the city, it shall be the duty of the secretary, chairperson, or department head of the board, agency, or department to immediately notify, in writing, the secretary of the Authority of the appeal. The Authority shall have the power to intervene in the proceedings and be heard in respect thereto insofar as the ruling or decision may affect the operation of the municipal airport.

3) No department, board, or agency of the city shall have the power to grant variances hereunder, except the board of zoning appeals. Nothing contained herein shall prevent the Authority from appealing any decision, grant, or ruling of the board of zoning appeals to a proper court as now provided by law.

4) Whenever any petition or application is filed with the board of zoning appeals for any variance under this chapter or any other zoning law affecting the airport, the board of zoning appeals shall immediately notify the secretary of the Plan Commission of the application or petition, and the Authority shall be granted an opportunity to be heard in respect thereto.

5) An appeal from the decision of any board, agency, or department of the city to the board of zoning appeals shall stay all proceedings of the action appealed from unless the aggrieved person or the Authority certifies to the board of zoning appeals after notice of appeal has been filed with it, that by reason of the facts stated in the certificate, a stay would in his or its opinion cause unusual peril to life or property. In that case, proceedings shall not be stayed otherwise than by order of the board of zoning appeals on notice to the Authority.

G. AIRPORT HAZARDS

1) It is found that an airport hazard endangers the lives and property of users of the Airport and of occupants of land in its vicinity, and if the obstruction type, reduces the area available for the landing, taking off, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Airport and the public investment therein. Accordingly, the following regulations are established.

2) The erection or establishment of an airport hazard is a public nuisance and an injury to the region served by the Airport.

3) It is necessary, in the interest of public health, public safety, and general welfare of the inhabitants of the city, that the creation or establishment of airport hazards be prevented to obviate the destruction or impairment of the utility of the airport and the public investment therein.

4) The prevention of airport hazards shall, to the extent legally possible, be accomplished by the exercise of the police power without compensation. It is further declared that both the prevention of the creation or establishment of airport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes, for which political subdivisions may raise and expend public funds and acquire land or interests in land.

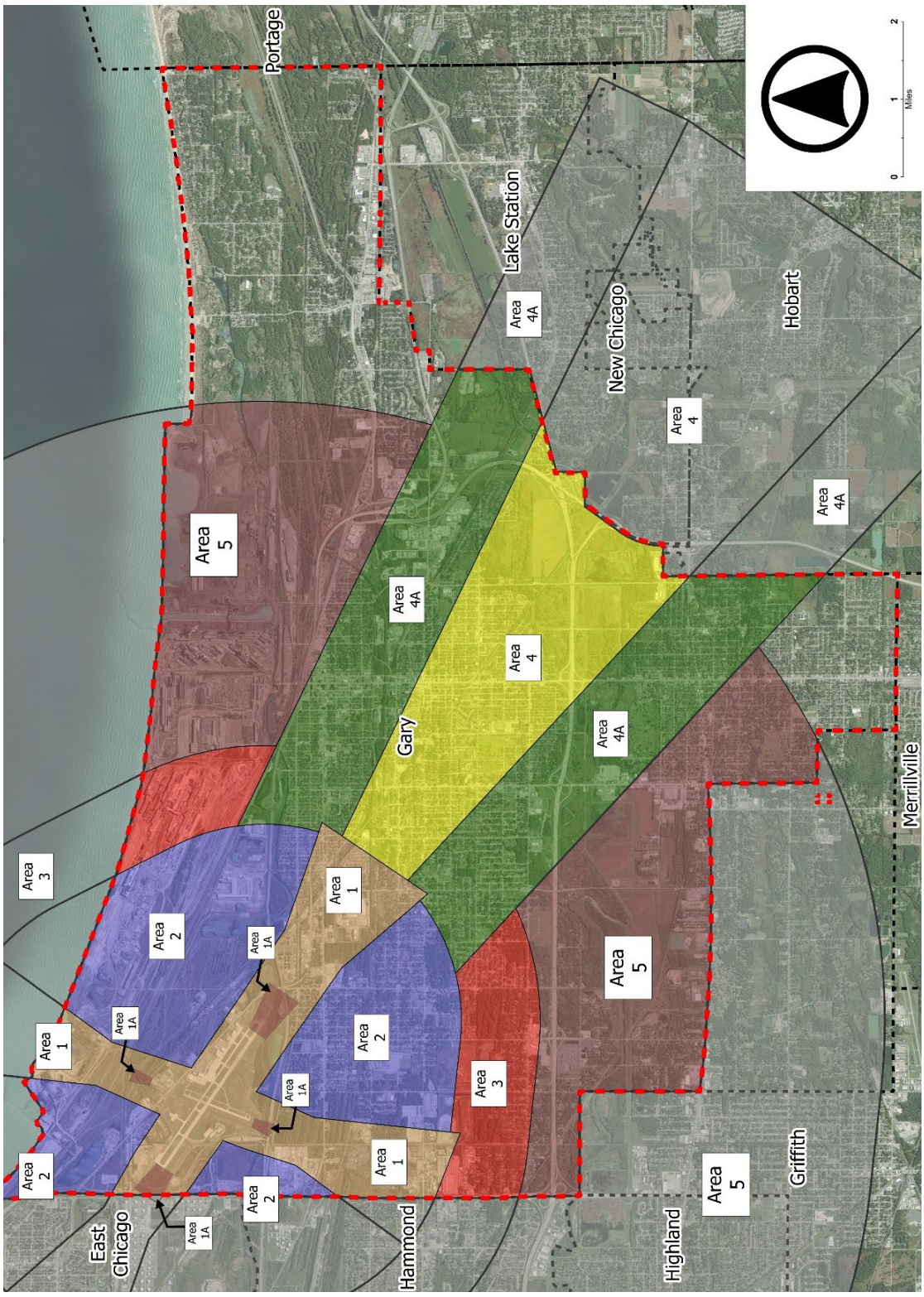
5) Notwithstanding other provisions of this chapter, no use may be made of land within any zone established by this chapter in such a manner as to conflict with Sections 12.K or 12.L of this chapter. or otherwise endanger the landing, taking off, or maneuvering of aircraft.

H. AIRPORT OVERLAY AREAS

1) Five Airport Overlay Areas (AOAs) govern the allowable heights and land use limitations based upon the proximity to the airport environment. The boundaries of these areas are described below, as well as shown on the city airport zoning map and the City of Gary Land Management System and made a part hereof and incorporated herein by reference. Copies of the map are on file in the office of the department of development and planning and the city clerk and made available as part of the City of Gary Land Management System. These areas are incorporated herein by reference and made a part hereof a layout plan or map to be used in connection with the city airport zoning map, copies of which are on file in the office of the department of development and planning, the city engineer, and the city clerk of the city. The following figures support the description of the AOAs and are located at the end of this section: **Figure 2** illustrates the AOD areas within the jurisdiction of the City of Gary. As previously noted, the height limits are illustrated within the Land Use chapters of this UDO.

    a. **Airport Overlay Area 1 Inner Safety Area** includes the runway pavements, the primary surface, the runway protection zones (Area 1A) and the approach areas that are located inside the Horizontal Surface of the Part 77 Surfaces, as well as the INDOT Noise Sensitive Areas.
        i. **Airport Area 1A Runway Protection Zone** includes only the area within the runway protection zone of each runway.
        ii. Noise Sensitive Area includes the 3,000 feet by one mile area associated with each runway.
    b. **Airport Overlay Area 2 Horizontal Area** includes the area outside of Area 1, that lies within the Horizontal Surface.
    c. **Airport Overlay Area 3 Conical Area** includes the area outside of Area 1 or Area 4, that lies within the Conical Surface.
    d. **Airport Overlay Area 4 Outer Approach Area/Departure Area** includes the approach area of Runway 30, that begins at the inner edge of the conical surface and extends to the outer edge of the approach surface as defined by FAR Part 77.
        i. **Area 4 – Core Outer Approach/Departure Area** includes the area within the Part 77 approach surface.
        ii. **Area 4A Transitional Slope Area** includes the area under the Part 77 Transitional surface associated with Runway 30.
    e. **Airport Overlay Area 5 Extended Conical Area** includes the area from the outer edge of Area 3 extending out to six miles from the outer edge of the primary surface, reflected as a continuous generally oval shape, beyond Airport Overlay Area 3.

FIGURE 2 AOD GARY JURISDICTION



I. HEIGHT LIMITS

1) Except as otherwise provided in this chapter, no structure or tree shall be erected, altered, allowed to grow, or maintained in any zone created by this chapter to a height more than the height limit herein established for that zone. Height limitations are computed from the established future airport elevation and are established for each of the airport overlay areas based upon the FAR Part 77 Surfaces and can be found on the City Airport Zoning Maps and generally include the following:
   a. **Airport Overlay Area 1 Inner Safety Area** – begins at the elevation of each individual runway end and extends to a height of approximately 762 MSL, where the surface meets the horizontal surface, at a ratio that varies across the four runway ends, as defined by the Airport Layout Plan of record.
   b. **Airport Overlay Area 2 Horizontal Area** is a flat surface with a maximum allowable height of 762 feet MSL.
   c. **Airport Overlay Area 3 Conical Area** extends from an inner height of 762 feet MSL to an outer height of 962 feet MSL at a ratio of 20:1.
   d. **Airport Overlay Area 4 Outer Approach Area/Departure Area** begins at a height of 835 feet MSL and extends outward to a height of 1791 MSL at a ratio of 40:1.
   e. **Area 4A Transitional Slope Area** has a variable height that begins at 835 feet MSL closest to the runway environment, extending to a height of 2500 feet MSL at its outer edge at a ratio of 7 to 1.
   f. **Airport Overlay Area 5 Extended Conical Area** begins at a height of 962 at the inner edge of Area 3 and extends to a height of 2,500 feet MSL at a ratio of 20 to 1.

2) From and after the effective date of this ordinance, it shall be unlawful for any person to erect any structure, or to plant or allow any tree to grow to a height in excess of the limitations prescribed by the terms of this ordinance and the airport zoning map or a height determined by the FAA that would affect an instrument approach or departure procedure.

J. LAND USE LIMITS

1) Notwithstanding any other provisions of this chapter, it shall be unlawful to establish any use of land within the Airport Overlay District which would:
   a. Create electrical interference with radio communications between the airport, aircraft, or air traffic control, or create interference with navigational aids employed by aircraft.
   b. Make it difficult for flyers to distinguish between airport lights and others or result in glare in the eyes of flyers in the use of the airport.
   c. Create air pollution, such as but not limited to smoke, steam, or dust, in such amounts as to impair the visibility of flyers in the use of the airport.
   d. Locate or permit the operation of a dump, waste disposal site, sanitary landfill, hazardous waste facility, solid waste transfer station, composting facility, or recycling facility within 10,000 feet of any runway at the airport, unless the construction, location, and operation of the site is approved or authorized by the FAA as not being a violation of FAA orders, rules or regulations applicable to the airport, unless a waiver is issued by the FAA, and it is determined that the use would not affect the instrument approach or departure procedures in a negative manner.
   e. Attract wildlife affecting flight safety.

f. Place noise sensitive uses in airport overlay areas 1 or 2.
g. Place significant concentrations of people in airport overlay areas 1, 2 or 4.
h. Raise the descent minimums of any instrument approach procedure to the airport, or otherwise limit operations at the airport, as determined by an FAA airspace study conducted by the FAA.
i. Otherwise endanger the landing, taking off, or maneuvering of aircraft.

K. AIRPORT DETERMINATION PROCESS

1) If a property is located in the AOD, Department Planning staff shall initiate the Airport Determination Process with the applicant and Airport Director.
2) If the request is to reconstruct or expand an existing use, the request shall be evaluated for compliance with Section 13.K.5. The Airport Director shall make an evaluation no later than 5 business days from the date that the request is submitted to the Airport Director. If an evaluation is not made during the 5-business day period, the determination will be solely made by the Plan Commission Director.
    a. Subject to the 5-business day requirement above, if the use complies with Section 13.K.5, the request shall be deemed approved by the Airport Director and forwarded to Department of Development and Planning for appropriate action.
    b. Subject to the 5-business day requirement above, if the use does not comply with Section 13.6.5, the applicant/owner shall meet with Airport Director to discuss and address compatibility issues. The Airport will issue an Airport Determination Letter (ADL) with a recommendation of support or denial of the request, documenting the planned mitigation measures, where appropriate to address the height and land use issues, which should be considered in the project approval. The ADL shall be forwarded to the BZA, City Plan Commission, or Plan Commission Director, as applicable, for consideration as part of the appropriate decision-making process.
3) If the use is new and determined to comply with Section 13.I, Section 13.L, and Section 13.K.5, the request may be approved by Airport Director and forwarded to Department of Development and Planning for appropriate action. The Airport Director shall make an evaluation no later than 5 business days from the date that the request is submitted to the Airport Director. If an evaluation is not made during the 5-business day period, the determination will be solely made by the Plan Commission Director.
4) If the use is new and does not comply with Sections 13.I, Section 13.L and 13.K.5, the applicant/ owner shall meet with Airport Director to discuss and address height and/or land use issues. The Airport Director shall make an evaluation no later than 5 business days from the date that the request is submitted to the Airport Director. If an evaluation is not made during the 5 business day period, the determination will be solely made by the Plan Commission Director. The Airport Director will issue an ADL with a recommendation of support or denial of the request, documenting the planned mitigation measures, where appropriate to address the height and land use issues, which should be considered in the evaluation process. The ADL shall be forwarded to the BZA, City Plan Commission, or Plan Commission Director, as applicable, for consideration as part of the appropriate decision-making process.

5) For all requested buildings, structures, or uses that require an ADL, the request shall be evaluated based on the:
    a. Likelihood to create a significant concentration of people (density and intensity).
    b. Likelihood to create visual obstructions through the creation of smoke, steam, dust, lighting, or other obstruction(s) that would adversely affect aircraft operational areas and airspace; and specifically, the proximity to the ends of runways, runway surfaces, and extended runway centerlines.
    c. Likelihood for noise sensitivity; when necessary, building construction methods that reduce airport-related noise may be recommended or required.
    d. Likelihood to attract wildlife with water bodies; when necessary, methods for designing water bodies to drain within 48 hours, putting water detention underground, landscaping, and other mitigation techniques to discourage entry and exit to the water body may be recommended or required. The airport shall have the right to include deed restrictions or restrictive covenants to authorize airport to manage/mitigate wildlife issues, which will be at the property owner's expense.
    e. Likelihood to create wildlife attractants other than bodies of water.
    f. Proposed storage of flammable or hazardous materials as defined by the International Building Code.
    g. Proximity to airport surfaces (FAR Part 77 Surfaces, extended runway centerline, etc.)

SECTION 14. RAILROAD

A. PURPOSE AND INTENT

The primary intent is to preserve and protect existing rail corridors as essential transportation infrastructure. It ensures that the land is reserved for the movement of freight and passengers and prevents "encroachment" by incompatible residential or commercial uses that could lead to safety hazards or legal disputes.

B. SUPPORTING (ACCESSORY) USES

Communication Towers: Specifically for rail dispatch and signaling.

Passive Utilities: Power lines and pipelines located within the right-of-way (ROW).

Incidental Offices: Small administrative buildings for yard masters or logistics staff.

C. USE, BULK, AND DESIGN REGULATIONS

	RR- RAILROAD
BUILDING SETBACK MIN. FROM TRACK CENTERLINE	50’
FENCE HT. MAX	8’ max.
SIGNAGE	Railroad associated communication signs only. Billboards and/or community signs are not permitted.

SECTION 15. PLANNED UNIT DEVELOPMENT

A. PURPOSE AND INTENT

The intent of this Section is to offer an alternative to conventional development by permitting flexibility in the regulations for development. The standards in this Section are intended to promote and encourage development on parcels of land that are suitable in size, location and character for the uses proposed while ensuring compatibility with adjacent land uses.

The Planned Unit Development District rezoning process is provided as a design option to allow for one or more of the following:

1) Encourage innovation in land development in terms of variety, design, layout, and type of structures constructed.
2) Promote the efficient use of land to facilitate a more economic arrangement of buildings, circulation systems, land use and utilities.
3) Encourage the adaptive re-use of significant or historic buildings.
4) Provide the opportunity to mix compatible uses or residential types.
5) Preserve and protect significant natural features, open space, and cultural/historic resources.
6) Ensure that new development is consistent with the character of the community.
7) Promote efficient provision of public services and utilities.
8) Minimize adverse traffic impacts and accommodate safe and efficient pedestrian access and circulation.
9) Encourage development of convenient recreational facilities.
10) Encourage the use and improvement of land where site conditions make development under conventional zoning difficult or less desirable; and/or
11) Allow a density for any residential portion of a Planned Unit Development that is greater than would otherwise be allowed by the Zoning Ordinance, yet is still appropriate and compatible with other uses, both within the Planned Unit Development and with the density of adjacent properties.

The PUD process and standards provide flexibility in design and permit variation of the specific bulk, area, and in some situations, the density requirements of this Section on the basis of the total PUD plan, subject to approval of the PUD by the Board of Works and Plan Commission, in accordance with the requirements of this Section. A PUD shall not be sought as a means of circumventing the standards and requirements of conventional zoning districts.

B. PUD QUALIFYING CONDITIONS

The following criteria shall apply to all Planned Unit Developments (PUDs):

1) MINIMUM SIZE
    a. Each Planned Unit Development shall contain a minimum of 5 acres. If the PUD contains a mix of residential and non-residential (office, commercial and/or Manufacturing) use. Sites containing less than the minimum required acres, but no less than 50 percent of the requirement, may be considered for rezoning to PUD, if

the applicant requests such a reduction and the Plan Commission determines that the site will advance the purposes of the PUD District. When determining the appropriateness of areas less than the applicable minimum required, the Plan Commission shall determine that rezoning the area to PUD will not result in a significant adverse effect upon nearby or adjacent lands; the proposed uses will complement the character of the surrounding area; the purpose and qualifying conditions of the PUD District can be achieved within a smaller area; and the PUD is not being used as a means to circumvent conventional zoning requirements.

2) UNIFIED CONTROL
    a. The Planned Unit Development shall be under the control of one owner or group of owners and shall be capable of being planned and developed as one integral unit.
3) RECOGNIZABLE BENEFIT
    a. The applicant shall demonstrate that the PUD provides at least four of the following site design elements, which would not be attained through a project designed under conventional zoning:
    b. Mixed-use development with residential, and non-residential uses or a variety of housing types.
    c. Pedestrian/transit-oriented design with buildings oriented to the sidewalk and parking to the side or rear of the site.
    d. High quality architectural design beyond the minimum requirements of this Ordinance.
    e. Extensive landscaping beyond the minimum requirements of this Ordinance.
    f. Preservation, enhancement, or restoration of natural resources (trees, slopes, wetland areas, views to noteworthy features, etc.).
    g. Preservation or restoration of significant or historic resources.
    h. Provision of open space or public plazas or features.
    i. Efficient consolidation of poorly dimensioned parcels or property with difficult site conditions (e.g., topography, shape, etc.).
    j. An effective transition between higher and lower residential density, and/or between non- residential and residential uses; or allowing incompatible adjacent land uses to be developed in a manner that is not possible using a conventional approach.
    k. Connectivity for vehicular and pedestrian access between properties or uses; or
    l. Mitigation to offset impacts on public facilities (such as street improvements).
4) COMPATIBILITY WITH ADJACENT USES
    a. The proposed location of uses or structures such as access drives, parking areas, waste receptacles, swimming pools, tennis courts and facilities of a similar nature, which are of a significantly different scale or character than the abutting districts, shall not be located near the perimeter of the PUD or so as to negatively impact the use of adjacent lands.
5) PUBLIC UTILITIES
    a. All uses within the PUD shall be served by public water and sanitary sewer systems.

6) COMPREHENSIVE PLAN
    a. The proposed PUD shall be consistent with the goals and recommendations of the City Comprehensive Plan.
7) PUD PERMITTED USES
    a. Refer to Permitted Use Table.
    b. Any use permitted by right or by special use in any district may be permitted in a Planned Unit Development.
    c. Residential and non-residential uses may be permitted in combination to create an integrated, mixed-use development based upon the recommendations of the Comprehensive Plan.
    d. Approval of a PUD shall include the identification of the specific uses permitted within thePUD, and only those uses so approved shall be permitted.

C. PUD REQUIREMENTS

1) RESIDENTIAL DENSITY
    a) The PUD concept plan shall state the referenced residential zoning district upon which the proposed density is based. For projects that include single family developments, the PUD concept plan narrative shall state a minimum lot size for single family development based on the minimums for single family dwellings listed in this Section for the R-1 and R-2 districts. For projects that include two-family or multiple family dwellings, the allowed density shall be based upon the applicable lot size or density specified in the district. Any deviation from these minimums shall be included in a ““Table of Modifications””.

DIMENSIONAL REQUIREMENTS

    b) The area, height, and placement requirements for each portion of the PUD shall be based upon a stated zoning district. The PUD concept plan narrative shall state the area, height, and placement requirements for each portion of the PUD, based upon the appropriate zoning district and the residential density determined.

D. PUD GENERAL PROVISIONS

1. CONDITIONS

The Plan Commission may recommend, and the City of Gary Common Council may impose reasonable conditions upon the PUD approval. Conditions may include, but are not limited to, those necessary to ensure public services and facilities will be capable of accommodating increased loads; to protect the natural environment and conserve natural resources and energy; to ensure compatibility with adjacent uses of land; be necessary to meet the intent and purpose of this Ordinance; be related to the standards established in the Ordinance for the proposed PUD; be necessary to ensure compliance with the final development plan and the provisions of this Ordinance. The conditions imposed shall be recorded in the minutes of the approval action and shall remain unchanged except upon amendment of the PUD.

2. PERFORMANCE GUARANTEES

The Plan Commission may recommend, and the City of Gary Common Council may require reasonable performance guarantees to ensure completion of specified improvements within the PUD.

3. INTERIOR STREETS

Public or private streets may be required to be extended to exterior lot lines in order to allow connection to existing or planned streets on adjacent parcels, so as to provide for secondary access, continuity of the circulation system and to reduce traffic on collector streets.

4. OPEN SPACE

Each PUD containing residential uses shall be required to preserve at least 20 percent of the gross site area as dedicated open space within the PUD site, in accordance with the following requirements. All flood plains, wetlands, water bodies and steep slopes (25 percent or greater) shall be preserved as open space.

1) Areas Not Considered Open Space. The following land areas shall not be considered as required open space for the purposes of this section:

the area within any public street right-of-way or private street easement.
any easement for overhead utility lines, unless adjacent to qualified open space.
50 percent of the area of any golf course.
the area within a platted lot, unless the lot has been dedicated to open space on the plat, via conservation easement or other means of ensuring that the lot is permanent open space.
parking and loading areas; and
storm water detention or retention areas.

Required open space areas shall be for use by all residents of the PUD, subject to reasonable rules and regulations. In the case of a golf course, stable or similar facility, membership shall be available to all residents of the PUD, subject to charges, fees, or assessments for use.

1) If the site contains a lake, stream or other body of water, the Board of Works or Plan Commission may require that a portion of the required open space may be the body of water; where the PUD site abuts property zoned R-1 along a public street, a portion of the required open space shall be located along the public street frontage abutting the site. The depth of this area shall be at least 150 feet, not including public street right-of-way, and shall remain in its natural condition or be landscaped to help reduce the view of houses or other uses on the site from the adjacent street and preserve the rural view.
2) Leave scenic views and vistas unblocked or uninterrupted, particularly as seen from public street rights-of-way.
3) Improve public safety and vehicular carrying capacity by ensuring that all development is accessed from interior roadways and not directly onto streets bordering the PUD.
4) Configure so the open space is reasonably usable by residents of the PUD.
5) Open space shall neither be perceived nor function simply as an extension of the rear yard of those lots abutting it.
6) To the extent practical, open space areas shall be linked with adjacent open spaces, public parks, bicycle paths or pedestrian paths.
7) Shall be located to be reasonably accessible to all residents of the PUD. Pedestrian access points to the required open space areas from the interior of the PUD shall be provided and shall be clearly identified by signs or a visible improved path for safe and convenient access.
8) Grading shall be minimal, with the intent to preserve existing topography and landscaping where practical; and

E. PUD REVIEW PROCESS

1. PRE-APPLICATION CONFERENCE

A pre-application conference shall be held with City staff for the purpose of determining the eligibility of the request for consideration as a PUD.

1) A request for a pre-application conference shall be made to the Plan Commission Director. As part of the pre-application conference, the applicant shall submit copies of a sketch plan which shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, and conceptual land use for the entire site.
2) The Plan Commission Director shall advise the applicant of the conformance of the PUD concept with the intent and objectives of this Section, whether the concept qualifies under the requirements of this Section, and whether the general concept is substantially consistent with the City's Comprehensive Plan.
3) Formal action shall not be taken at a pre-application conference, and statements made at the pre-application conference shall not be considered binding commitments or an approval of the concept.

2. PUD APPLICATION AND CONCEPT PLAN SUBMITTAL

An application for rezoning to PUD shall be submitted to the Plan Commission Director on a form for that purpose, along with an application fee in accordance with the schedule of fees established by the Board of Works. In addition, the application shall include a concept site plan, project narrative and other applicable information as described in this subdivision.

3. SITE PLAN

The PUD concept site plan shall be drawn to an engineer's scale of not less than one inch = 100 feet that includes all of the following:

1) General information.
    a. General location map.
    b. Legal description of the subject property.
    c. Title block, date, north arrow, scale, name and contact information of applicant and name and contact information of plan preparer.
2) Existing conditions.
    a. Topographical map clearly showing existing topography, including contour intervals of no more than two feet based on field survey or photometric methods.
    b. Map showing the existing flood plains as indicated by the federal emergency management agency.
    c. Location of existing natural features including woods, streams, ponds, wetlands and steep (25 percent or greater) slopes.
    d. Existing land uses within the development site and adjacent properties for a distance of 300 feet, including the approximate location of all buildings, structures, lots, and streets.
    e. Existing zoning on all abutting properties.
    f. Approximate location of existing public water and sanitary sewer.
3) Proposed development.

a. Conceptual layout and type of uses (residential, commercial, office, mixed-use, manufacturing) proposed within the pud.
b. Approximate acreage and percent of total site devoted to each land use type.
c. Number and type (single family, two-family, townhome, multiple- family) of dwelling units proposed.
d. Minimum lot size and maximum density for residential development.
e. Natural features and open space to be preserved, including acreage and percent of total site.
f. General location of proposed interior streets and access points to abutting streets.
g. Location of parking facilities and approximate number of parking spaces.
h. Preliminary utility and drainage concept plan illustrating proposed location of water and sanitary sewer, storm water management, and rough grading; and
i. Elevation sketches or photos of representative building types, indicating the proposed architectural style and appearance.

4) Emergency equipment required (fire hydrants and tornado sirens). The pud concept plan shall be accompanied by a narrative that describes:
   a. The proposed pud concept and its uses.
   b. The zoning district(s) upon which the proposed density and the area, height and placement requirements are based.
5) "table of modifications," as specified below.
   a. The proposed timeframe and phasing of the development; and
   b. How the pud satisfies the goals, policies, and recommendations of the comprehensive plan

4. TRAFFIC STUDY

Provide a traffic study showing impact of proposed improvements on surrounding roads, as well as suggested remediation of impact to minimize burden on the City and neighboring residents.

5. TABLE OF MODIFICATIONS

All proposed modifications from the density, area, height, and placement requirements of the base zoning district(s) shall be identified in table form in the concept plan narrative. The table shall also detail all modifications from off- street parking regulations, sign, landscaping, general provisions, or subdivision regulations that would otherwise be applicable to the uses and development proposed in the absence of the proposed PUD. This table shall clearly identify the Ordinance regulation in comparison to the requested modification.

6. PHASES

For projects proposed to be developed in phases, the PUD concept for the entire site shall be submitted for PUD concept plan approval. A map showing boundaries of anticipated phases shall be submitted, along with an expected timeline for development of each phase.

F. PUD CONCEPT PLAN REVIEW AND REZONING

1) The Plan Commission shall review the PUD concept plan at a regular or special meeting. Upon determination by the Plan Commission that the application meets the requirements of this

Section, a public hearing shall be set for a certain date. Notice of the public hearing shall conform to the requirements of the Indiana Code.

2) If required by the Plan Commission, the applicant shall submit additional information and/or studies to support the request which may include, but is not limited to traffic impact, community impact, economic feasibility or engineering of drainage or utility systems.
3) Following the public hearing, the Plan Commission shall review the PUD concept plan in consideration of public hearing comments, technical reviews from City staff and consultants, correspondence from applicable review agencies and compliance with the standards of this Section and other applicable standards and requirements of this Ordinance. The Plan Commission shall recommend approval, approval with conditions or denial of the PUD to the Gary Common Council.
4) Upon approval by the Gary Common Council, the property subject to the PUD application shall be rezoned to PUD.
5) Reasonable conditions may be attached to the approval of a PUD for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity; protecting the natural environment and conserving natural resources; ensuring compatibility with adjacent uses of land; promoting the use of land in a socially and economically responsible manner; and furthering implementation of the City Comprehensive Plan.
6) Conditions attached to the approval shall be incorporated into the PUD agreement requiredto be submitted with the final PUD site plan.
7) Approval of the PUD concept plan by the Gary Common Council shall confer upon the owner the right to proceed through the subsequent final planning phase for a period not to exceed two years from the date of approval. If application for final plan approval for the PUD or a phase of the PUD is not submitted within this time period, the PUD concept plan approval shall automatically become null, and void and all rights thereunder shall terminate. The Gary Common Council may, for worthy cause, approve one extension of up to one year, if requested in writing by the applicant prior to the expiration date of the original concept plan approval. Upon expiration of a PUD concept plan, the Gary Common Council may direct the Plan Commission to conduct a public hearing and make a recommendation to revoke the PUD zoning and rezone the property to its original designation or other district, as appropriate.
8) Final Development Plan. Following PUD concept plan approval, a final PUD site plan for the entire PUD or individual phases of the PUD shall be submitted.
9) All final PUD site plans subsequently submitted shall conform with the PUD concept plan, all conditions attached to preliminary approval, the PUD agreement, and the requirements of this Section.
10) Prior to issuance of any building permits or commencement of construction on any portion of the PUD, the applicant shall enter into an agreement with the City, in recordable form, setting forth the applicant's obligations with respect to the PUD. The agreement shall be approved by the Gary Common Council and shall include the following:
    a) The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the final development plan with all required modifications, other documents which comprise the approved PUD, and all conditions attached to the approval.

b) Provisions for irrevocably committing all designated open space areas for use by the public or occupants of the development shall be included in the form of deed restrictions, conveyances, or other means acceptable to the Gary Common Council.
c) A phasing plan shall also be submitted, describing the intended schedule for start and completion of each phase and the improvements to be undertaken in each phase.
d) The agreement shall also establish the remedies of the City in the event of default by the applicant in carrying out the PUD and shall be binding on all successors in interest to the applicant.
e) A statement binding the agreement and approved final development plan to any future owners.
f) All documents shall be executed and recorded in Lake County, IN.

11) If the PUD is to be developed in phases, the final development plan may be submitted for one or more phases of the overall PUD. The applicant must submit a request for final development plan review of the initial phase within two years of the Gary Common Council' approval of the PUD rezoning and the concept development plan. A tentative schedule for the completion of each phase and the commencement of the next phase shall also be submitted to the Plan Commission for approval.
12) The Plan Commission shall review the final PUD development plan and shall determine that the plan is in substantial conformance with the approved PUD concept plan.
13) Minor changes from the approved PUD concept plan may be approved.
14) Any changes from the approved concept plan not determined to be minor shall require that a new PUD concept plan be submitted and approved before further consideration of the changed plan(s).
15) If the Plan Commission determines that the final PUD site plan is in conformance with the approved PUD concept plan, it shall review the final plan and shall approve, deny, or approve the final plan with conditions.

G. PUD SUBDIVISION APPROVAL

At the option of the applicant, a primary subdivision plat may be filed along with the PUD concept plan in order that tentative approval of the subdivision by the Plan Commission may be granted, pending approval of the PUD concept plan.

In no case shall subdivision approval precede the approval of the PUD concept plan.

Site development regulations, specifications, and procedures governing the platting of a Planned Unit Development and plat approval shall be in accordance with the City Subdivision Control Ordinance.

H. PUD REVIEW STANDARDS

In considering the PUD request, the Plan Commission or Gary Common Council, as applicable, must find that the proposed development meets all requirements and qualifying conditions, as well as the following general standards:

1) The PUD will comply with the standards, conditions, and requirements of this Section.
2) The PUD will promote the intent and purpose of this Section.

3) The proposed project will be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed project.
4) The proposed project will be consistent with the public health, safety, and welfare needs of the City.
5) Granting the PUD rezoning will result in a recognizable and substantial benefit to ultimate users of the project and to the community, which would not otherwise be feasible or achievable under the conventional zoning districts.
6) The PUD will not result in a significant increase in the need for public services and facilities and will not place an undue burden upon surrounding lands or the natural environment unless the resulting adverse effects are adequately provided for or mitigated by features of the PUD as approved.
7) The PUD will be consistent with the City's Comprehensive Plan and consistent with the intent and purposes of this Section. Specifically, the following planning principles shall be adhered to, as applicable:
    a) preserving existing views along roads where natural vegetation, open fields and meadows, and woods predominate.
    b) protecting and preserving existing natural features and resources including wetlands, woodlands, streams, creeks, steep terrain, and rural vistas.
    c) promoting walkability within the community.
    d) ensuring new development reflects the desired community character; and
    e) maintaining a high quality of development exhibited through architecture, building materials and site amenities.
8) The PUD will not result in significant adverse effects upon nearby or adjacent lands in the City and will not change the essential character of the surrounding area.
9) The PUD will respect or enhance the established or planned character, use and intensity of development within the area of the City where it is to be located.

I. PUD CONSTRUCTION

Construction shall have commenced and proceeded meaningfully toward completion within 12 months of the date of final development plan approval, in accordance with the following:

1) Except as otherwise provided in subparagraphs this section, if construction has not commenced within 12 months, the applicant may request one extension of up to 12 additional months. The request shall be submitted, in writing, to the Plan Commission prior to the expiration of the original 12-month time limit and shall provide reasonable evidence to the effect that unforeseen difficulties or exceptional circumstances have been encountered, causing delay in commencement of the PUD. If an extension is not requested or is not submitted prior to the expiration of the original time limit, the PUD final development plan shall become invalid.
    a) If a final development plan was approved prior to, but less than two years before, the date of adoption of this Ordinance and construction has not commenced and proceeded meaningfully toward completion, the Plan Commission may, in its discretion, grant one extension not exceeding six additional months. A written request for that extension shall be submitted within three months of the adoption date of this Ordinance. In that written request, the applicant shall provide reasonable evidence to the effect that unforeseen

difficulties or exceptional circumstances have been encountered, causing delay in commencement of the PUD.

b) If a final development plan was approved two years or more before the date of adoption of this Ordinance and construction has not commenced and proceeded meaningfully toward completion, the approval shall expire three months following adoption of this Ordinance and no extension of the time limit shall be considered or granted.

2) In the event meaningful progress toward completion has not commenced within the original 12- month period or an approved extension, any building permits or other permits issued by the City for construction within the PUD shall be of no further effect and the owner shall be notified, in writing, of that expiration by the Planning Administrator.
3) Following expiration of the time limits, the Gary Common Council or Plan Commission may initiate proceedings to rezone the PUD site to some other district(s).
4) For purposes of this section, meaningful progress toward completion shall mean, at a minimum, all of the following: site clearing, rough grading, and installation of infrastructure improvements such as underground utilities.

J. PUD APPEALS

1) The Board of Zoning Appeals shall have no jurisdiction to hear appeals of or make interpretation of any decisions regarding this Section or a proposed PUD concept plan or final development plan.
2) This shall not prevent an individual lot owner from seeking a variance following the final approval of the PUD; provided that:
   a) The Board of Zoning Appeals may only grant variances from area, height, and placement requirements for individual lots.
   b) A variance shall not be considered that would affect any condition of the approved PUD, any requirement of the approved and recorded PUD agreement, or would increase the residential density of the project.

SECTION 16. ACCESSORY USE AND BUILDING STANDARDS

A. PERMITTED USE

Accessory Buildings are permitted in all zoning districts. The use of the Accessory Building must be compatible to the Primary Structure.

B. GENERAL STANDARDS

1) Shall be incidental to and and subordinate by 50% and commonly associated with the operation of the Primary Structure/Use on the land.
2) Shall be operated and maintained under the same ownership as the Primary Structure/Use.
3) Shall be designed and maintained in the same fashion as the Primary Structure.
4) Shall not be permitted in the front yard and not within 10' of the front yard setback line.
5) Must be significantly smaller in height and width than the Primary Structure.
6) Shall not be located closer to the lot line than ½ of the minimum side yard or rearsetback.
7) May not be erected prior to the construction of the Primary Structure.

C. ACCESSORY BUILDINGS

The following Accessory Buildings list is exempt from Accessory Buildings procedures and policies.

- Public utility
- Private walks
- Driveways
- Retaining walls
- Mailboxes
- Decorative yard lamp posts
- Birdbaths
- Small (<2' dia.) antenna
- Landscape features
- Temporary storage for construction

The following examples of Accessory Buildings include, but are not limited to:

- Barns - Pole barns, non-residential storage sheds, and the like
- Pool House
- Bath house
- Decks and patios in excess of 144 square feet.
- Detached garages
- Gazebos
- Mini barns, residential storage sheds
- Sports courts
- Outdoor kitchen
- Outdoor firepit
- Swimming pools – in ground
- Residential animal kennel/chicken coop
- Small dwelling on a property with a primary dwelling

1) Functioning windmills are not permitted in any Residential District.
2) Functioning building-mounted solar panels are permitted in any District with a permit.
3) Commercial Donation structures are only permitted in Business District.
4) Carports shall be architecturally compatible with the Primary Structure, mounted to the ground, and not constructed with a type of fabric. Carports must be attached to the Primary Structure and are not permitted as an independent Accessory Building.
5) Construction of an Accessory Building must start within 6 months and be completed within 9 months of the issuance of a Building Permit.
6) Vehicles or units/structures with wheels are not permitted as an Accessory Building.
7) Storage/Shipping containers are not permitted as Accessory Buildings.

D. ACCESSORY DWELLING UNIT (ADU)

1) Purpose and Intent: The purpose of this section is to authorize the creation of secondary, smaller dwelling units on a single-family lot. The intent is to increase housing diversity, provide affordable options for seniors or students, and support multi-generational living without altering the essential character of single-family neighborhoods.
2) General Standards:
    a. Primary Use Required: An ADU is only permitted on a lot where a single-family detached dwelling is already the primary use.
    b. One Per Lot: Only one ADU (either attached or detached) is permitted per tax parcel.
    c. Ownership & Occupancy:
        i. Prohibition on Subdivision: The ADU cannot be sold separately from the primary house.
        ii. Owner Occupancy: the property owner must live in either the primary house or the ADU.
    d. The ADU may not be used as a Short-term rental.
    e. Size:
        i. Minimum: 250 SF
3) Utilities: The unit must have a fully functioning kitchen (stove/sink) and a private bathroom. The ADU must connect to the primary house's water/sewer lines.

E. SWIMMING POOLS

1) Swimming Pools may not cross any yard setback line.

Refer to latest Indiana Residential Code requirements.

Safety: Swimming pools shall be 100% surrounded by one or a combination of the following:

a) Continuous connection mechanically operated cover between the cover and the deck, with the capability of supporting 400 pounds and bears an identification tag from the manufacturer. Cover to follow applicable Indiana Administrative Code.
b) Walls or fencing, min. height defined in Indiana State Code, with a self-closing and latching and lockable gate/door.
c) Other means of screening, not less than 4’ in height and approved by the Building Commissioner.

F. DUMPSTER AND LOADING AREA SCREENING

Screening for all garbage, dumpsters, trash receptacles, pallet storage, and other similar facilities, in all zoning districts, shall meet the following standards.

1) Screening for all garbage, dumpsters, trash receptacles, pallet storage, and other similar facilities shall be completely and visually screened from the right-of-way and adjoining properties.
2) Screening elements shall include a 6' min. height, 4-sided enclosure, which is designed to be architecturally compatible with the primary building.
3) Not permitted in the front yard setback.
4) Enclosures shall have a man-door, in addition to the traditional vehicular gate access. Both types of doors shall be solid/opaque. All doors shall be lockable and remain closed at all times when not in use.

G. PARKING

Accessory parking lots are not permitted if it does not support a Primary Use/Structure.

H. STORAGE

1. OUTDOOR STORAGE

Outdoor storage of merchandise, equipment, supplies, products, or other materials shall only be permitted in those districts and under such conditions as specifically authorized by this Ordinance.

2. STORAGE AND REPAIR OF VEHICLES

1) The repair, restoration, and maintenance of vehicles in any Residential District shall be conducted entirely within an enclosed building, except for those activities that can be and are completed in less than 48 hours. All such repairs shall take place on private property and may not be conducted within the public right-of-way.
2) It shall be unlawful for the owner, tenant or lessee of any building or lands within the City to permit the open storage or parking of any inoperable motor vehicle, machinery or equipment, or parts thereof, outside of an enclosed garage or enclosed building, for a period of more than 48 hours. Inoperable motor vehicle for purposes of this subdivision shall include any motor vehicle which, by reason of dismantling, disrepair, or other cause, is incapable of being propelled under its own power, or is unsafe for operation on the streets and highways of this state because of the inability to comply with the State Motor Vehicles and Traffic Code or does not have a current license and registration as required for operation by the State Motor Vehicles and Traffic Code.
3) It shall be unlawful for the owner, tenant or lessee of any lot or building in a Residential District to permit the open storage or parking outside of a building of semi-truck tractors and/orsemi-truck trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery, unless parked for purposes of construction being conducted on that lot.

SECTION 17. NON-COMMERCIAL SOLAR ENERGY SYSTEM (NC-SES) DEVELOPMENT STANDARD

A. PURPOSE AND INTENT

1) This section regulate private consumption of solar distribution systems.
2) To assure safe and effective development of ground-mounted solar-generated electricity.
3) To facilitate economic opportunities for City of Gary and its residents.
4) To assist in the reduction of carbon-based emissions and the dependence of petroleum and coal- based energy systems.
5) To develop standards for solar generated energy, utilize natural resources and ecologically sound energy sources, support Indiana's alternative energy sources potential and other such economic development tools; and
6) Regulate the construction, modification, and operation of Solar Energy Facilities, subject to reasonable restrictions, to preserve the public health, safety, general welfare and avoid the adverse impacts of such operations on the community and the area's natural and constructed resources while still accommodating the need for solar energy production.

B. APPLICABILITY

The provisions of this Section are applicable to those zoning districts which allow or may allow Solar Energy Systems (SES) and to govern the siting, development, operation, rehabilitation, decommissioning, and restoration of SECSs, which generate electricity to be sold in the wholesale market or retail market, or which are utilized to generate electricity for private use and public use.

1) When any part of the development, construction, rehabilitation, operation, decommissioning, or restoration of a SES requires action, recommendations, hearing and/or decision pursuant tothe provisions of the Land Use and Development Code of City of Gary, Indiana (Zoning Ordinance), notice shall be given pursuant to the Zoning Ordinance of the Plan Commission of City of Gary, Indiana (PC) and the Rules & Procedures of the Board of Zoning Appeals of City of Gary, Indiana (BZA).
2) Provisions of this Section or other parts of the Zoning Ordinance which are specifically made applicable Noncommercial (NC-SES) shall apply to that type of SES. Provisions without reference to a specific type of SES, shall apply to all SESs unless determined otherwise by the Plan Commission Director. The Plan Commission Director may, upon proper notice, assign any question, general or as to a specific SES application, for discussion and/or instruction from the BZA.
3) An applicant for a SES may appeal the requirement, decision, or determination of the Plan Commission Director in the manner prescribed by applicable Rules of the BZA, the Zoning Ordinance and statute(s).
4) Exemptions (electrical permit still required)
    a) A roof-mounted NC-SES with an aggregate collection and/or focusing area of 1500 square feet or less is exempt from this ordinance.
    b) SES constructed prior to the effective date of this Section shall not be required to meet the terms and conditions of this Ordinance. Any physical modification to an existing SES

whether existing prior to the effective date of this Section that materially alters the SES shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a permit.

C. PROHIBITION

No person shall construct, operate, or locate a SES within City of Gary without having fully complied with the provisions of this Section and all other applicable provisions of said Zoning Ordinance and any applicable rules/ordinances of City of Gary, IN.

D. CONFLICT WITH OTHER REGULATIONS

Nothing in this Ordinance is intended to preempt other applicable state and federal laws or regulations. Nor are they intended to interfere with, abrogate, or annul any other ordinance, rule, or regulation, statute, or other provision of law. If any provision of these regulations imposes restrictions different from any other ordinance, rule, regulation, statute, or provision of law, the provisions that is more restrictive or that imposes higher standards shall govern.

E. GENERAL REGULATIONS

1. SAFETY DESIGN AND INSTALLATION STANDARDS

1) Interference: When selecting a site for solar panels, all applicants shall take into consideration the potential maximum allowable structure height and possible landscaping of the adjacent properties to avoid interference and potential loss of efficiency from the sun to the solar panel surface.
2) **Roof Mounted and Wall Mounted NC-SES** are a permitted accessory use in all zoning districts under the following requirements:
   a) A roof mounted or wall mounted NC-SES may be located on a principal or accessory building.
   b) Roof mounted solar panels installed on a building or structure with a sloped roof shall not project vertically more than the height requirements for the district in which they are located. The panels shall not be located within three (3) feet of any peak, eave, or valley of the roof to maintain pathways of accessibility.
   c) Wall mounted NC-SES shall comply with the setbacks for principal and accessory structures in the underlying zoning districts.
   d) Roof mounted and wall mounted NC-SES may be installed on legal nonconforming buildings if the installation of the SES does not increase the nonconformity.
   e) Parcels with a residential use in a commercial or Manufacturing zone district shall conform to the developmental standards of the residential zone districts as determined by the Plan Commission Director to be the current use on the property.
   f) Roof mounted solar panels shall be located only on rear or side-facing roofs as viewed from any adjoining street unless the applicant demonstrates to the Director that, due to solar access limitations, no location exists other than the street-facing roof, where the solar energy system can perform effectively.
   g) For roof and wall mounted systems, the applicant shall provide evidence that the roof or wall can hold the load imposed on the structure.

h) Roof mounted and wall mounted NC-SES shall be in such a manner as to ensure emergency access to the roof, provide pathways to specific areas of the roof, and provide for smoke ventilation opportunities. Roof mounted and wall mounted NC- SES shall be in accordance with the Indiana Fire Code.

2. GROUND MOUNTED NC-SES

1) Setback
   a) The minimum yard setbacks from front, side, and rear property lines shall be equivalent to the Primary building setback in the zoning district.
   b) Ground-mounted NC-SES shall only be permitted in the rear and side yard.
   c) No part of an NC-SES shall be in front of the Primary Structure.
2) Ground mounted NC-SES shall not exceed 15 feet in height (at the highest point) above the ground elevation surrounding the systems. In residential zone districts the maximum height of a ground mounted NC-SES shall be 10 feet.
3) Safety/warning signage as required by applicable law concerning voltage shall be placed at ground mounted electrical devices, equipment, and structures.
4) Ground-mounted NC-SES shall not be placed within any legal easement or right-of- way location or placed within any storm water conveyance system or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system except by permission granted in writing by the City Surveyor within regulated drain easements, except as permitted, in writing, by the City of Gary Drainage.
   a) Parcels with a residential use in a commercial or Manufacturing zone district shall conform to the developmental standards of the residential zone districts as determined by the Plan Commission Director to be the current use on the property.

3. ELECTRICAL COMPONENTS

   b) Standards: Electrical components of all NC-SESs shall conform to applicable local state and national safety codes for similar NC-SESs.
   c) All on-site utility, transmission lines, and plumbing shall be placed underground to the extent feasible.
   d) When solar storage batteries are included as part of the solar energy collector system, they must be placed in a secure container or enclosure and installed and maintained as required by applicable law.
5) **Utility Interconnection**: An NC-SES, if interconnected to a utility system, shall meet the requirements for interconnection and operate as required by applicable law.

4. COLOR, FINISH AND GLARE

   a) To the extent reasonably possible, solar energy panels, regardless of how they are mounted, shall be oriented and/or screened year-round so that glare is directed away from adjacent properties and streets.
   b) To the extent reasonably possible, NC-SES shall be designed using such features as colors, materials, textures, screening, and landscaping to blend into their settings and avoid visual blight. The NC-SES shall remain painted or finished in the color or finish that was originally applied by the manufacturer. The exterior surface of any visible components

shall be non-reflective, neutral color like white, grey or another non- obtrusive color. Finishes shall be matte or non-reflective.

c) The property owner has the burden of mitigating any glare produced so as not to have significant adverse impact on adjacent uses. Mitigation is accomplished by siting,panel orientation, landscaping and/or other means. The determination of the Plan Commission Director shall be conclusive relative to the property owner's compliance with this standard.

d) Signage: No portion of the NC-SES shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the NC-SES provided they comply with Sign Ordinance. Appropriate Warning signs will be allowed.

6) **Applications for NC-SESs shall include**, but not be limited to, the followinginformation:

a) Contact Information of NC-SES Applicant

b) The name(s), address(es), telephone number(s) and e-mail address(es) (if available) of the applicant(s).

c) Legal Description

d) The legal description, 911 Emergency Address or City property key of the real property upon which the NC-SES is to be located.

e) NC-SES Description: The NC-SES description and information, including, but not limited to, the following:

f) Solar panel mounting technique (e.g., ground-mount, wall-mount, etc.)

g) Solar panel installation height

h) Name plate generating capacity

i) The means of interconnecting with the electrical grid

j) The potential equipment manufacturer(s) including information sheets and installation manuals

k) Accessory structures

l) **Disclaimer**: Prior to the issuance of a zoning permit, applicants must acknowledge in writing that the issuing of said permit for a solar energy system shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in theproperty itself:

i) the right to remain free of shadows and/or obstructions to solar energy caused by development of adjacent or other property or the growth of any trees or vegetation on such property, or

ii) the right to prohibit the development on or growth of any trees or vegetation on such property or adjoining properties. This disclaimer is subordinate to any solar easements entered into with adjacent landowners and subject to the terms agreed to therein.

5. SOLAR EASEMENTS

1) Where a subdivision or land development proposes a NC-SES, solar easements may be provided. Said easements shall be in writing and shall be subject to the same conveyance and instrument recording requirements prescribed in IC 32-23-2-5 or subsequent amendment(s).

2) Any such solar easements shall be appurtenant; shall run with the land benefited and burdened until the land is decommissioned; and shall be defined and limited by conditions

stated in the instrument of conveyance. Instruments creating a solar easement shall meet the requirements of IC 32-23-4.4 and 4.5 and include but not be limited to the following:

3) A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees at which the solar easement extends over the real property that is subject to the solar easement, and a description of the real property to which the solar easement is appurtenant
4) Restriction on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement.
5) Terms and conditions, if any, under which the easement may be revised or terminated.
6) An explanation of the compensation for the owner of the real property subject to the solar easement for maintaining the easement and for the owner of the real property benefiting from the solar easement in the event of interference with the easement.
7) **Adverse Effects:** The BZA shall have no jurisdiction with regard to a complainant regarding an adverse effect with a NC-SES and the NC-SES owner and/or operator, however, nothing in the Zoning Ordinance shall preclude such a complainant from seeking any remedy available to a complainant either at law or in equity, and as there is no administrative remedy for such a complainant, there is no prerequisite administrative action i.e. no exhaustion of an administrative remedy, to preempt or prevent direct action at law or equity by the complainant against the NC-SES owner and/or operator.

6. SOLAR PERMIT

The Plan Commission Director shall determine from the requirements set forth in this Section which requirements shall be complied with by the applicant, owner, or operator prior to issuance of a solar permit for a NC-SES. The Plan Commission Director may require additional reasonable submittals from time to time. The Plan Commission Director may, upon proper agenda notice, assign any question, general or as to a specific NC-SES application, for discussion and/or instruction from the BZA. An applicant for a NC-SES may appeal the requirement, decision, or determination of the Plan Commission Director.

7. PERMIT REQUIREMENTS

1) Solar permit applications shall document compliance with this Section and shall be accompanied by drawings showing the location of the system on the building or property, including property lines. Permits must be kept on the premises where the NC- SES is constructed.
2) The solar permit shall be revoked if the NC-SES, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the NC-SES not to be in conformity with this Ordinance.
3) The NC-SES must be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety, or general welfare. In the event of a violation of any of the foregoing provisions, the Plan Commission Director shall give written notice specifying the violation to the owner of the NC-SES to conform or to remove the NC- SES. Said NC-SES can be declared a public nuisance if not repaired in 30 days.
4) Any physical modification to any NC-SES or a part thereof which materially alters the mechanical load, mechanical load path, or major electrical components shall require re-permitting. Like-kind replacements shall not require re-permitting, unless required by a

regulatory authority. Prior to making any material physical modification, other than a like-kind modification, the owner or operator of such NC- SES shall confer with the Plan Commission Director.

5) **Fees:** Refer to current schedule of fees.
6) **Duration**: Permits issued shall be good for 36 months after construction starts.
7) **Solar technology** used for NC-SESs, CS-SESs and CL-SESs, Meteorological Towers, Operational Support Meteorological Towers, and SES Accessory Buildings, Structures or Facility(ies):
8) All application requirements as set forth in this Section, together with all other applicable requirements of this Section and the Ordinance, shall be completed and approved by all required authorities, federal, state, and local, before a solar permit is issued.
9) Applicant to seek all other necessary City permits associated with new development.

8. AGGREGATED SES

1) For aggregated SES, solar permit shall be issued individually for each SES, Meteorological Towers, and Operational Support Meteorological Towers upon meeting the requirements of this Section and any other applicable provisions of the Ordinance and compliance with all agreements applicable to the SES contemplated by this Ordinance.
2) Application for and acceptance of a solar permit is an agreement by the applicant to be bound by the terms of this Ordinance.
3) The solar permit application for the first phase of construction of the solar panels must contain the make, model, and serial number of the solar panels.

SECTION 18. DEVELOPMENT PLAN

A. PURPOSE AND INTENT

The purpose of the development plan procedure set forth in this Section is to regulate the development of structures and sites in a manner which considers the following concerns and, where necessary, provides for conditions, commitments, bonds, or other written surety to assure that development proposals eliminate or minimize potential problems and nuisances. The principal areas of concern are:

1) The balancing of landowner's rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (e.g., noise, smoke, fumes, dust, odor, glare, stormwater runoff, etc.).
2) The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads.
3) The adequacy of water supply, waste disposal methods and protection from pollution of surface or groundwater; and
4) The protection of natural environmental historic or archeological features on the site under review and in adjacent areas.

B. DEVELOPMENT PLAN AUTHORITY AND NOTICE

The authority to approve or disapprove a development plan is hereby delegated to the Plan Commission Director. The review of a development plan by the Plan Commission Director or committee may occur without public notice and without a public hearing.

C. DEVELOPMENT REQUIREMENTS

Pursuant to IC 36-7-4-1402(b)(1), development requirements which must be met for the approval of a development plan consist of the general development requirements specified below for all development plans and any additional development requirements specified below which are applicable to a particular type of development plan.

D. GENERAL DEVELOPMENT REQUIREMENTS

The following list sets forth the general development requirements which must be satisfied before any development plan may be approved:

1) Compliance with all applicable development standards of the zoning district in which the real estate is located (unless a variance has been obtained or a waiver is provided for by this article and has been granted, in which case compliance with the terms and conditions of the variance or waiver grant shall be required)
2) Compliance with all applicable provisions of the subdivision control ordinance (unless a waiver has been granted, in which case compliance with the terms and conditions of the waiver grant shall be required)
3) Provision of setback; building separation; on-site parking and loading; landscape buffering; height, scale, materials, and style of improvements; signs; outdoor lighting; recreation opportunities; site design; building orientation; or other design guidelines contained in this

article or adopted by the Plan Commission, necessary to assure compatibility of the proposed development with surrounding land uses

4) Approval from the City of Gary for any private water or sanitary facilities, or availability and extension of sanitary sewer or potable water.
5) Availability and extension of stormwater drainage and other utilities to serve the needs of the proposed development and the proper coordination of such utilities with existing utilities.
6) Management of traffic in a manner which creates conditions favorable to the health, safety, convenience, and harmonious development of the community by:
    a) The design and location of proposed streets and highway access points; and, pedestrian ways, to minimize safety hazards and congestion.
    b) Assuring the capacity of adjacent or existing streets, highways, and pedestrian ways to efficiently handle vehicular and pedestrian traffic projected to be generated by the proposed development; and Fund / Perform traffic study as required by the Plan Commission Director or Plan Commission.
    c) The coordination of access points, street layout, pedestrian ways, and internal traffic circulation facilities in the proposed development with existing and planned streets and adjacent developments.
7) Approval by the City of Gary Stormwater Management District/GSD of a stormwater management plan.

E. BUSINESS OR MANUFACTURING DEVELOPMENT ABUTTING RESIDENTIAL ZONING

In order to assure the compatibility of new development or additions to existing development with existing and proposed residential areas, all new construction, building additions, new or expanded surface parking areas, service facilities, loading facilities, storage facilities, exterior building renovations and freestanding signs located on a lot in any commercial or manufacturing district which abuts a residential district shall be subject to the approval of a development plan by the Plan Commission Director.

Additional development requirements for business or manufacturing districts abutting residential zoning.

1) Any parking areas, loading spaces, loading docks, storage areas or other outdoor operations oriented toward: a front lot line which is across from a residential district; a side lot line which abuts a residential district; or, a rear lot line which abuts a residential district, shall be screened from view from such residential district by the use of (i) a dense planting of evergreen trees, (ii) a combination of overstory, understory or evergreen trees or (iii) a solid wall or fence, which creates a visual barrier to a minimum height of three feet for a parking area or six feet for loading spaces, loading docks, storage areas or other outdoor operations.
2) *Use of yards*. Any yard required to be landscaped shall be maintained as open space free from buildings or structures (except signs permitted by the Signs Section) and shall not be used for any outdoor operations, outdoor display, or outdoor storage of any kind, including, but not limited to outdoor seating areas; outdoor display of goods or merchandise for sale or lease; or outdoor storage of goods or merchandise.
3) *Lighting*. All pole light fixtures used to illuminate parking areas, loading areas, delivery areas or service areas shall be a full cut-off style outdoor light fixture.

a) All wall pack light fixtures on building façades oriented toward a front lot line across from a residential district; a side lot line which abuts a residential district; or a rear lot line which abuts a residential district, shall be a full cut-off style outdoor light fixture.
b) All exterior lighting, including wall pack lighting, shall be of metal halide (except for low-level architectural or sign lighting for buildings, structures, signs, pedestrian ways, or landscape features, which may be incandescent or other type of lighting when deemed appropriate for the setting and which was specifically requested and approved as part of the development plan).
c) All under canopy light fixtures (e.g., gasoline service station canopies, bank drive through canopies, etc.) shall be full cut-off outdoor light fixtures.
d) All pole light fixtures, and wall pack light fixtures shall be mounted parallel with the horizon. Development requirements which may be waived for office, commercial or manufacturing development abutting a residential district.

4) The Plan Commission Director shall have the authority to waive any of the additional development requirements of this Section, for commercial or manufacturing development abutting a residential district subject to the findings required for the approval of such waiver set forth, below, findings for waiver of development requirements.
5) The Plan Commission Director may not waive any general development requirements or any development standards of a zoning district. Any general development requirement or any development standard of a zoning district must be complied with unless a variance of such general development requirement or development standard is obtained from the board of zoning appeals.

F. FINDINGS FOR APPROVAL OF A DEVELOPMENT PLAN

The Plan Commission Director, or the Plan Commission in the case of a referral or appeal, may only approve a development plan upon finding that:

1) The proposed development is consistent with the intent and purpose of the City of Gary Comprehensive Plan; and,
2) The proposed development plan satisfies the general development requirements, including the development standards of the underlying zoning district, and additional development requirements specified in this article.

If the Plan Commission approves or denies a development plan, the written findings shall be signed by the president of the Plan Commission. If the Plan Commission Director approves or denies a development plan, the written findings shall be signed by the Plan Commission Director.

G. FINDINGS FOR WAIVER OF DEVELOPMENT REQUIREMENTS

The Plan Commission Director, or the Plan Commission in the case of a referral or appeal, may approve a waiver of the general development requirements, including the development standards of the underlying zoning district specified in this Section, or the additional development requirements as authorized above, and only upon finding that:

1) The proposed development represents an innovative use of site design/site access design/site circulation design/building orientation/building materials/landscaping 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 City of Gary.
3) The strict application of the general development requirements or the applicable additional development requirements of the City of Gary 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 developments located in the area; and
5) The proposed development is consistent with the intent and purpose of the City of Gary Comprehensive Plan.

6) If the Plan Commission approves or denies a waiver, the written findings shall be signed by the president of the Plan Commission. If the Plan Commission Director approves or denies a waiver, the written findings shall be signed by the Plan Commission Director.

H. COMMITMENTS, CONDITIONS OR SURETY

1. COMMITMENTS

The Plan Commission Director, on behalf of the Plan Commission, or the Plan Commission in the case of a referral or appeal, may permit or require the owner of the real property which is the subject of a development plan approval to make a written commitment.

2. CONDITIONS

The Plan Commission Director, on behalf of the Plan Commission, or the Plan Commission in the case of a referral or appeal, may impose conditions on the approval of a development plan which are reasonably necessary to assure compliance with the general development requirements and additional development requirements of this article.

3. SURETY

The Plan Commission Director, on behalf of the Plan Commission, or the Plan Commission in the case of a referral or appeal, may require a bond or other written assurance to guarantee the timely completion of a public improvement required by the proposed development plan. Such bond or other written assurance shall be satisfactory to the Plan Commission Director acting on behalf of the Plan Commission and shall be issued for the benefit of the City of Gary, Indiana.

I. APPLICATION PROCEDURES

All requests for development plan approval shall include two copies of the following plans, studies, or reports:

1) Site plan.
2) Landscape plan.
3) Building elevations.
4) Floor plans.
5) Drainage plans.

6) Lighting plan.
7) Sign plan.
8) *A traffic impact study* (when a proposed development meets or exceeds the warrants of the INDOT Traffic Impact Study Guidelines
   a) 150 or more dwelling units.
   b) Any Distribution uses
   c) 15,000 square feet or more of retail space.
   d) 35,000 square feet or more of office space.
   e) 70,000 square feet or more of Manufacturing space.
   f) 30,000 square feet or more of educational space.
   g) 120 or more occupied rooms; (vii) 46,000 square feet or more of medical space; or,
   h) any mixed-use development which generates 100 or more peak hour trips in the peak direction). If the petitioner obtains a written statement from INDOT or the City of Gary Engineering Department, as applicable, indicating that a Traffic Impact Study is not necessary in connection with the review of a Development Plan for a particular project, such Traffic Impact Study shall not be required.
9) *Statement of development build-out.* Petitioner shall indicate, either on the submitted site plan, overall subdivision 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; and,
   d) an estimate of the time frame for the build-out of the project.
10) *Open space provisions*. Petitioner shall indicate, either on the submitted landscape plan or in writing, along with any necessary explanatory materials or graphics, a statement of the nature and extent of all existing and proposed open space on the real estate.

1. APPLICATION PROCESS AND REQUIREMENTS.

a) *Who may file:* Development plan reviews may only be initiated by a petition signed by the owners of the land involved in the petition?
b) *Fees:* To defray administrative costs, the fees as set forth in the fee schedule as approved by the City of Gary Common Council for development plan approval by the Plan Commission Director are to be paid by the applicant at the time of filing an application for development plan approval.
c) *Application procedures:* Application for development plan approval shall be in compliance with the following procedures:
   i) Contact the Plan Commission Director to make an appointment to deliver the following:
   ii) The plan documentation and supporting information outlined above; and
   iii) An application for development plan approval upon forms approved by the Plan Commission for such purpose.
   iv) The Plan Commission Director shall have a period of not more than 21 business days in which to review the proposed application for development plan approval and either:
   v) Render a decision of approval or denial concerning the development plan; or

vi) Request, in writing, additional information from the applicant. If additional information is requested, the Plan Commission Director shall have an additional period of 21 business days to review the information from the date the requested information is received.

vii) The Plan Commission Director may seek the advice and comment of members of the technical advisory committee or require approval letters from the City of Gary Engineer, Gary Sanitation District, or other supporting Gar Departments prior to deciding.

viii) If, in the sole discretion of the Plan Commission Director, the proposed development plan raises a matter of significant land use policy, the Plan Commission Director may refer such development plan to the Plan Commission for a determination at a public hearing in the samefor an appeal by a petitioner.

ix) Any decision of the Plan Commission Director under this article may be appealed by any interested party to the Plan Commission in accordance with the procedures below.

d) *Additional plan documentation for cluster subdivision approval.* In addition to the plan documentation above, the petitioner shall submit, either in plan form supplemented with tabular data or in table form, a summary of:

e) Density calculations; and,

i) The total area of developable wetlands (i.e., wetlands which may be filled due to being exempt or by obtaining a permit from IDEM or the Army Corp of Engineers), areas of slope more than 15 percent, woodlands or natural environmental, historical, or archeological features.

f) *Determinations by Plan Commission Director.* Determinations regarding a development plan by the Plan Commission Director shall be subject to the following regulations:

g) *Notice to petitioner.* Upon deciding regarding a development plan, the director shall provide a written "Notice of Determination of Development Plan" to the petitioner.

h) *Notice of an approval to interested parties.* In the event of an approval of a development plan, with or without conditions or commitments, the petitioner shall send a copy of the "Notice of Determination of Development Plan" to all adjoining property owners located within the lesser of 600 feet or two ownerships of the subject property by certified mail - return receipt requested. The list of adjoining property owners shall be certified by the City of Gary Auditor's Tax Map Office.

i) *Affidavit of notice.* An affidavit of notice, including the green return receipt cards, shall be filed with the Plan Commission Director prior to the issuance of a building permit for any improvements authorized by the approved development plan.

j) *Building permit.* No building permit shall be issued for any improvements authorized by the development plan until the expiration date of the appeal period.

k) *Appeal period.* The date of mailing of the "Notice of Determination of Development Plan" to all interested parties, as indicated on the affidavit of notice, shall be considered the date upon which interested parties received notice of such determination and shall be the date from which the 30-day appeal period provided below, shall be measured.

J. AMENDMENTS TO DEVELOPMENT PLANS

1. AMENDMENTS TO DEVELOPMENT PLANS PENDING DETERMINATION BY THE PLAN COMMISSION DIRECTOR.

Amendments to development plans pending approval or denial by the Plan Commission Director may be made by the petitioner at any time prior to a determination being made by the Plan Commission Director. If, in the sole discretion of the Plan Commission Director, the proposed amendment is of such a nature that additional time is needed for review, the amended development plan shall be deemed a new filing and shall be reviewed within the time frames set forth above for the initial review of development plans by the Plan Commission Director.

2. AMENDMENTS TO DEVELOPMENT PLANS PENDING DETERMINATION BY THE PLAN COMMISSION.

Amendments to development plans pending approval or denial by the Plan Commission may be made by the petitioner at any time prior to a vote being called for by the Plan Commission. If, in the sole discretion of the Plan Commission, the proposed amendment is of such a nature that addition time is needed for review, the Plan Commission may continue the consideration of such amended development plan to the next meeting of the Plan Commission.

3. AMENDMENTS TO APPROVED DEVELOPMENT PLANS.

Minor amendments to development plans shall be approved subject to the following regulations:

1) *Development plans approved by the Plan Commission Director*. Minor amendments to development plans which have already received approval from the Plan Commission Director shall be reviewed by the Plan Commission Director in the same manner as required for a new development plan. Such minor amendments authorized by the Plan Commission Director shall be reported, in writing, to the Plan Commission at thenext regular meeting of the Plan Commission.
2) *Development plans approved by the Plan Commission*. Minor amendments to development plans which were referred to or appealed to the Plan Commission and determined by the Plan Commission may be approved by the Plan Commission Director in the continuing administration of such development plan. Such minor amendments authorized by the Plan Commission Director shall be reported, in writing, to the Plan Commission at the next regular meeting of the Plan Commission.
3) *Determination of minor amendments*. Amendments to an approved development plan shall be deemed to be "minor" if:
    a) Such amendments do not involve: (a) an increase in height, area, bulk, or intensity of land uses; (b) the designation of additional land uses; (c) the reduction in perimeter yards; (d) the addition of driveways or access points; or (e) reduction in the amount of parking for any use; and
    b) In the determination of the Plan Commission Director, the requested minor amendments do not adversely impact the purpose or intent of the overall development.
4) *New development plan required*. If the Plan Commission Director determines that the proposed amendment is not a minor amendment, petitioner shall be required to file a new petition for development plan approval.
5) *Appeals of determination regarding amendments*. Any decision of the Plan Commission Director regarding the amendment of development may be appealed by any interested party to the Plan Commission in accordance with the procedures.

K. APPEALS OF PLAN COMMISSION DIRECTOR'S DECISIONS

1. APPEAL PROCESS.

Any order requirement, decision, or determination of the Plan Commission Director with respect to development plan review may be appealed to the Plan Commission by any person claiming to be adversely affected by that order, requirement, decision, or determination. The procedures for such an appeal are as follows:

1) *Time*. Every appeal shall be filed as specified below:
2) *Approved development plans*. Every appeal of an approval of a development plan, with or without conditions or commitments, shall be filed within 30 days of the date of notice of an approval to interested parties: or
3) *Denial or other determination regarding development plans*. Every appeal of any denial, order, requirement, decision, or determination for which notice of an approval to interested, is not required, shall be filed within 30 days of the date of such denial, order, requirement, decision, or determination.
4) *Appeal in writing*. The petitioner or any other interested party may appeal the Plan Commission Director's determination by filing a letter with the Plan Commission stating the reasons for such an appeal.
5) *Appeal of determination at public hearing*. All appeals of the Plan Commission Director's determination shall be decided by the Plan Commission at a public hearing for which notice has been provided.
6) *Notice of public hearing*. Notice to interested parties shall be sent as specified below:
7) *Notice of remonstrator's appeal*. In the case of an appeal by a remonstrator, the remonstrator shall send notice to the owner of the real estate, the applicant for the development plan and all adjoining property owners located within the lesser of 400 feet or two ownerships of the subject property. The list of adjoining property owners shall be provided by the Planning Office.
8) *Notice of petitioner's appeal*. In the case of a development which has been referred to the Plan Commission by the Plan Commission Director or an appeal by a petitioner, the petitioner shall send notice to the owner of the real estate and all adjoining property owners located within the lesser of 400 feet or two ownerships of the subject property. The list of adjoining property owners shall be provided by the Planning Office.
9) *Form of notice*. Notice of an appeal shall be on forms substantially as prepared by the Plan Commission Director and shall be sent by certified mail - return receipt requested not less than 10 days prior to the public hearing.
10) *Appeal hearing de novo*. The Plan Commission hearing on the development plan shall be de novo, in the same manner as though the application was originally filed for determination by the Plan Commission.
11) *Final decision*. The decision of the Plan Commission with respect to the development plan shall be a final decision that may be reviewed only as provided in IC 36-7-4-1016.

L. DUTIES OF THE PLAN COMMISSION DIRECTOR

1) Supervise or perform the intake and review of all development plans.
2) Make any determinations delegated by this article regarding the:

3) Approval or denial of an initial development plans; or
4) Approval or denial of minor amendments to approved development plans.
5) Notify the Plan Commission of the approval or denial of initial development plans or minor amendments to approved development plans; and
6) Sign findings in support of any determination made by the Plan Commission Director regarding any development plan.

SECTION 19. SIGNS

A. PURPOSE

This Section creates the legal framework for sign regulations that are intended to facilitate easy and agreeable communication between people and to balance the interests and objectives of the sign owner and the community audience. It is recognized that signs serve an important function and, therefore, reasonable, and adequate display of signs is permitted. It is further recognized that while aesthetics and design quality can vary greatly, the overall impact upon the surrounding larger community can significantly impact property values, safety, long-term vitality, and the overall quality of life in City of Gary.

The purpose of the sign regulations set forth shall be to:

1) Eliminate or reduce potential hazards to motorists and pedestrians; Maintain an equitable opportunity for effective communication.
2) Enhance efficient location of places for ease of commerce, emergency response, and the convenience of residents and guests.
3) Eliminate excessive and confusing sign displays; Preserve the scenic and natural beauty; Preserve and protect historic signs.
4) Assure the maintenance of signs.
5) Encourage signs to be compatible with the scale of buildings.
6) To preserve and improve the appearance of the City as a place in which to live and work and act as an attraction to nonresidents who come to visit or trade.
7) Supplement and be a part of the regulations imposed and the plan set forth under the Comprehensive Plan for City of Gary; and to
8) Promote public health, safety, morals, and general welfare.

B. APPLICABILITY OF REGULATIONS

The requirements, conditions, prohibitions, and exceptions specified shall apply to all signs and sign structures in all zoning districts. No sign or sign structure, or part thereof, shall be constructed, erected, converted, enlarged, extended, reconstructed, or relocated except in conformity with these regulations.

C. SUBSTITUTION

Noncommercial content may be substituted for other content on any sign permitted or any legal nonconforming sign under this zoning ordinance.

D. SEVERABILITY

If any decision, subsection, sentence, phrase, or portion of this Section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion of these regulations shall be deemed separate and distinct, and that holding shall not affect the validity or constitutionality of the remaining portions of this section, which shall remain in full force and effect.

E. ADMINISTRATION

1. CONSENT OF PROPERTY OWNER

No sign or sign structure shall be placed on private or public property without the expressed written consent of the owner, owner's representative, holder, lessee, agent, trustee, or other party controlling the use of such property.

No sign, other than signs placed by agencies of government with appropriate jurisdiction, or a sign whose placement is authorized by such agencies, shall be located, used, or maintained on or over a public property or public right-of-way, except as specifically authorized by this chapter and, if applicable, any requisite encroachment license. No sign may be installed, used, or maintained on or over a drainage or utility easement, except as specifically authorized by the entity granted the easement.

2. REQUIRED PERMITS

Any sign not exempted from the requirements of obtaining a Building Permit shall be required to obtain a Building Permit.

Furthermore, any sign not identified as a permitted sign type is prohibited. This provision shall not be construed to require a Building Permit for the changing of a sign face on a sign for which a Building Permit has previously been issued, except that a Building Permit is required for the changing of a sign face from a static face to a digital display.

This provision shall not be construed to require a Building Permit for the maintenance of a sign (Refer to Definitions) for which a Building Permit has previously been issued, provided that the maintenance or change of parts or copy of a sign does not alter the surface area, height, or otherwise render the sign nonconforming, or increase the existing degree of nonconformity, with the standards of the Ordinance.

3. SIGNS THAT MAY BE ERECTED WITHOUT A PERMIT

The following signs may be erected and maintained without a permit or fee, provided that such signs comply with all standards applicable to that type of sign.

1) Temporary Yard signs
    a) Temporary Non-commercial flags, non-commercial banners or other similar non-commercial emblems that are suspended entirely over private property. See definitions of Flag, Banner, and Commercial Flag. Signs shall not exceed 35 square feet.
    b) Parking structure signs which are not oriented to a right-of-way
    c) Window signs
    d) Pedestrian signs
    e) Public Signs
    f) Address Signs

4. FEATURES THAT ARE NOT CONSIDERED A SIGN

The following features are not considered a sign and not regulated by this Section.

1) Tombstones in a cemetery or graveyard are not considered signs.
2) A Work of art is considered a sign if it contains a business name, brand name or business logo other than the creator’s signature or mark, unless it constitutes a sponsorship element no larger than 5% of the size of the work.

3) Murals
4) Outlining by illumination of structural/architectural elements of buildings in any business, manufacturing, or mixed-use district shall not be considered a sign. However, see restrictions below.

5. PROHIBITED SIGNS

1) Signs in the public right-of-way. No sign or sign structure may be placed on or in the right- of-way of an alley or a street including those posted on utility poles or street signs, with the exception of public signs and signs associated with an approved outdoor café. Where applicable, an encroachment license from the proper governmental agency shall be obtained prior to the placement of the sign. Traffic management signs do not apply.
2) Outlining by illumination of structural/architectural elements of buildings in any business, manufacturing, or mixed-use district within 300 feet of any Residential District unless visibly obstructed from view from within that District. Such building outline lighting shall not flash or be animated.
3) Signs which interfere with public signs or traffic devices in the following manner.
   a) No sign or sign structure shall be permitted which attempts or appears to attempt to regulate the movement of traffic or which interferes with or obstructs the view of, or can be confused with, imitates, or resembles any official traffic sign, signal, or device. No rotating beam, beacon or flashing illumination resembling any emergency light shall be used in connection with any sign display.
   b) No sign shall be permitted which obstructs a driver's view of any traffic or roadway sign, signal, device or interferes with the clear sight visibility area.
4) Signs painted on, attached to, or maintained upon trees, rocks, or other natural features.
5) Banners. Banners are prohibited except in one or more of the following circumstances. Exceptions:
   a) Non-commercial banners suspended entirely over private property.
   b) Banners that are attached securely to the wall of a building on all four (4) corners shall be considered and regulated as wall signs.
6) Portable signs.
7) Roof signs
8) Audio components: Signs that produce or utilize sound are prohibited with the exception of sound speakers that are components of drive-thru signs and that are components of gasoline pump islands.
9) Off-premises signs prohibited in any location not expressly permitted. This limitation does not apply to the content of noncommercial messages.

6. COMPUTATIONS

The area of a sign face of a freestanding sign is computed by means of the smallest rectangle that encompasses the message area.

1) Computation of area of signs on landscape walls or fences: If the sign is located on a fence or landscape wall, which is in compliance, only the area of the actual sign itself shall be calculated in determining the maximum sign area, not the fence or landscape wall itself.

2) Computation of area of canopy signs: On canopies, the computation of the sign copy area shall be limited only to the area of the canopy plane that contains the graphics or sign.
3) Computation of area of multi-sided signs: multi-sided signs shall be computed by the measurement of one of the sign faces provided that the faces are back-to-back or no greater than 15 degrees or 42 in. apart, whichever is greater.
4) Computation of area of building signs: The sign area for building signs shall be computed by adding together the sign area of each sign face measured individually.
5) Exceptions to number and area computations
   a) Address. The area of the sign devoted to the site or building's street number required to comply with Ordinance is not included in the calculation of the sign area.
   b) Heritage signs. The area of a designated heritage sign is not counted toward the total primary and secondary sign area permitted. If the heritage sign is an existing freestanding sign, the sign is considered one of the freestanding signs permitted, however the sign area and height standards may be waived upon designation.
6) Computation of height: The height of a sign shall be computed as the distance from the base of the sign or sign structure at grade level to the top of the highest attached component of the sign structure.

F. MAINTENANCE, SAFETY AND REMOVAL

All signs and sign structures including all supports, braces, guys, and anchors, shall be kept in good repair, and maintained in a safe and legible condition at all times, including the replacement of defective or damaged parts, painting, repainting, cleaning, and other services required for maintenance of the signs. Unmaintained signs shall be removed or brought into compliance immediately upon written notice.

1. MAINTENANCE AND RESTORATION OF LEGALLY ESTABLISHED NONCONFORMING SIGNS AND SIGN STRUCTURES

1) Safety, Maintenance and Repair. Nothing in this Section shall relieve the owner or user of a legal nonconforming sign, or owner of the property on which the legal nonconforming sign is located, from any provisions regarding safety, maintenance, and repair of signs.
2) Any legally established nonconforming sign shall be permitted to be maintained without alteration in size or location or change in materials. Maintenance of such signs shall not include:
3) Any changes made to the size, height, or bulk of the sign.
4) Temporary or permanent removal of the sign.
5) Any abandoned sign and its sign structure shall be removed. However, any heritage sign may remain.

2. GENERAL PROVISIONS

1) CLEARANCE AREA REQUIREMENTS
   a) No sign or sign structure between 2.5 feet and nine (9) feet above the driving surface of the adjacent roadway shall be permitted within the area formed by measuring 25 feet along both curb lines where they intersect and connecting the two points to form a triangle.

b) No sign may be located in a way that obstructs or blocks any public right-of-way, sidewalk, walkway, intersection, ingress or egress point, transit stop, pedestrian ramp, parking space, drive aisle, driveway, building entrance, fire escape, or accessibility ramp.
c) Any part of a sign extending over a pedestrian traffic area, walkway or sidewalk shall have a minimum vertical clearance of nine (9) feet above that surface and any part of a sign extending over a vehicle area shall have a minimum vertical clearance of 12 feet above that surface.
d) Freestanding signs shall have at least a vertical clearance of 10 feet from any overhead power line.

2) SIGNS GENERALLY PROHIBITED IN THE RIGHT-OF-WAY

a) No sign shall be located, used, or maintained on or over public property or public right-of-way, except as specifically authorized by this chapter and, if applicable, any requisite encroachment license. No sign may be installed, used, or maintained on or over a drainage or utility easement, except as specifically authorized by the entity granted the easement.

3) CONSTRUCTION OF SIGNS

a) **Safety**. All electrical fixtures, devices, circuits, conduits, raceways, or any apparatus used to illuminate any sign shall be installed and maintained in compliance with current electrical and fire codes with the NFPA 70. A listing label from a nationally recognized testing laboratory, such as UL, shall be provided for any sign with electrical components.
b) **Durability**. Materials for signs shall be durable and capable of withstanding weathering over the life of the sign with reasonable maintenance. Glass forming any part of a sign, except for exposed lamps, shall be safety glass.
c) **Watertight**. All signs attached to a building shall be installed and maintained so that wall penetrations are watertight and do not exceed allowable stresses of supporting materials. When a building-mounted sign is removed, the wall shall be repaired and restored to its original condition prior to sign installation.
d) **Prevent nesting.** All signs and their supporting structures shall be enclosed to prevent inhabitation by birds, rodents, insects, and other wildlife.
e) **Raceways and Transformers.** If a raceway is necessary, it shall not extend in width or height beyond the area of the sign. A raceway shall be finished to match the background surface to which it is attached or integrated into the overall design of the sign. Conduits and other electrical components shall be designed as an integral part of the overall sign structure and hidden from view to the extent technically feasible. Visible transformers are prohibited.
f) **Natural features prohibited.** No signs shall be permitted to be painted on, attached to, or maintained upon trees, rock outcroppings, or other natural features.
g) **Number of faces permitted on a freestanding sign structure.** Unless specifically restricted by these sign regulations, a sign structure may contain more than one sign face, and may be two- sided or multi-sided, provided all other requirements of these regulations are met.
h) **Excess sign size square footage.** No portion of a maximum size allowance may be transferrable to another sign, another frontage, another façade or between building signs.

3. SIGNS BY DISTRICT

1) NON-RESIDENTIAL DISTRICTS
   a) **Undeveloped lots**. On lots which are not improved with a building, one freestanding sign, which is a maximum of 64 sq. ft. in size and 10 ft. in height is allowed along each improved street right-of-way. Upon completion of the construction of a structure the sign must be removed. Said signs shall not be illuminated and shall comply with the definition of maintenance (pertaining to a sign).
   b) **Primary Freestanding signs.** On lots that are improved with a legally established and occupied use permanent primary signs indicated in the following Table 1 are permitted in accordance with the indicated standards.

TABLE 1

Primary Freestanding Signs		
	Non-Residential, other than Manufacturing	**Manufacturing**
Monument	Permitted	Permitted
Pylon	Permitted only along Federal Highways	Permitted
Pole	Permitted	Not Permitted
Arterials	Monument, Pylon, Pole	Monument, Pylon, Pole
Collector	Monument, Pylon	Monument, Pylon
Local or private	Monument	Monument
Choices referenced in columns to right, but in no case more than 2 signs per frontage	Monument	Maximum two monument signs if frontage to which the sign is oriented is greater than 500ft. (minimum 300ft. separation between freestanding signs on site)
	Pylon	Maximum one pylon per street frontage; if frontage to which the sign is oriented is greater than 500ft. an additional freestanding sign is permitted (minimum 300ft. separation between freestanding signs on site)
Up to 50 linear feet of frontage to which the sign is oriented	1.5 sf per linear foot of frontage	
50 to 500 linear feet of frontage to which the sign is oriented	Additional 0.5 sf per linear foot frontage; maximum 200sf	
Over 500 linear feet of frontage to which the sign is oriented	Additional 0.5 sf per linear foot of frontage above 500. In no case shall a sign exceed 300 sf	
Monument Sign	10 feet height	
Pylon	25 feet height	
Context Area	5ft. min. and 20ft. max.	

Halo, and External Lighting	Permitted
Internal Lighting	Permitted

c) **Secondary Freestanding Signs.** On lots that are improved with a legally established and occupied use secondary signs indicated in the following Table 2 are permitted in accordance with the indicated standards.

TABLE 2

Secondary Freestanding Signs		
	Non-Residential, other than Manufacturing	**Manufacturing**
A. Sign Type permitted		
Vehicle Entry Point	Permitted	Permitted
Incidental	Permitted	Permitted
Drive-Thru	Permitted, subject to additional standards	
B. Number of Signs *		
Vehicle Entry Point	2 per driveway	2 per driveway
Incidental	2 per acre	2 per acre
Drive-Thru **	1	1
* Permitted within 5 feet of specific areas of a site such as: pedestrian entrances & exits, parking areas, service areas, loading areas, and similar areas. ** Per drive lane		
C. Maximum Area permitted		
Vehicle Entry Point	6 sf	6 sf
Incidental	32 sf	32 sf
Drive-Thru	40 sf	40 sf
D. Maximum Height permitted		
Vehicle Entry Point	2.5 ft.	6 ft.
Incidental	8 ft.	8 ft.
Drive-Thru	6 ft.	6 ft.
E. Front Setback permitted from a street		
Vehicle Entry Point	2 ft. min.	2 ft. min.
Incidental	10 ft. min.	10 ft. min.
Drive-Thru	10 ft. min.	10 ft. min.
G. Illumination	Internally and Halo permitted	Internally permitted
H. Digital Display	Static LED Drive-thru signs permitted	
I. Additional Standards		
• Must meet additional standards for Illumination • Vehicle Entry Point signs having a maximum height of 2.5 ft. may encroach into the clear sight and clear use area • Drive-thru signs are subject to additional standards		

d) **Primary Building Signs.** On lots that are improved with a legally established and occupied use permanent primary building signs indicated in the following Table 3 are permitted in accordance with the indicated standards.

TABLE 3

Primary Wall Signs		
	Non-Residential, other than Manufacturing	**Manufacturing**
A. Construction Type permitted		
Wall	Permitted	Permitted
Projecting	Permitted	Permitted
Projecting - Blade	Permitted	Permitted
Canopy	Permitted	Permitted
Marquee	Permitted subject to additional requirements	Permitted subject to additional requirements
Roof-Integral Signs	Permitted	Permitted
B. Number of Signs permitted		
Wall	No limit on number of wall signs within 26ft. of grade level	No limit on number of wall signs within 26ft. of grade level
Projecting	One per building	One per building
Projecting - Blade	One per building	One per building
Canopy	No limit on canopy signs within 26ft. of grade level	No limit on canopy signs within 26ft. of grade level
Roof-Integral Signs	One per building elevation	One per building elevation
C. Maximum Area Permitted for all primary building signs combined, not to exceed		
	20% of the front elevation	20% of the front elevation
	15 % of the side elevation	15% of the side elevation
	10% of the rear elevation	10% of the rear elevation
D. Maximum Vertical Sign Dimension Permitted		
• No more than 30% to a maximum of 4 feet of a sign shall extend above the limits of the wall • No sign except Skyline Signs and Projecting Blade Signs may be higher than 26 ft. above grade level		
E. Maximum Sign Width Permitted		
Wall	80% of the width of the tenant space or building elevation	80% of the width of the tenant space or building elevation
Projecting	6 ft.	6 ft.
Projecting	6 ft.	6 ft.
(Blade)		
Canopy	80% of the width of the canopy side	80% of the width of the canopy side
Roof-Integral Sign	80% of the width of the tenant space or building elevation	80% of the width of the tenant space or building elevation
F. Projection – Maximum distance from the wall to the outer edge of the sign		
Wall	18 inches maximum	18 inches maximum

Projecting	6 ft. maximum with maximum 18 inches between the wall and the inner edge of the sign	6 ft. maximum with maximum 18 inches between the wall and the inner edge of the sign
Projecting – Blade	6 ft. maximum with maximum 18 inches between the wall and the inner edge of the sign	6 ft. maximum with maximum 18 inches between the wall and the inner edge of the sign
Canopy Sign	18 inches maximum	18 inches maximum
Roof-Integral Sign	18 inches maximum	18 inches maximum
G. Clearance		
9 ft. above grade level minimum clearance for all signs protruding more than 8 inches from the building		
H. Setbacks		
	Projecting, Projecting -Blade, Pedestrian Oriented and Canopy (Awning) signs may encroach into the right-of-way up to 4 ft.; however, no sign may be closer than 2 ft. from any street curb	
I. Illumination		
• Only Halo permitted on signs within 50 ft. of a protected district, without an intervening street. • Must meet additional standards		
J. Digital Displays		
• Permitted only as or part of a wall sign. • Size limited to 40% of the sign area or 100 sf, whichever is lesser. • Must meet additional standards for digital display regulations.		
K. Additional Standards		
• Canopies must meet additional standards • Illuminated signs shall be designed with the background limited to non-reflective, opaque, and dark in color with lettering light in color. Individual letters may be lighted, back lit or neon type letters.		

e) **Secondary Building Signs.** On lots that are improved with a legally established and occupied use, permanent secondary building signs indicated in the following Table 4 are permitted in accordance with the indicated standards.

TABLE 4

Secondary Wall Signs		
	Non-Residential, other than Manufacturing	**Manufacturing**
A. Type permitted		
Window	Permitted	Permitted
Pedestrian Oriented Projecting and suspended	Projecting from building wall: Permitted Suspended: Permitted under a canopy, marquee, or protected walkway	
Incidental	Permitted	Permitted
B. Number of Signs permitted		
Window	Unlimited	Unlimited
Pedestrian Oriented	One per pedestrian entrance	One per pedestrian entrance

Projecting and Suspended		
Incidental	Two per pedestrian entrance on front façade, otherwise One per pedestrian entrance	
C. Maximum Area permitted		
Window	• Maximum 30% of all window area per window may be covered • Subject to Transparency requirements Window signs are calculated separately and shall not be included in the total area of other signs permitted	
Pedestrian Oriented Projecting and Suspended	6 sf per sign	6 sf per sign
Incidental	6 sf per sign	6 sf per sign
D. Projection – Maximum distance from the wall to the outer edge of the sign		
Window	Not permitted	Not permitted
	3 ft. maximum width 12	3 ft. maximum width 12
Pedestrian	inches between the wall	inches between the wall
Oriented, Projecting	and the closest edge	and the closest edge
	of sign	of sign
Pedestrian Oriented, Suspended	Must be completely under the canopy, marquee, or covered walkway from which it is suspended	Must be completely under the canopy, marquee, or covered walkway from which it is suspended
Incidental	8 inches	8 inches
E. Clearance		
9 ft. above grade level minimum clearance for all signs protruding more than 8 inches from the building		
F. Illumination		
Window	Not permitted	Not permitted
Pedestrian Oriented Projecting and Suspended	Internally, Halo, and External permitted	Internally, Halo, and External permitted
Incidental	Internally, Halo, and External permitted	Internally, Halo, and External permitted
G. Digital Displays		
• Subject to Digital Display Standards		

2) RESIDENTIAL DISTRICTS
   a) **Undeveloped lots**. On lots that are in any Residential District, which are not improved with a building, one primary, freestanding sign,which is a maximum of 32 sq. ft. in size and 10 ft. in height is allowed along each improved street right-of-way. Upon completion of the construction of a structure the sign must be removed. Said signs shall not be illuminated and shall comply with the definition of maintenance (pertaining to a sign).
   b) **Monument Signs.** A permit is required.
   c) **Primary Freestanding signs.** On lots that are improved with a legally established and occupied use, permanent primary signs indicated in the following Table 5 are permitted in accordance with the indicated standards.
   d) Any approved Special Use or Use Variance within the context of a Residential District shall coply with Residential District sign regulations.
   e) Signage promoting home businesses are prohibited.

TABLE 5

Primary Freestanding Signs in Residential Districts	
A. Construction Type permitted	
Monument	Two permitted for each residential community
Pylon	Not Permitted
Pole	Not permitted
B. Number of Signs permitted	
Two (2) Monument signs per residential community	
C. Maximum Area	
40sf	
D. Maximum Height	
6ft. feet from grade level, subject to the definition of grade level	
E. Front Setback measured from existing street right-of-way	
Minimum 10 ft. except that if an established building setback line along such right-of-way is less than 15 ft. from the right-of-way, the sign may be located so that no part of the sign is closer to the right-of-way than building setback line	
F. Illumination	
External Lighting only	

3) PLANNED UNIT DEVELOPMENT DISTRICTS
   a) The purpose of the Planned Unit Development District includes promoting flexibility and incentives for residential, non-residential, and mixed-use development including the creation of a planning document governing the development standards.
   b) Planned Unit Development District submissions shall include a sign program, identifying permitted signs and development standards, or a reference to the Section of the Sign Ordinance that should be applied for compliance of any proposed signage.
   c) All development shall be in conformity with the approved detailed planned unit development and any material deviations from the approved detailed planned unit development shall be subject to appropriate enforcement action.
4) ADDITIONAL STANDARDS
   a) ILLU MINATION: Any illumination of a sign shall comply with the following additional regulations.

a) All externally illuminated signs that emit more than 900 lumens shall meet the exterior lighting standards.
b) External light sources or lamps shall be concealed or shielded so that the light emitting element is not visible from any property line to minimize the potential for glare and unnecessary diffusion on adjacent property.
c) Efficiency. All exterior light sources shall produce at least 80 lumens per watt of energy consumed, as documented by manufacturer's specifications or the results of an independent testing laboratory.
d) The fixtures of an externally illuminated sign shall be within 12 feet of a sign face.
e) Any light source on the underside or bottom of a pump island canopy shall be fully recessed into the canopy and shall not protrude downward beyond the lowest edge.
f) The lighting of a sign shall not be directed at any vehicle travelling on a street or any pedestrian on sidewalk.
g) No sign that uses an intermittent or flashing light source to attract attention shall be permitted or maintained. Permitted digital signs operated in accordance with the standards established are not considered flashing or animated.

2) CANOPY SIGN REGULATIONS

a) Canopies on which signs are placed shall comply with the following additional regulations.

b) Maximum size of sign copy permitted on any canopy shall not exceed 45% of the area of the canopy plane on which it is placed.

i) Maximum projection of any canopy without support columns shall be six feet from the supporting wall.
ii) Maximum distance from the top to the bottom of any canopy shall be nine (9) feet, including any valance.
iii) No canopy may extend to a point closer than two feet from any street curb or edge of an interior access drive.
iv) If located over a sidewalk, no outer support columns shall be located in or obstruct the continuous, effective walkway along the public street, and the effective walkway width shall be a minimum five feet in all other districts.

3) DIGITAL DISPLAY REGULATIONS: Any digital display shall comply with the following additional regulations.
a) In no instance shall digitally display signs be permitted in a federally or locally designated historic district or within 600 feet of the boundary of a federally or locally designated historic district or historic site.
b) Digital displays shall only display static messages and shall not have movement or the appearance of or the optical illusion of movement during any part of the display. No static message shall include flashing or the varying of light intensity and the message shall not scroll.
c) Message change shall be completed in one second or less. All transition effects are prohibited. The digital display shall not flash, nor appear to move or be animated.
d) Each static message on any Digital Display shall be displayed for a minimum of 10 seconds.

e) Any digital display shall be operated with systems and monitoring in place to either turn the display off or show “full black” on the display in the event of a malfunction.
f) Each digital display shall have an operational light sensing device that adjusts the brightness as ambient light conditions change.
g) The brightness level for any digital display shall not operate over 464-foot candles during daytime operation.
h) The brightness level for any digital display shall be calibrated for less than 0.30-foot candles above ambient light levels, as measured at 250 feet, but in no instance shall the light level, measured at any right-of-way, exceed 2.0-foot candles.
i) Light intensity of the digital display shall not cause glare.

4) USE-SPECIFIC SIGN STANDARDS AUTOMOBILE FUELING STATION SIGNS

a) When an Automobile Fueling Station is allowed and developed, the following signs, in addition to the signs permitted by the district, are permitted subject to the following standards.

b) Pump island canopy signs. In addition to the signs permitted by the district, one sign per side of any freestanding canopy is permitted and shall not exceed 25% of the facade of the canopy on which it is located. This calculation shall not include the undeveloped area beneath the pump island canopy. Permits are required.

c) Public safety information and signs required by State and Federal laws are allowed and may be placed under the canopy or next to the appropriate emergency safety areas. Permits are not required.
d) Fuel Pump signage is allowed. Maximum size is limited to six (6) square feet. Permits are not required.
e) Signs may be internally illuminated or have LED components.
f) LED running and standing accent strip lighting is prohibited.

5) DRIVE-THRU SIGNS

a) Drive-Thru Board—One (1) freestanding drive-thru sign per drive-thru lane with a maximum
b) Canopy over stacking lane(s). One sign is permitted on one side of any canopy erected over each stacking lane sign area not to exceed 25% of canopy. Signs may be internally illuminated or have LED components.

4. SPECIALTY SIGNS

1) Historic Sign.
   a) A painted wall sign that remains from an earlier time or advertises the use of a building that provides evidence of the history of the use of the building or activities of the community.
2) Ghost Sign
   a) Ghost signs are considered wall signs and are not off-premises signs.
   b) Ghost signs existing at the effective date of this ordinance are exempt from these requirements and are considered conforming.
   c) Ghost signs need approval to repaint/restore.
3) Heritage Signs
   a) An existing sign having historical significance, and which advertises an establishment or product in existence or no longer in existence or a product offered or no longer being offered on the site, may be designated a heritage sign. An exact replica of an original sign attached to a building that would have been at least 50 years old may be designated a heritage sign. There are three (3) types of heritage signs: (1) Retaining, (2) Restoring, (3) Replicating in accordance with the designation, a heritage sign may be maintained, repaired, reconstructed, or relocated, so long as no added items of information, sign features, or sign area are added to the sign. In accordance with the designation, a replica of a building sign previously located on the site at least 50 years ago may be considered a heritage sign, except a billboard.
   b) Heritage signs are not considered nonconforming signs.
   c) Heritage sign may not be a billboard.
   d) The area of a heritage sign is not counted toward the total primary and secondary sign area permitted. If the heritage sign is an existing freestanding sign, the sign is considered one of the freestanding signs permitted, however the sign area and height standards may be waived upon designation.
   e) Designation. In order for a sign to be designated a heritage sign, the Plan Commission Director shall make written findings that the sign is at least 50 years old, or is an exact replica of an original sign previously located on the site at least 50 years ago, and meets at least one of the following criteria:
      i) The sign has historic character, interest, or value as part of the development, heritage, or cultural characteristics off City of Gary or the surrounding area or the building to which it is attached.
      ii) The sign is significant as evidence of the history of the product, business, or service advertised.
      iii) The sign embodies elements of design, construction, detailing, materials, or craftsmanship that make it significant or innovative.
      iv) The sign has a unique location or contains singular physical characteristics that make it an established or familiar visual feature within City of Gary or the surrounding area; or the sign is identified as having historic significance.
   f) The Plan Commission Director may impose additional requirements or conditions upon the designation pertaining to the construction, restoration, shape, size, placement, and method of maintenance of any heritage sign.

4) BANNERS ON LIGHT, UTILITY OR FREE-STANDING POLES

a) If allowed banner signs on light, utility or freestanding poles are subject to the following regulations.

b) In Mixed-Use districts, banner signs may be located on a light, utility, or freestanding pole in the right- of-way provided the banner signs are at least 10 feet from any overhead power lines and upon authorization and issuance of the applicable encroachment or right-of-way permit.
c) In all other districts, banner signs on light, utility or freestanding poles shall be at least 10 feet from any street right- of-way and any overhead power lines.
d) No more than two banner signs may be placed upon one light utility or freestanding pole.
e) Banner signs and sign hardware shall:
   i) Be mounted on a light, utility, or freestanding pole structurally capable of accommodating the banners and hardware.
   ii) Be at least 12 feet above grade, unless it overhangs an interior access drive or right- of-way, in which case it shall be at least 15 feet above grade.
   iii) Be made out of weather- resistant and rust-proof material.
   iv) Not project more than three feet from the pole onto which it is mounted.
   v) No banner sign may exceed 18 square feet in size
f) Plan Commission Director's approval is required. The Plan Commission Director's decision to grant or withhold approval under this section is governed by the applicable criteria in this chapter.
g) Providing the provisions of this section and all other requirements of the ordinance are met, a one-time permit for the banner attachment hardware is required, if within a right of way, and an agreement to attach for any municipal owned utility pole(s).

5. TEMPORARY SIGNS

1) BANNER SIGNS

2) Shall be permitted in addition to permitted primary and secondary building signs in Commercial, Mixed-Use, Special Use and Manufacturing Districts, subject to the following standards:

a) Shall not be located in any right-of-way.
b) Shall be securely attached at all corners and along all sides.
c) Shall be securely fastened to withstand displacement by the wind. Signs that have been displaced by the wind or located in the right-of-way are subject to immediate removal.
d) Shall not block any sidewalk, walkway, pedestrian ramp, or any driveway.
e) Subject to all requirements of any secondary zoning district or overlay district that may apply.
f) Shall not be higher than 2.5 feet above grade level of any sidewalk if located in the clear sight visibility area.
g) Shall not be illuminated and may not be a digital sign.
h) Maximum size shall not exceed 32 square feet.
i) Maximum height of 6ft.
j) Maximum one (1) banner sign per use.

k) Maximum duration shall not exceed a 10-day period.
l) Maximum frequency shall not exceed three (3) times a calendar year; and
m) Permits are required.

3) STREET BANNERS

a) Shall be permitted in addition to permitted primary and secondary signs, subject to the following standards:

i) Shall be securely attached at all corners.

ii) Shall not be illuminated and may not be a digital sign.
iii) Maximum one street banner per thoroughfare.
iv) Maximum duration shall not exceed a 30-day period.
v) Maximum frequency shall not exceed three (3) times a calendar year.
vi) Permits are required; and
vii) Issuance of the applicable encroachment or right-of-way permit is required.

4) PEDESTRIAN SIGN REGULATIONS

a) If allowed, Pedestrian signs shall comply with the following additional regulations:

b) Shall be within 20 feet of a pedestrian entrance.
c) Shall only be displayed during business or operating hour.
d) Maximum eight (8) square feet in size. See A-Frame and T-Frame definitions.
e) Maximum height five (5) feet.
f) Maximum one (1) sign per use.
g) Shall not be located in any designated parking area or parking space, street, or pedestrian ramp or within the clear visibility area, as defined.
h) If located on a walkway, shall maintain a minimum clear walkway width of five (5) feet.
i) Must be weighted or anchored to prevent the wind from moving the sign; and
j) No permit is required.

5) SIGNS ON CONSTRUCTION SITES OR CONSTRUCTION BARRICADES

a) When a site is being developed or redeveloped as authorized by a valid permit, one sign per frontage may be freestanding, or located or placed upon any necessary construction barricades while a site is under construction or significant renovation in addition to any signs or displays required by law or ordinance.

b) If permitted, Signs on Construction Sites and Signs on Construction Barricades are subject to the following standards.

i) May fully cover the construction barricade.
ii) Does not horizontally project from the surface of the barricade.
iii) Securely attached at all corners and along all sides.
iv) Maximum height eight feet. No illumination is permitted; and
v) No permit is required.

6) OFF-PREMISES (OUTDOOR ADVERTISING) SIGNS

The following regulations shall pertain to off-premises signs (also known as outdoor advertising signs) in all districts where permitted.

1) **Proportional** regulations. The size of an outdoor advertising sign on a lot shall not exceed the size specified in Table 6.

TABLE 6

Proportional Regulations	
Lot Size (in square feet)	**Maximum sign Dimensions (vertical by horizontal)**
Up to 10,000	6 ft by 12 ft
10,000+ - 20,000	12 ft by 12 ft
20,000+ - 43,560	12 ft by 25 ft
43,560+	10.5 ft by 36 ft plus extensions or 12 ft by 50 ft or 14 ft by 48 ft plus extensions

2) **Extensions**. Elements of an outdoor advertising sign may be permitted to extend beyond the horizontal or vertical sign edge. The maximum length of an extension shall not be greater than four feet beyond the top edge of the sign and one foot along all other sign edges. The maximum width of an extension shall not be greater than 45% of the linear length of the horizontal or vertical dimension of the outdoor advertising sign (See Table 7).

TABLE 7

Extensions				
Sign Size (ft)	**Maximum Extension Length (Top) (Feet)**	**Maximum Extension Length (Sides and Bottom) (Feet)**	**Sign Dimension (Feet)**	**Extension Width (Feet)**
10.5 by 36	4	1	10.5 by 36	4.725 by 16.2
14 by 48	4	1	14 by 48	6.3 by 21.6

3) Outdoor advertising sign size. The face of an outdoor advertising sign shall not be greater than 14 feet in vertical dimension nor greater than 50 feet in horizontal dimension, except where specifically regulated and shall not contain more than 2 advertising signs per facing.
4) Flashing, intermittent or moving lights. No advertising sign shall be permitted which contains, includes, or is illuminated by a flashing, intermittent or moving light or lights.
5) Animation. No advertising sign shall be permitted which has animated or moving images.
6) Advertising sign. Advertising sign faces consisting of three or less panels that rotate to present a single fixed display at a time, commonly known as Tri-vision signs, are permitted, provided that the rotation of one display to another is no more frequent than every 15 seconds.
7) Video, LED, (light emitting diode), LCD (liquid crystal display) or electrically powered. No advertising sign shall be permitted which displays video or emitting graphics.
8) Distance between outdoor advertising signs. Except as otherwise provided for signs in the protected areas along highways, and freeways, the minimum distance between outdoor advertising signs shall be as specified below.

9) Radial spacing between outdoor advertising signs. In no event shall any point of an outdoor advertising sign or sign structure be closer than 1,000 feet from any point of any other outdoor advertising sign or sign structure.
10) Outdoor advertising signs. In no event shall any point of an outdoor advertising sign be closer than 300 feet from the following uses: residential, parks, church, school.
11) Roof top outdoor advertising signs. Roof top outdoor advertising signs shall not be permitted in any zoning district.
12) Advertising sign on or appurtenant to buildings. Advertising signs shall not be located on, above or below any portion of primary buildings.
13) Outdoor advertising sign setback. Signs or sign structures shall be set back in accordance with the building setback lines required by the applicable zoning district. Advertising signs shall not be eligible for setback averaging exceptions. (See Table 8 below).

TABLE 8

Setback		
Zoning District	**Primary/Secondary**	**Collector/Local Street**
10.5 by 36	4	1
14 by 48	4	1

(1) Maximum and minimum height of outdoor advertising signs and sign structures.
   (a) The maximum height of signs and sign structures shall not exceed 40 feet above grade level at the base of such sign or sign structure.
   (b) No outdoor advertising sign or sign structure (except for the supports, building, structure, or column) shall be at its lowest point less than 9 feet above grade level. Ground signs, where permitted, shall not exceed 4 feet in height above grade level.
(2) Construction of outdoor advertising signs. The supports, uprights, bracing and framework of an outdoor advertising sign shall be of steel construction.
(3) Districts permitted **and allowable square footage.** (Refer to Table 9 below)

TABLE 9

District Permitted				
Zoning Classification	**Residential**	**Non-Residential, other than Manufacturing**	**Manufacturing**	**Special Use**
Maximum Square Footage	Not Permitted	378 sf	Not Permitted	Not Permitted

b) **Signs on freeways.** All signs within 660 feet of the right-of-way of freeways shall comply with the requirements of this section in addition to all other provisions of this Section.
c) **General provisions**. No off-premises signs shall be permitted to be erected or maintained in any manner inconsistent with the following:

i) *Flashing, intermittent or moving lights*. No sign shall be permitted which contains, includes, or is illuminated by a flashing, intermittent or moving light or lights.
ii) *Animation*. No sign shall be permitted which moves or has any animated or moving parts.
iii) *Rotating, louvered (vertical and or horizontally), moving or other elements*. Advertising signs with rotating, louvered (vertical and/or horizontally), moving parts or elements shall not be permitted.
iv) Video, LED (light emitting diode), LCD (liquid crystal display) or electrically powered.
v) No sign shall be permitted which displays video or emitting graphics.

d) Measurement of distance.
i) The distance from the edge of a right-of-way shall be measured horizontally along a line normal or perpendicular to the centerline of the freeway.
ii) All dimensions parallel to the alignment of the freeway shall be measured along the centerline of the freeway between two vertical planes which are normal or perpendicular to and intersect the centerline of the freeway, and which pass through the termini of the measured distance.

6. REGULATIONS FOR OFF-PREMISES (ADVERTISING) SIGNS.

1) Off-premises signs within informational sites. If the Indiana Department of Transportation (IDOT) constructs an Informational Site, on the freeway system in the City, control over off-premises signs within such site shall be the responsibility of that Department.
2) Off-premises signs outside of informational sites.
3) The erection or maintenance of the following signs shall be permitted within protected areas outside of informational sites: off-premises signs which are located within 660 feet of a freeway, as herein defined.
4) The erection or maintenance of off-premises signs permitted shall not be permitted in any manner inconsistent with the following:
   a) Sign spacing: Subject to the other provisions of this Section, within protected areas adjacent to freeway rights-of-way, no part of any off-premises sign structure shall be located within 1,500 feet of any other off-premises sign structure located adjacent to said freeway. Said 1,500 feet distance shall be measured linearly along the centerline of the freeway.
   b) Maximum sign dimensions: The maximum size of any sign shall not exceed 14 feet in vertical dimension and 48 feet in horizontal dimension, plus extensions as defined.
5) Sign setback: Signs shall not be located closer than 60 feet to the right-of-way of the freeway.
6) Sign clearance: Signs shall not be less than nine feet above grade level at the lowest point, except for the supporting structure.
7) Maximum sign height: The maximum height of signs and sign structures shall not exceed 40 feet above grade level at the base of such sign structure.
8) Entrance or exit roadway limitation: Signs shall not be permitted in protected areas adjacent to any freeway right-of-way upon any part of the width of which is constructed an entrance or exit roadway. No sign shall be permitted within 500 feet from the point of intersection between the traveled way of such entrance or exit roadway and the main traveled way of the freeway.

Said 500 feet distance shall be measured to the nearest point of the intersection of the traveled way of the entrance or exit roadway and the main-traveled way of the freeway.

SECTION 20. LANDSCAPE

A. PURPOSE AND INTENT

This Section establishes regulations for the preservation of natural features and minimum standards for the provision, installation, and maintenance of landscape materials. The regulations specified herein are intended to promote the health, attractiveness, and safety of the community; foster aesthetically pleasing and environmentally sensitive development that protects and preserves the appearance and character of the community; and encourages the preservation of natural areas.

This Section establishes standards to manage and control drainage and erosion; to increase the compatibility of development with the natural environment and adjacent developments; to encourage connectivity through the use of a pedestrian network; and to maintain and increase the value of land by requiring landscaping to be incorporated into developments.

B. APPLICABILITY

This Section shall apply to Development in all Zoning Districts, except for detached Single-family Dwellings not located within a Major Subdivision.

Plantings and landscaping features required by this Section shall be subject to inspection to verify continued compliance with this Section.

C. CONTENT OF LANDSCAPE PLAN

Landscaping Plans shall comply with the following standards:

1) Landscape Plans shall be submitted for all required landscaping, green belt buffer areas, Buffer Yards, Open Space areas, conservation easements, landscape easements, and areas owned in common within proposed developments. It is recommended that Landscape Plans be prepared by licensed landscape architects, nurserymen, or other professionals experienced in landscape design, installation, and maintenance. A narrative describing ownership, use, and maintenance responsibilities of these areas should be specified in the submittal.
2) Landscape Plans show the entire project drawn to scale on standard sized sheets (minimum 24" x 36") and shall contain the following information:
   a) Names and addresses of Property Owners, developers, plan preparer, plan preparation date, scale, and north arrow.
   b) Locations and dimensions of all existing and proposed structures, Parking Areas, driveways, Streets, Private Streets, Rights-of-way, sidewalks, pedestrian pathways, bicycle pathways, ground signs, refuse disposal areas, bicycle parking areas, freestanding electrical equipment, recreation facilities, utility lines, easements, freestanding structural features, landscape improvements, earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, courts, paved areas, Buffer Yards, and Open Space.
   c) Locations, quantities, sizes, and names (botanical names and common names) - of planting materials.
   d) Existing and proposed grading plans, indicating contours at not more than two-foot intervals.

e) Locations of barriers to be placed at or beyond driplines of trees to be preserved and types of materials to be used for barriers.
f) Planting and installation details as necessary to ensure conformance with required standards.
g) Details including specific grading measures or protective devices to be utilized where trees are to be preserved in areas of cut and fill.
h) Location of dense trees and shrubs, and other Natural Areas which are to be preserved or removed.
i) An inventory of existing trees to be credited and preserved may be shown on the Landscape Plan, or separately, as otherwise set forth in this Section, which may include tables clearly displaying relevant statistical information (including numbers of existing trees and numbers of trees preserved, for example).

D. MODIFICATIONS

When a change in use occurs, or when modifications that require a Building Permit are made to an existing structure, then landscaping shall be required to be installed in a manner that is comparable in nature and extent to the impact of the proposed change or modification.

If plant substitutions become necessary due to seasonal planting problems or a lack of plant availability, then revisions to an approved Landscape Plans shall be permitted.

E. PRESERVATION AND REPLACEMENT OF TREES

1) Developers shall take reasonable measures to design and locate proposed buildings and related infrastructure in a manner that minimizes the destruction of significant tree specimens.
2) Property Owners are responsible for the replacement of dead/dying trees after establishment, to continue compliance with this Section.
3) The following considerations shall be made in regard to tree preservation efforts:
   a) The practicability of arranging site plan components around existing features. Plans for groups of structures should be designed to preserve areas of high tree concentrations, desirable individual tree specimens, and desirable stands of trees and shrubs.
   b) The condition of vegetation with respect to continued vitality.
   c) The possibility of preserving vegetation through pruning rather than removal.
   d) The desirability of a particular tree or species by reason of its appearance; historic or ecological significance; botanical characteristics; and the function the vegetation would fulfill as a site plan component.
   e) The practical and economic possibility of designing the location and grades of proposed structures and paving to preserve existing vegetation.
   f) The potential for interference with utility services along the use of Streets and walkways.
4) ***Tree Inventory:*** Existing trees that are to be preserved shall be credited toward required landscaping requirements based on the sizes of such preserved trees in accordance with this Section. Tree inventories shall be required for those trees that are required by an ordinance or commitments to be preserved or that are to otherwise be credited pursuant to this Section.

Tree inventories shall depict locations, sizes, and common names of existing trees and individual shrubs; areas containing dense trees or shrubs; and other natural site features.

5) ***Tree Preservation Plans:*** Tree preservation plans shall be submitted with site plans that detail locations, sizes, and common names of preserved trees; individual shrubs; areas of dense tree or shrub concentrations, and other natural features which are to be preserved or removed. No disturbance shall be permitted in the Critical Root Zones of preserved trees. Disturbances include trenching, backfilling, driving, or parking equipment, and dumping trash, oil, paint, or other materials detrimental to plant health.
6) Replacement: If any tree designated for preservation dies within five (5) years of project completion, then the Property Owner shall replace such tree with a tree(s) of equal tree preservation value, as set forth herein, within one hundred and eighty (180) days.
7) ***Incentives to Preserve Trees:*** Existing trees that are preserved in accordance with this Section may be credited for required landscaping based on a ratio of one (1) tree credit per one (1) tree preserved if the tree meets all of the following criteria:
    a) Shall be greater than four-inch (4") Caliper.
    b) Shall be in a good condition and have a life expectancy greater than ten (10) years.
    c) Shall have a trunk with no extensive decay.
    d) Shall have no more than one major or several minor dead limbs.
    e) Shall have no major insect or pathological problems or otherwise be a species identified by the State or City to be negatively impacted by a major insect or pathological problem.
    f) Shall be of a species native to the State or on the Master Tree and Shrub List, as maintained by the City.
8) The Plan Commission may credit required plantings where the existing vegetation of a preserved Natural Area is located within a Buffer Yard or External Street Frontage Landscaping Area, and where the Natural Area otherwise accomplishes the intended screening effect of a Buffer Yard or External Street Frontage Landscaping Area.
9) TREE PROTECTION
10) Barriers shall be used to protect trees during site development. Barriers shall be specified on Landscape Plans and shall be placed at or beyond the driplines of trees to be preserved. Such barriers shall remain in place during site construction. No vehicles, machinery, tools, chemicals, construction materials, or temporary soil deposits shall be permitted within such barriers. No notices or other objects shall be nailed or stapled to preserved trees.
11) Grading measures or protective devices, such as tree wells, tree walls, or specialized fill and pavement designs, shall be installed when necessary to preserve identified tree specimens.
12) ***Tree Preservation Easement:*** A tree preservation easement shall be required for tree identified for preservation and that are not otherwise protected by a landscape easement.
13) Selection, Installation, and Maintenance of Plant Materials:
    a) Selection: The minimum sizes set forth below shall apply to required plantings at installation, unless otherwise specified herein.
14) Shade Trees: A minimum of eight (8) feet in height and two (2) inches in Caliper. Shall be of a variety that will attain an average mature spread greater than twenty (20) feet.
15) Evergreen Trees: A minimum of six (6) feet in height.
16) Ornamental Trees: A minimum of two (2) inches in Caliper.
17) Shrubs: A minimum of eighteen (18) inches in height.

18) Credit for Larger Trees: A proportional decrease in the required number of trees is allowed if larger Caliper trees than required herein are planted (e.g., trees with Caliper measures of four (4) inches may replace two (2) required two
    a) inch Caliper trees).

F. GENERAL LANDSCAPING DESIGN STANDARDS:

1) ***Consultation***: A landscape architect, nurseryman, or other professional experienced in the installation and care of plant materials shall be consulted to ensure that proposed plants are appropriate and will survive.
2) ***Selection:*** Landscape material shall be 75% Indiana native species. No invasive species are permitted.
3) ***Scale and Nature of Landscaping:*** The scale and nature of landscaping materials shall be appropriate to the size of proposed structures. Large-scale buildings should be complemented by large-scale plants. Form, texture, color, pattern of growth, and adaptability to local conditions shall be considered when selecting plant materials.
4) ***Placement***: Installed plantings shall comply with the following:
    a) Clearance with Structures: Trees shall be planted so that when they reach maturity, there will be a minimum of five (5) feet of clearance between tree trunks and structures, building overhangs, walls, fences, and other trees.
    b) Right-of-way: Trees as may otherwise be approved by the Plan Commission, landscape material shall not be planted or placed in Rights-of-way or easements without permission from the City or the easement holder.
    c) Minimum Distance from Sidewalk and Curb: Trees shall be planted a minimum distance of four (4) feet from the edge of a Street curb or pedestrian pathway or sidewalk.
    d) Minimum Distance from Stormwater Structures: Trees shall be planted a minimum distance of ten (10) feet from any storm sewer or subsurface drain, unless otherwise permitted in accordance with the City's Construction Standards.
    e) Easements: Required landscaping should be located in landscape easements or designated common areas that are exclusive of utility or drainage easements that would otherwise prohibit the required landscaping.
    f) Arrangement: A natural or irregular row and spacing of plantings is preferred. Trees and shrubs should be grouped or clustered where possible to simulate natural tree stands.
5) ***Topsoil:*** Existing topsoil shall not be removed from the site though it may be redistributed within the site as necessary for construction.
6) GENERAL SCREENING STANDARDS:
7) ***Mechanical Screening:*** Wall and ground-mounted Mechanical Equipment for nonresidential or multi-family structures shall be completely screened from all ground-level viewpoints. Clearance for proper functioning of the equipment and access to the equipment for maintenance shall be incorporated into the design.
8) ***Service and Loading Areas:*** Loading areas, loading docks, service areas, and maintenance areas shall be screened from residential uses and Rights-of-way. Screening shall be achieved by using either: (i) a six (6) foot high, completely opaque fence or wall; (ii) a six (6) foot high berm; (iii) a six (6) foot high screen of evergreen trees planted nine (9) feet on center in a

double staggered row; or (iv) a combination of the aforementioned that accomplishes the same effect.

G. DETENTION AND RETENTION AREAS

1) ***Natural Appearances:*** Detention and Retention Areas shall be landscaped in a manner that replicates the natural form of ponds and shall include shade trees, ornamental trees, evergreens, shrubs, hedges, and/or other plantings.
2) Wetlands/aquatic vegetation planted around the wet perimeter of such areas should be utilized to further this design objective; however, if such plantings are utilized for water quality control, then Landscape Plans shall be prepared and stamped by a licensed landscape architect.
3) Detention and Retention Areas shall be designed to be natural in appearance, with meandering edges.
4) ***Location***: Detention and Retention Areas should be located to enhance view sheds and incorporated as amenities to the development
5) ***Side Slopes:*** Side slopes above the water line for Retention Areas and water features shall not exceed 4:1. Side slopes above the water line for Detention Areas shall not exceed 4:1 and shall be graded to harmonize with the overall Open Space design of the site.

H. MINIMUM LOT LANDSCAPING REQUIREMENTS

Yards and Open Space areas of all Lots shall be landscaped in accordance with this section (the "Minimum Lot Landscaping Requirements"):

TABLE 10

Land Use	Plant Materials		
	Shade Trees	**Ornamental or Evergreen Trees**	**Shrubs**
Single-family Residential (per Lot under 2,500 sq. ft.)	2	1	4
Single-family Residential (per Lot over 2,500 sq. ft.)	4	2	4
Multi-family Residential (per Dwelling Unit)	1	1	4
Institutional Uses (per acre)	2	3	10
Business Uses and Mixed-use (per acre)	10	10	25
Manufacturing Uses (per acre)	5	5	25
Open Space / Common Area (per acre)	10		0

1) ***Calculation for Recreational Areas:*** Acreage for athletic fields and courts (including adjacent perimeter areas for coaching and spectator viewing) and areas with playground

equipment, may be subtracted from the gross acreage before computing the Minimum Lot Landscaping Requirements.

2) ***Calculation for Open Space/Common Areas:*** Plantings required for Open Space or Common Area may be calculated for an overall development, or phase of a development, and then installed and distributed throughout the development's various Open Spaces and Common Areas.
3) ***Foundation Plantings:*** Foundation plantings shall be provided as follows:
   a) Plant materials shall be required intermittently (approximately every forty (40) feet) against long expanses (over eighty (80) feet) of Building Façades, fences, and other barriers to create a softening effect.
   a) Plant materials shall also be required along the Front Building Façade of all Buildings at a minimum ratio of one (1) shrub or ornamental tree per twelve (12) lineal feet (Single-family Dwelling and Duplex Dwelling buildings are exempt from this requirement).
   b) The primary landscaping material used shall be ornamental trees, shrubs, and ornamental grasses. Groundcover plants may supplement the required plant materials. Plantings may be clustered to provide a more natural appearance and to accommodate vehicular and pedestrian access, loading and maintenance areas.
   c) Plantings shall be located within fifteen (15) feet of the Building Façade, fence or other barrier being softened, and shall occur within planting beds at least eight (8) feet in width.
   d) Monument Signs shall include a landscaped area at the base of the Monument Sign. The minimum size of the landscaped area shall be equivalent to one (1) side of the Monument Sign's Sign Face. The landscaped area shall be substantially covered with a variety of planting types such as Groundcover, perennials, shrubs, and ornamental trees.

I. BUFFER YARD REQUIREMENTS

Buffer Yards shall be required in order to soften the potential conflicts between land uses by using distance, plantings, fences, walls, and mounds set forth in this section.

1) ***General***: Plantings should physically separate and visually screen different land uses and/or Zoning Districts from one another without precluding connectivity between uses.
2) ***Location***: Buffer Yards shall apply along the entire length of all abutting Lot Lines where conflicting Zoning Districts are adjacent. If adjacent properties possess a mix of land uses, thenthe highest intensity use shall determine the required Buffer Yard. Buffer Yards shall not be required: (i) between uses within a Planned Unit Development District (unless the PUD District provides otherwise); (ii) internal to Subdivisions; or (iii) adjacent to External Streets, rather, the External Street Frontage Landscaping Requirements set forth herein shall apply adjacent to External Streets.
3) ***Responsibility for Installation:*** The Lot which is zoned for higher intensity uses at the time of development shall install the required Buffer Yard.
4) ***Buffer Yard Types:*** The following types of Buffers Yards are hereby established. The numbers established below are minimum requirements. Plantings should be arranged in a manner that creates a visual barrier between land uses without precluding connectivity between uses.

TABLE 11

Buffer Yard Type	Planting Materials per 100 lineal feet				
	Width	**Shade Trees**	**Evergreen Trees**	**Shrubs**	**Mound / Fence**
Buffer A (small)	30 feet	3	3	10	none required
Buffer B (medium)	40 feet	4	4	10	4' tall undulating mound for at least 60% of the length of the shared Lot Line
Buffer C (large)	50 feet	5	5	20	4' tall undulating mound for at least 60% of the length of the shared Lot Line and a 6' - 8' tall opaque fence

a) ***Required Buffer Yard:*** The minimum required Buffer Yard shall be determined by the abutting Zoning District(s) and/or land uses, whichever is more restrictive, in accordance with the following chart.

TABLE 12

Required Buffer Yard Type		**Residential**	**Commercial**	**Manufacturing**
	Residential	-	-	-
	Commercial	B	-	-
	Manufacturing	C	A	-

J. LAKE MICHIGAN COASTAL DUNE BUFFER

The purpose of the Lake Michigan Coastal Dune Buffer is to protect, restore, and preserve the unique ecological character of the Gary, Indiana shoreline. This section is intended to: a) safeguard the stability of the coastal dune system against erosion and degradation, b) restore native duneland habitats through the reintroduction of indigenous vegetation c) provide sustainable, low-impact public access to the lakefront without compromising ecological integrity, and d) establish a transition zone between upland development and the sensitive Lake Michigan shoreline.

1. APPLICABILITY

The standards set forth in this section shall apply to all parcels of land, public or private, abutting the Ordinary High Water Mark (OHWM) of Lake Michigan within the municipal boundaries of Gary, Indiana.

2. BUFFER STANDARDS

1) **Minimum Buffer Width** A continuous landscape buffer shall be established and maintained for a minimum depth of **two hundred (200) feet**, measured perpendicularly landward from the Ordinary High Water Mark (OHWM) or the toe of the foredune, whichever is further inland.
2) **Prohibited Activities within Buffer** Within the established 200-foot buffer, the following are strictly prohibited:
    a. Construction of permanent structures (residential, commercial, or industrial).
    b. Impervious surface paving (asphalt, concrete).
    c. Removal of native vegetation or alterations to the natural topography (sand mining, grading), unless part of an approved Restoration Plan.

3. VEGETATION AND RESTORATION

1) **Restoration Requirement** Any area within the buffer zone currently lacking native vegetation or occupied by non-native turf grass must be restored to a natural duneland state.
2) **Approved Duneland Plantings** Restoration and maintenance must utilize plant species native to the Southern Lake Michigan dune ecosystem.

    a. **Primary Stabilizers:** Marram Grass (*Ammophila breviligulata*), Sand Reed Grass.

    b. **Secondary Species:** Little Bluestem, Sand Cherry, Bearberry, Common Juniper.

    c. **Prohibited Species:** The planting of invasive or non-native species (e.g., Lyme Grass, Phragmites) is strictly prohibited.

3) **Maintenance** Landowners are required to maintain the buffer in a natural state, which includes the active removal of invasive species and the protection of new plantings until established.

4. PERMITTED ACCESS: NON-INVASIVE WALKWAYS

To ensure public or private access to the waterfront does not degrade the dune system, only **Non-Invasive Walkways** are permitted within the buffer.

1) Construction Standards
    a. Elevation: Walkways must be elevated (boardwalk style) a minimum of 18 inches above the grade to allow for sand movement and vegetation growth underneath.
    b. Material: Materials must be permeable or gapped (e.g., wooden planking with spacing) to allow light and water penetration.
    c. Width: Walkways shall not exceed a maximum width of six (6) feet.
    d. Route: The walkway must follow a linear or curvilinear path perpendicular to the shoreline to minimize fragmentation of the habitat.

2) General Foot Traffic Direct foot traffic on the fragile foredune outside of the designated walkway is prohibited to prevent erosion and "blowouts."

K. PARKING AREA LANDSCAPING

This section shall apply to Parking Areas in order to: (i) screen Parking Areas from Right-of-way; (ii) prevent the creation of large expanses of paving; and (iii) provide shade to paved areas.

1) Interior Parking Area Landscaping:
   a) Minimum Area Required: A minimum landscape area of Parking Areas shall be set aside for Parking Area islands in accordance with the following:

Number of Parking Spaces	% Of Parking Area to be Islands
0 to 4	0%
5 to 24	5%
25 to 49	7.5%
50 or more	10%

2) Interior Parking Area Islands:
   a) Location: Parking Area islands shall be dispersed throughout Parking Areas in a design and configuration that aesthetically corresponds to the size and shape of Parking Areas. Combining or placing Parking Area islands together such that more than one tree may be planted in the island shall be considered when possible. Parking Area islands shall be dispersed so as to define aisles and limit unbroken rows of parking spaces to a maximum of two hundred (200) feet in length.
   b) Design: Parking Area islands shall be: (a) constructed at least six (6) inches above the surface of Parking Areas and curbed in a manner that restricts vehicles from driving over landscaped areas; (b) a minimum area of one hundred twenty (120) square feet; and (c) a minimum of seven (7) feet in width, measured from back of curb to back of curb.
   c) Plantings: Parking Area islands shall include at least one (1) tree and four (4) shrubs per island. One hundred (100) percent of every island shall be covered with permitted Groundcover material to achieve complete coverage.
   d) Vision Clearance: No landscaping within Parking Area islands may unreasonably obstruct visibility for vehicles entering, maneuvering in, or exiting Parking Areas. Such landscaping shall be constructed
3) Perimeter Parking Area Landscaping:
   a) ***Application***: Perimeter landscaping is required for Parking Areas with ten (10) or more spaces where the Parking Area is located within: an Established Front Yard; (ii) a required Yard; or (iii) twenty (20) feet of a Lot Line or Right-of-way line. In instances where parking is shared between adjacent Lots, the standards of this Section shall not apply to the shared Lot Line.
   b) ***Design***: Perimeter Parking Area landscaping shall be a minimum of five (5) feet wide and shall extend along the perimeter of Parking Areas and include:

i) A minimum of one (1) tree per thirty (30) linear feet of Parking Area length. Trees may be clustered in an aesthetically pleasing manner.
ii) A minimum of one (1) shrub per three (3) feet of Parking Area length. Shrubs may be clustered in an aesthetically pleasing manner.
iii) Grass or other permitted Groundcover for areas not planted with trees or shrubs.

c) ***Drive Aisles***: Plantings within the perimeter Parking Area landscape areas between drive aisles and a Rear or Side Lot Line may be reduced by up to fifty percent (50%) of the required plantings above, if no Parking Spaces are located between the Lot Line and the drive aisle.

1. MULTI-FAMILY DEVELOPMENTS

In addition to the other standards set forth in this Section, the following shall apply to Multi-family Developments:

1) Parking Areas, Parking Spaces and service facility areas in a Multi-family District that may be visible from Streets or perimeter Lot Lines shall be screened by walls or other solid materials in addition to landscaping required herein. Screening shall be depicted on the Development Plan.
2) Solid screens or landscape materials shall be installed to protect the privacy of residents when parking spaces are located within ten (10) feet of residential units and to prevent headlights from shining directly into windows.

2. TREE SPECIES RECOMMENDATION

The following list is not comprehensive, but rather a recommendation. Developer/Applicant may suggest substitutes for administrative approval. Substitutions with non-native species is prohibited.

SMALL TREES WITH NARROW CROWNS

Suitable for tree lawns at least 5' wide and under power lines.

Amelanchier species - Serviceberry
Cornus kousa - Kousa Dogwood
Prunus serrulata - 'Kwanzan' Cherry
Syringa reticulata - Japanese Tree Lilac

SMALL TREES WITH BROAD CROWNS

Suitable for tree lawns at least 8' wide and under power lines.

Carpinus caroliniana - American Hornbeam
Cercis canadensis - Eastern Redbud
Chionanthus virginicus - Fringetree
Corn's alternifolia - Pagoda Dogwood
Cotinus obovatus - American Smoketree
Crategus crus-galli inermis - Thornless Cockspur Hawthorn
Halesia carolina – Silverbell
Koelreuteria *paniculata* – Goldenraintree
Maackia amurensis - Amur Maackia

Styrax japonica - Japanese Snowbell

MEDIUM TREES

Suitable for tree lawns at least 6' wide, but not under power lines.

Aesculus x carnea - 'Briotii' Rubyred Horsechestnut
Alnus cordata - Italian Alder
Alnus glutinosa - European Black Alder
Carpinus betulus - European Hornbeam
Cladrastis kentukea -Yellowwood
Evodia danielii – Korean evodia (bebe tree)
Fagus sylvatica - 'Roseo-marginata' Tricolor Beech
Gleditsia triacanthos inermis - 'Impcole' Imperial Honeylocust
Nyssa sylvatica - Sourgum / Blackgum
Ostrya virginiana - American Hophornbeam
Oxydendrum arboretum - Sorrel tree / Sourwood
Parrotia persica - Persian Parrotia
Phellodendron amurense - 'Macho' Amur Cork Tree (male only)
Prunus virginiana - 'Canada Red' Chokecherry

LARGE TREES

Suitable for continuous tree lawns at least 5' wide, but not under power lines.

Betula nigra - River Birch
Celtis occidentalis - Hackberry
Corylus colurna - Turkish Filbert
Diospyros virginiana - Persimmon
Fagus sylvatica - European Beech
Eucommia ulmoides - Hardy Rubber Tree
Ginkgo biloba - Ginkgo (male only)
Gleditsia triacanthos inermis – Thornless Honeylocust
Gymnoclanus dioica - Kentucky Coffeetree
Liquidambar styraciflua - 'Rotundiloba' Sweetgum
Liriodendron tulipifera - TuliptreeMagnolia acuminata - Cucumber Magnolia
Metasequoia glyptostroboides - Dawn Redwood
Platanus x acerifolia - London Planetree
Quercus bicolor - Swamp White Oak
Quercus coccinea - Scarlet Oak
Quercus imbricaria - Shingle Oak
Quercus macrocarpa - Bur Oak
Quercus muehlenbergii - Chinkapin Oak
Quercus robur - 'Fastigiata' English Oak
Quercus rubra - Northern Red Oak
Sophora japonica - Japanese Pagodatree
Taxodium distichum - Bald Cypress
Tilia tomentosa - Silver Linden

Ulmus species - Elm cultivars
Zelkova serrata - Japanese Zelkova

ADDITIONAL TREES FOR OPEN SPACE/YARD

Aesculus species - Ohio buckeye/Chestnut
Carya species - Hickory/Pecan
Catalpa speciosa - Northern Catalpa
Cercidiphyllum japonicum - Katsuratree
Fagus grandifolia - American Beech
Juglans species - Black Walnut
Juniperus virginiana - Eastern Redcedar
Magnolia species - Magnolia
Malus species - Crabapple/Apple
Pinus species - Pine
Pseudotsuga menziesii - Douglas Fir Thuja occidentalis - White Cedar Tsuga species Hemlock

UNDESIRABLE TREES ANDCOMMENTS

Acer negundo - Boxelder: pervasive, shallow roots, weak wood
Acer rubrum - Red Maple: shallow roots, easily damaged, chlorotic
Acer saccharinum - Silver Maple: pervasive, shallow roots, weak wood
Acer species: Asian long-horned beetle
Ailanthus altissima -Tree of Heaven: seeds, suckers, weak wood
Betula papyrifera - Paper Birch: insects
Betula pendula - Euorpean White Birch: insects
Elaeagnus angustifolia - Russian Olive: form, disease, thorns
Fraxinus species - Ash: Emerald ash borer
Ginkgo biloba - Female Ginkgo: fruit (odor) Morus species - Mulberry: fruit, shallow roots
Paulownia tomentosa - Paulownia: weak wood, prolific seeds
Picea species - Spruce: shallow roots, low branches, salt spray
Pyrus calleryana - Pear: weak branching, low branches
Populus alba - White Poplar: suckers, shallow roots, weak wood
Populus deltoides - Cottonwood: weak wood, shallow roots, seeds
Populus nigra - Lombardy Poplar: insects, disease, short-lived
Quercus palustris - Pin Oak: soil problems, yellowing, low branches
Salix species - Willow: weak wood, shallow roots
Sorbus species - Mountain Ash: insect, disease
Tilia species - Linden: Japanese beetle
Ulmus americana -American Elm: insects, disease
Ulmus pumila - Siberian Elm: weak wood, seeds

SECTION 21. PARKING

A. PURPOSE AND INTENT

These Parking and Loading Regulations are intended to provide for the provision of parking and loading areas which are adequate to support the needs of proposed uses and future uses of a site, while at the same time assuring that the design and construction of such parking and loading areas meet minimum design standards necessary to promote efficient circulation and prevent undue traffic congestion on and to the public right-of-way.

B. APPLICABILITY

All new development, additions to buildings or structures, or conversions of use for which a building permit is required by this Ordinance in any district shall provide required parking areas in accordance with the regulations of this Section. Such parking areas may be provided in either a surface parking area or a parking garage. If parking areas are provided in a parking garage, such parking garage shall be located in compliance with the development standards of the applicable district of this Ordinance regarding minimum setbacks and the landscaping requirements of Landscape Regulations.

C. EXISTING PARKING

Existing parking areas shall not be reduced below the minimum requirement for such use as required by this Ordinance. Any parking areas existing prior to the effective date of this Ordinance which were already below the standards established by this Ordinance shall not be further reduced.

D. PARKING LOCATION

1) PARKING AREAS
   a) Up to 25 percent of required parking spaces may be waived if a plan for all required parking spaces is developed and a landscaped reserve area is set aside for the total amount of required parking.
   b) Paving and curbing of parking areas in R-1 or R-2 Residential Zone Districts is not required for all uses with ten (10) or less required parking spaces.
   c) Up to 25 percent of the required parking spaces may be gravel if they are located to the rear of the primary building and screened with landscape live plant material, fencing or earth mounding and designated as employee or overflow parking.
2) PARKING AREAS SHALL BE LOCATED
   a) On the same lot as the building, structure or use served by the parking area; or
   b) Within the same integrated center, business park, or Manufacturing Park as the building, structure or use served by the parking area; or
   c) Within five hundred (500) feet of the building, structure or use served by the parking area, provided that such off-site location for the parking area is approved by the Commission as a Special Use where:
      i) Within a district which permits the use for which the parking is provided; and,
      ii) A written agreement, properly drawn and executed by the parties concerned, approved as to form by the City Attorney, and filed with the Board of Zoning Appeals as part of the request for approval of the Special Use.

3. DESIGN AND CONSTRUCTION OF PARKING

The design and construction of all required parking areas shall follow the stricter of the regulations contained in this Section, or the minimum specifications prescribed by the City.

1) DESIGN OF PARKING

   a) Layout. The layout of all parking areas shall be in compliance with one (1) of the Options set forth below:

   b) **Option 1:** in the Architectural Graphic Standards, Tenth Edition, or most current edition, for a Level of Service "A" or "B"; or,

   c) **Option 2:** in - Parking Lot Design, below:

Parking Lot Design			
Angle of Parking Space	**Minimum Width of Parking Space**	**Minimum Depth of Parking Space**	**Minimum Width of Maneuvering Aisle**
61° - 90°	9'-0"	20'-0"	**24'-0"**
46° - 60°	9'-0"	19'-0"	**18'-0" (one way)**
45°	8'-6"	18'-0"	**15'-0" (one way)**
Parallel	**8'-0"**	**22'-0"**	**12'-0" (one way)**

2) LANDSCAPING

   a) Except for individual single-family dwellings or two-family dwellings, the layout of all parking areas shall comply with the design related regulations contained in Landscaping Regulations, of this Ordinance.

3) DEFINITION OF PARKING SPACES

   a) Except individual single-family dwellings or two-family dwellings, all parking spaces shall be:

      i) Identified by painted lines, a minimum four (4) inches in width, raised curbs or other means to indicated individual spaces; and,
      ii) Provided with raised curbs, wheel stops or other devices to ensure that motor vehicles do not encroach beyond the parking area, or into a required yard.

4) SURFACE OF PARKING

   a) Commercial required parking areas and any driveway, interior access driveway or interior access drive to and from such parking areas shall be hard surfaced with asphalt, concrete, pervious concrete, or other material to provide a durable, dust-free surface, which meets or exceeds the minimum specifications prescribed by the City.

   b) A temporary or seasonal use permitted by the district in which such temporary or seasonal use is located may use an unimproved or gravel surface for the duration of the temporary or seasonal

use. If a temporary gravel surface is provided, such gravel shall be removed, and the parking area shall be returned to its prior condition immediately upon cessation of the temporary or seasonal use.

4. MINIMUM NUMBER OF REQUIRED PARKING SPACES

i. Parking for all uses shall be provided in accordance with the minimum requirements set forth in the Required Parking table, on the following page. When the computation of requiredparking spaces results in a fraction of one-half (1/2) or greater, the number of required parking spaces shall be rounded up to the next whole number.

ii. For multiple-use buildings, structures and uses, the required number of parking spaces for each use shall be calculated based upon the parking requirements for that specific use to determine the minimum aggregate number of parking spaces required.

	Required *Parking*
Assembly facilities with fixed seats, such as religious use, stadium, theater	One (1) parking space per every five (5) seats, plus one (1) parking space per every employee
Assembly facilities without fixed seats, such as banquet hall, Lodge, religious use, union hall	One (1) parking space per every twenty-five (25) square feet of floor area in public use
Assisted Living Facility	One (1) parking space per every three (3) units, plus one (1) parking space per employee
Bank	One (1) parking space per two hundred (200) square feet of *gross floor area*
Bar, Tavern, Cabaret	One (1) parking space per every three (3) persons based upon the maximum number of persons that can be accommodated in accordance with design
Barber, Hair & Nail Salon, Tanning Salon	Three (3) parking spaces per each customer seat or service station
Bed & Breakfast, Tourist Home	One-half (1/2) parking space per bed
Child Care Facility	One (1) parking space per employee, plus one (1) parking space per three (3) children at maximum enrollment
Convention Center	One (1) parking space per 250 – 400 sq. ft.
Dwelling, Accessory Living Quarters	One (1) parking space per dwelling unit
Dwelling, Single Family	One (1) parking spaces per dwelling unit
Dwelling, Multi-Family	1.5 parking spaces per dwelling unit

Fitness Centers	One (1) parking space per one hundred (100) square feet of *gross floor area*, plus one (1) parking space per employee
Group Residence	One (1) parking space per two (2) occupants, plus one (1) parking space per employee
Health Care: Clinics, Dentists, Emergency care	Three (3) parking spaces per exam room, plus one (1) parking space per employee
Hotel & Motel	One (1) parking space per guest room, plus two (2) parking spaces at office or registration area
Manufacturing/Manufacturing, Assembly of previously manufactured materials	One (1) parking space per employee
Manufacturing Retailer	One (1) parking space per employee, plus three (3) additional parking spaces
Offices; Professional Offices	Three and one half (3.5) parking spaces per one thousand (1000) square feet of *gross floor area*
Recreational Facility, indoor;	One (1) parking space per one hundred (100) square feet of floor area in public use, plus one (1) parking space per employee
Restaurant, all types	One (1) parking space per each three (3) customer seats based upon the maximum number of persons that can be accommodated at the same time in accordance with design (including outdoor seating areas) *Minimum of five (5) parking spaces required
Retail Sales	Three and one half (3.5) parking spaces per one thousand (1000) square feet of *gross floor area*
Veterinary or Veterinary Hospital	Three (3) parking spaces per exam rooms plus one (1) parking space per employee
Warehousing	One (1) parking space per employee
***Uses* Not Specified**	For any *use* not specified above, specific requirements shall be determined by the Planning Administrator and shall be based upon requirements for similar *uses*, expected demand and traffic generated by the proposed *use*, and other information from appropriate traffic engineering and planning criteria.

E. INCREASE IN INTENSITY OF USE

Additional parking spaces shall be required whenever there is:

1) A change of use of a building, structure, or lot; or
2) An addition to any unit of measurement specified herein (i.e., dwelling units, gross floor area, seating capacity, number of employees, etc.), whether such total increase occurs at one (1)time or in successive stages.

1. UNITS OF MEASUREMENTS

1) Employees. The number of employees shall be compiled based upon the maximum number of persons employed on the premises at anyone (1) time on an average day or average night, whichever is greater.
2) Gross Floor Area. Gross floor area shall be determined per the definition of gross floor area.
3) Seating Capacity / Building Capacity. Seating or building capacity shall be based upon the determination of the Fire Marshal regarding maximum building capacity.

2. REQUIRED PARKING FOR THE DISABLED

Every parking area and parking garage available to the public shall have parking spaces reserved for the use of physically handicapped persons as specified in the Minimum ADA Parking Spaces table, below, provided however, facilities which provide medical care and other services to persons with mobility impairments shall provide Minimum ADA Parking Spaces as required by ADA Accessibility Guidelines for Buildings and Facilities, Chapter 4.1.2 (5)(a), published in the Federal Register, Volume 56, No. 144, dated July 26, 1991(as amended).

3. LOADING REQUIREMENTS

1) LOADING FOR BUILDINGS, STRUCTURES OR USES

2) All Commercial or Manufacturing development or conversions of use for which a building permit is required by this Ordinance shall provide loading areas in accordance with this Section.

3) DESIGN AND CONSTRUCTION OF LOADING AREAS

4) The design and construction of all required loading spaces or excess loading spaces shall follow the stricter of the regulations contained in this Loading Requirements, or the minimum specifications prescribed by the City.

5) The following standards shall apply to the design of loading areas:

   a) ***Loading Space Dimensions.*** A required or excess loading space shall be at least twelve (12) feet in width by at least sixty (60) feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least fourteen (14) feet.
   b) ***Minimum Aisle Width.*** Each required loading space shall open directly upon an aisle or interior access drive with a width of at least thirty-five (35) feet and creating a total maneuvering area, inclusive of the loading space, of at least one-hundred and five

(105) feet, unless subject to the provisions of sub-Section (4), below regarding excess loading spaces.

c) ***Maneuvering***. Each maneuvering area, aisle and interior access drive utilized to access a required loading space or an excess loading space shall be so designed and located as to provide safe and efficient ingress/egress to each loading space and so that trucks do not back from or into a public street, or onto an adjoining property (unless the subject property and the adjoining property are located within the same integrated center or Manufacturing park and such maneuvering area is subject to a recorded easement allowing such maneuvering).

d) ***Design of Excess Loading Areas.*** Any use which provides loading spaces at a rate of greater than four (4) loading spaces; and more than two (2) times the minimum required by this Ordinance, shall provide a total maneuvering area of at least one-hundred and five (105) feet which is separate and distinct from the minimum aisle width requirement of thirty-five (35) feet.

e) ***Alternate Design for Loading Areas.*** In those instances where insufficient area exists to provide for perpendicular loading spaces as allowed, above, angled, or parallel loading spaces may be proposed, provided:

i) the design of such loading area shall include either a one-way traffic pattern or orients the loading spaces so that traffic flow from the loading spaces is in the direction of traffic movement on the side of aisle on which the loading spaces are located.

ii) the loading spaces are accessed by an aisle or interior access drive having a width of not less than thirty-five (35) feet plus sufficient maneuvering area outside of the aisle of the interior access drive, based upon the angle of the loading spaces, to provide safe and efficient maneuverability; and,

iii) the design of such angled or parallel loading spaces shall be subject to the approval of the City.

6) LOCATION OF LOADING SPACES.

a) All loading spaces shall be located on the same lot as the use served.

b) No loading spaces shall be located between the front lot line and the front facade of any portion of the building served, provided, however, in the case of a double frontage lot, loading spaces may be located between a front lot line of a perimeter street and the rear of the building served, and the yard between the off- street loading spaces and such front lot line is landscaped in compliance with the Landscape Regulations for Screening.

c) All loading spaces shall be oriented toward a side lot line or rear lot line.

d) No loading spaces shall be located in a required side and rear yard.

7) USE OF REQUIRED LOADING AREA

a) Space allocated for required or excess loading spaces and associated maneuverability shall not be used to satisfy parking space requirements.

8) SURFACE OF LOADING AREAS

a) All loading areas and the ingress/egress to and from such loading areas located on such lot shall be hard surfaced with asphalt, concrete, or other material to provide a durable dust-free surface.

9) SPECIAL REGULATIONS FOR GASOLINE SERVICE STATIONS

a) The site design of any gasoline service station shall provide for the safe and efficient ingress and egress to the site for fuel delivery vehicles and an area for such fuel delivery vehicles to park while unloading which does not interfere with or impede ingress or egress to or from any public street.

SECTION 22. FENCES

A. STANDARDS

1) See District standards for height and barbed wire limitations.
2) At least 50 percent of the front yard area shall be open. Such open spaces must be reasonably dispersed throughout the entire area of the fence, except where solid stone or brick walls are permitted.
3) All front yard fences or walls shall be erected at least ten feet from the property line. The setback area shall be appropriately screened and landscaped. Landscaping shall be installed in such a manner as to promote compatibility with the uses in the surrounding areas, and to negate adverse visual effects of the fence or wall.
4) Any fence placed upon an erected earth berm or masonry wall must govern its height as measured to the ground adjacent to said earth berm or wall.
5) Open wire mesh fences surrounding sport courts may be erected to a height of 16 feet if such fences shall enclose only a regulation court and standard apron area.
6) No sign, fence, wall, shrub, or other obstruction to vision shall exist in the area designated as the vision clearance area of corner lots.
7) Fences located within any drainage easement other than a regulated drain shall be constructed so as to provide for an open space of 18 inches from the ground to the bottom of the fence.
8) No fence shall be located within a regulated drain easement, unless granted a *Non-Enforcement of Drainage Easement for Fences* permit by the City of Gary Board of Works.
9) No fence shall be located within a Platted Drainage Easement without a Regulated Drain Letter of Concurrence by the City of Gary Engineer.
10) No storage materials and/or containers may not be stacked/stored higher than the height of the fence.

See Use Matrix tables in District Chapters of this Ordinance for additional information.

SECTION 23. LIGHTING

A. PURPOSE AND INTENT

The community wishes to enhance the visual environment of the nighttime sky, protect the public health, safety, and welfare, provide safe roadway conditions for motorists, cyclists, and pedestrians, and promote energy efficient, cost-effective lighting while minimizing light pollution, intrusion, and trespass from uncontrolled light sources. It is the intent of this Section to minimize the intrusion of lighting across property lines and into the nighttime sky, thereby avoiding a disruption to the quality of life of residents.

B. APPLICABILITY

These regulations shall be applicable to all outdoor lighting sources which: (1) Are newly designed, constructed, erected, or placed into operation after the effective date of this Section; and (2) Require the relocation or replacement of existing lighting fixtures commenced after the effective date of this Section.

C. EXCEPTIONS

Exceptions to this Section shall include the following:

1) All outdoor light fixtures permitted prior to the adoption of these regulations shall be exempt from the shielding requirements of this Section, except that when an outdoor light fixture becomes inoperable, the replacement light fixture shall comply with the standards of this Section.
2) All hazard warning lighting required by federal and State regulatory agencies.
3) All temporary emergency lighting required by local law enforcement, emergency service and utility department(s).
4) All traffic control and directional lighting.
5) All underwater lighting used for the illumination of swimming pools and water features shall be exempt from the type of lamp and shielding standards of this Section.
6) All lighting for temporary festivals and carnivals

1. PROHIBITIONS

The following shall be prohibited:

1) The installation, sale, lease, or purchase of any mercury vapor lamp.
2) The use of laser source light or other similar high intensity light for outdoor advertising, except when permitted in conjunction with an Electronic Sign, when projected above the horizontal.
3) The operation of searchlights and floodlights for advertising purposes.
4) The use of any lighting source on towers shall be prohibited except as required by the Federal Aviation Administration.
5) The illumination of off-site advertising signs.

2. GENERAL LIGHTING STANDARDS

1) All Light Fixtures, with the exception of internally illuminated signs or Electronic Signage, shall be Fully Shielded and direct light downward toward the earth's surface.

2) All lighting sources shall be directed away from reflective surfaces to minimize glare upon adjacent Lots and Rights-of-way.
3) All lighting sources, with the exception of internally illuminated signage or Electronic Signage, shall be positioned in such a manner as to direct light away from adjacent Lots and Rights-of- way.
4) Light pole height shall not exceed twenty-five (25) feet. All Light Fixtures in Parking Areas shall be designed and located to confine emitted light to the Parking Area.
5) All Light Fixtures shall meet City Building Code requirements for their appropriate construction class.

3. MULTI-FAMILY RESIDENTIAL, AND NON-RESIDENTIAL USES STANDARDS

1) All Light Fixtures, with the exception of internally illuminated signage or Electronic Signage, shall be positioned in such a manner so that no light-emitting surface is visible from a residential Lot Right-of-way when viewed at ground level.
2) Light meter readings shall not exceed: (i) one-half (0.5) foot-candles at a single-family or multi- family residential Lot Line; or (ii) one (1.0) foot- candle at all other Lot Lines. [It should be understood that, with all of these measurements, light will still be visible at or beyond Lot Lines.]
3) All lights on poles, stands, or mounted on a building shall have a shield, adjustable reflector, and non-protruding diffuser.
4) All canopy structures shall have lights with diffusers which are recessed, and which do not extend below the surface of the canopy as measured on a plane parallel to the earth's surface.
5) Lighting under awnings and canopies shall only illuminate a Front Building Façade, a sign under an awning or canopy as measured on a plane parallel to the earth's surface.
6) All Parking Area lighting for nonresidential uses shall be reduced (e.g., turned off or dimmed) by a minimum of thirty percent (30%) within thirty (30) minutes of closing of the last businessor no later than 11:00 p.m.
7) No outdoor sports or Recreational Facilities shall be illuminated after 11:00 p.m., except to conclude a scheduled recreational or sporting event in progress prior to 11:00 p.m.
8) The Parking Areas and service facility areas for multi-family residential uses shall have sufficient lighting facilities, which shall be located and adjusted so that the glare or beam is directed away from any adjoining property, Street or Multi-family Dwelling window.

4. SIGN LIGHTING

1) Light Fixtures used to illuminate an outdoor advertising sign, other than a Monument Sign or an internally illuminated sign, shall be mounted on top of or above the sign structure and shall comply with the shielding requirements of this Section.
2) Light Fixtures used to illuminate ground-mounted, or Monument Signs may be illuminated with a ground-mounted or bottom-mounted Light Fixture, provided that the Light Fixture is Fully Shielded, and all light output is directed onto the sign surface.
3) Lamps utilized for the internal illumination of Wall Signs shall be turned off at 11:00 p.m. or when business closes.

5. LIGHTING PLANS

The Applicant for any permit required by this Ordinance that proposes outdoor lighting shall submit a Lighting Plan for properties zoned R4-M3 which includes:

1) A site plan indicating the location of all lighting structures, supports and Light Fixtures, including those Light Fixtures which presently exist on site and those which are proposed for the site.
2) A graphic and/or textual description of all lighting fixtures, both proposed and existing on-site. The description may include but is not limited to cut sheets and illustrations by the manufacture, lamp types, wattages, and lumen outputs.
3) A site plan with illuminance levels superimposed on the site plan in the form of an iso foot-candle diagram or point-by-point grid diagram.
4) All plot lighting levels shall be depicted at ten-foot intervals or less.
5) The iso foot-candle diagram shall plot foot-candle increments of one- half (0.5) foot-candle or less.
6) Photometric data depicting the angle of cut off of light emissions.

SECTION 24. WELLHEAD PROTECTION DISTRICTS

A. PURPOSE

Create and establish regulations and a map for Wellfield Protection Zones. The safety and potability of the community's water supply requires that lands near wellfields used to supply water for public purposes be subject to land use controls designed to prevent site development that is injurious to the public water supply.

Commercial and Manufacturing uses, if unregulated, have an immediate probability of permitting the introduction of toxic substances into the water supply.

Local water utilities, in compliance with Indiana Department of Environmental Management mandates for community public water systems, are presently establishing wellfield protection programs as a first step towards protecting their public water supply wellfields.

All public water supplies in City of Gary are totally dependent on groundwater as the source for public water supplies. Existing and future development in City of Gary is dependent on the availability of a safe and dependable supply of drinking water.

B. APPLICABILITY

The following requirements apply to all land within the Wellfield Protection Zones, as defined in subparagraph C, with the exceptions of all uses existing at the time of passage of this article, all agricultural uses (including agricultural confinement feeding and agricultural chemical uses and the storage of petroleum products) and of single and multi-family residential land uses connected to municipal sanitary and storm sewers. After the effective date of this article:

No building, structure, premises, or part thereof shall be constructed, erected, enlarged, extended, or relocated except in conformity with these regulations and for uses permitted by this article and until the proposed site and land use description has been filed with and approved by the City of Gary Office of Sustainability Office.

C. ESTABLISHMENT OF WELLFIELD PROTECTION ZONES

For purposes of this article, the following areas are designated as Wellfield Protection Zones:

Zone 1. The area contained within a one-year time-of-travel to a public water supply well or wellfield, as defined by a modeled delineation performed in compliance with 327 IAC 8-4.1; or the areas within 1,000 feet of a public water supply well.

Zone 2. The area contained within a five-year time-of-travel to a public water supply well or wellfield, as defined by a modeled delineation performed in compliance with 327 IAC 8-4.1; or the areas within 3,000 feet of a public water supply well.

D. SITE AND PLAN REVIEW

1. DEVELOPMENT PLANS REQUIRED

Unless otherwise exempted under [this section] any proposed land use within a Wellfield Protection Zone must submit a site and development plan, as described in [this section].

2. EXEMPTIONS

The following are not required to submit site and development plans:

1) *Zone 1 district*. Any land use, in the ordinary course of their business, that has, or will have, less than the threshold amount of one gallon of liquids in the aggregate or six pounds of water-soluble solids; and
2) *Zone 2 district*. Any land use, in the ordinary course of their business, that has, or will have, less than the threshold amount of 100 gallons of liquid in the aggregate or 600 pounds of water- soluble solids in the aggregate.
3) In determining thresholds, the following substances shall be exempted:
   a) Reasonable quantities of substances used for routine building and yard maintenance stored inside a facility.
   b) Liquids required for normal operation of a motor vehicle in use in thatvehicle.
   c) Substances contained within vehicles for bulk deliveries to the site.
   d) Beverages and food at restaurants, supermarkets, convenience stores, and other retail food establishments.
   e) Uncontaminated public water supply water, groundwater and/or surface water.
   f) Substances, which are packaged in pre-sealed containers, sold at retail establishments.
   g) Substances utilized for the production and treatment of public water supply; and
   h) Substances, which due to their inherent chemical or physical properties, which are determined to pose no significant threat to groundwater quality.
4) *Plan review*. Property located within Zones 1 and 2 proposed for new construction or expansion of existing facilities shall prepare and submit a description of said construction or expansion and the new or expanded use of the property. The site description shall be submitted to the City of Gary Office of Sustainability for review and either approval, disapproval, or approval with conditions. The City of Gary Office of Sustainability may solicit comments from the City of Gary Health Department and the applicable water utility on the site and development plan. In reviewing the site and land use description, the City of Gary Office of Sustainability shall assess whether the site and proposed land use:
   a) Will prevent potential groundwater contaminants associated with human activity from interfering with each community public water supply system's ability to produce drinking water that meets all applicable federal and state drinking water standards after undergoing conventional groundwater treatment, as employed by the public water supply system. These treatment processes include, but are not limited to aeration, detention, pressure filtration, and disinfection.
   b) Will not unreasonably endanger the quality of groundwater in a designated wellhead protection area. An unreasonable risk includes, but is not limited to, the inappropriate storage, handling, use and/or production of metals, inorganic compounds, volatile organic compounds, semi-volatile organic compounds, or other substances listed at 40 CFR Part 355, and

c) The site complies with the standards and prohibitions listed in the section below.

5) PLAN DOCUMENTATION AND SUPPORTING INFORMATION Said site and development plans shall include the following:
6) A narrative report of the proposed site, including:
7) 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.).
   a) Description of the proposed operations, including chemical/products used or generated, chemical/product storage area descriptions, waste generation quantities, equipment cleaning/maintenance procedures.
   b) Methods and locations of receiving, handling, storing, and shipping chemicals/products and wastes.
   c) Spill or release response measures and reporting.
8) Description of slopes near containment vessels and waste storage areas.
9) A site plan including:
   a) A vicinity map (USGS quadrangle preferred).
   b) A site map (drawn to scale) depicting:
   c) All existing and proposed structures.
   d) Paved and non-paved areas.
   e) Utility lines (inside and outside structures) including sanitary sewers, storm sewers, storm retention ditches/basins/french drains/dry wells, etc. (both proposed and existing).
   f) Floors drain locations and outlets.
   g) Chemical/product storage locations.
   h) Waste storage locations.
   i) Liquid transfer areas.
   j) Site surface water bodies (streams, rivers, ponds).
   k) Underground storage tanks (and associated piping).
   l) Aboveground storage tanks (and associated piping).
   m) Slope and contours of finished grade at two-foot intervals.
   n) Regulated drains; and
   o) Any and all easements.
10) Proposed containment area detail drawings, including area, heights, materials, specifications, if applicable.

3. DEVELOPMENT STANDARDS AND PROHIBITIONS

1) Except for single-family residences (with sewage flows under 750 gallons per day), all development shall be connected to municipal sanitary sewers or combined sewers. Floor drains, if present, must be connected to sanitary sewers or combined sewers or routed to a temporary holding area for removal.

2) No surface impoundments, pits, ponds, or lagoons shall be established except for:
   a) Stormwater detention and retention ponds; and
   b) Recreation, landscaping, or public water supply purposes.
3) In Zone 1, detention and retention ponds shall be constructed in a manner that provides an effective barrier to the migration of potential groundwater contaminants into groundwater, as

demonstrated by sealing the bottom of the structure with clay or other approved low permeability material.

4) The following restrictions apply to new storage areas in Zone 1:
   a) No aboveground storage of liquid and/or petroleum of greater than 1,000 gallons in aggregate.
   b) No storage of water-soluble solids of more than 6,000 pounds per container in any one containment area.
   c) No new underground storage tanks (USTs) are permitted.
5) All aboveground storage of liquids in excess of 40 gallons for more than 24 hours within Zones 1 and 2 must provide secondary containment which meets the following requirements:
   a) Containment must be capable of containing 110 percent of the volume of the tank or tanks.
   b) Constructed to meet one of the following:
      i) Designed to prevent and control the escape of the contaminant(s) into groundwater for a minimum of 72 hours before removal; or
      ii) Designed and built with an outer shell and a space between the tank wall and outer shell that allows and includes interstitial monitoring.
   c) The secondary containment structure shall be properly maintained and shall be free of vegetation, cracks, open seams, open drains, siphons, or other openings that jeopardize the integrity of the structure; and
   d) Secondary containment systems shall be designed so that the intrusion of precipitation is inhibited or that stormwater is removed to maintain system capacity.
6) In Zone 1, the following requirements apply to existing fuel dispensing facilities and associated underground storage tanks (USTs) which are to be replaced or upgraded:
   a) All USTs shall be double walled.
   b) All USTs shall include the following three methods of release detection:
      i) Inventory control as defined in 40 CFR 280.43(a).
      ii) Monthly 0.2 in-tank leak test as defined in 40 CFR 280.43(d); and
      iii) Interstitial monitoring of a double walled approved UST as defined by 40 CFR 280.43(g).
   c) Connected piping must include the following three methods of release detection:
      i) Inventory control.
      ii) Continuous detection for three gallon per hour line leak, as specified in 40 CFR 280.44(a) except that automatic shutoff is required at 95 percent tank capacity; and
      iii) Double walled line which is continuously monitored to detect the presence of liquid in the interstitial space and provided an alarm as specified in 40 CFR 280.44c via 40 CFR 280.43g.
7) In Zone 2, the requirements of 40 CFR Part 280 apply to all existing, registered USTs that are replaced or upgraded and USTs installed at new fuel dispensing facilities. In addition, the construction standards of 40 CFR Part 280, applicable to non-petroleum USTs, shall be applicable to the following in Zone 2:
   a) Such a tank that is covered by State or federal hazardous waste regulations; and
   b) Heating oil tanks for on-site use.

8) All Class V Injection Wells (including but not limited to dry wells, large-capacity cesspools, motor vehicle waste disposal wells, or other injection wells as defined at 40 CFR 146) shall be prohibited with the exception of the following:
   a) Air-conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump if non-contact.
   b) Cooling water return flow wells used to inject water previously used for cooling if non-contact.
   c) Barrier recharge wells used to replenish the water in an aquifer or to improve groundwater quality, provided the injected fluid does not contain potential groundwater contaminants; and
   d) Wells associated with the recovery of geothermal energy for heating, aquaculture, and production of electric power, if non-contact.
9) The transfer area for bulk delivery of liquids shall be required to accommodate and contain a release that occurs during loading and unloading of a tank as follows:
   a) The liquid transfer area shall be constructed in a manner to prevent a release in the transfer area from reaching the groundwater; and
   b) The portion of the liquid transfer area intended to contain releases shall be maintained so that it is free of vegetation, cracks, open seams, open drains, siphons, or other openings that jeopardizes the integrity of the area.
10) No disposal of solid waste, as defined at 329 IC 10-2-174, shall be permit either Zone 1 or Zone 2.
11) The following requirements apply to all excavation activities associated with the removal of sand and gravel materials:
   a) If the extraction of sand and gravel involves the removal of materials below the normal groundwater level, the work shall be performed by means of a dragline, floating dredge, or an alternative "wet" excavation method.
   b) There shall be no de-watering of sites utilized for sand and gravel extraction.
   c) No form of solid waste (as defined at 329 IC 10-2-174) or any other form of waste material of any kind, including but not limited to construction/demolition debris, shall be used on the site. Clean natural earth fill materials may be used without restriction as to origin or placement on-site.
   d) All fuels, oils, lubricants, hydraulic fluids, petroleum products, or other similar materials on site shall have appropriate secondary containment, as specified in subsection 5. [of this section.]

4. ESTABLISHMENT OF NEW WELLFIELD

Any person who wishes to establish a new wellfield for a public water supply system must first apply to the City of Gary Plan Commission, which shall hold a public hearing and make recommendations to the City of Gary City Council as to whether or not to approve the application. Notice of the hearing shall be given as follows: (1) By publication pursuant to IC 5-3-1-6; and (2) By certified mail, return receipt requested to all owners of real estate, whose real estate lies, in whole or part, within the proposed Zone 2 of the wellfield.

TABLE 13

Cross-Reference of Development Standards and Prohibitions by Land Use Wellfield Protection Zones		
Land Use	**Zoning District**	
	Zone 1 (One-Year TOT)	**Zone 2** **(Five-Year TOT)**
Sanitary land fills	Prohibited	Prohibited
On-site sewage disposal (commercial facilities)	Prohibited	Prohibited
Sand and gravel mining	Allowed Must use "wet" excavation Excavation can be filled only with clean fill	Allowed Must use "wet" excavation Excavation can be filled only with clean fill
Surface impoundments (e.g., pits, ponds, and lagoons)	Prohibited Exceptions for stormwater, recreation, etc.	Prohibited Exceptions for stormwater, recreation, etc.
Detention and retention basins	Allowed Must be lined	No Restrictions
New ASTs (>1,000 gallons)	Prohibited	Allowed Must have secondary containment at 110% of volume
New ASTs (<1,000 gallons)	Allowed Must have secondary containment at 110% of volume	Allowed Must have secondary containment at 110% of volume
Existing ASTs	Allowed Must have secondary containment at 110% of volume	Allowed Must have secondary containment at 110% of volume
Storage of water-soluble solids	Prohibited (In excess of 6,000 lbs.)	Allowed
		Must prevent release to ground; and be appropriately maintained
New USTs	Prohibited	Allowed Must meet all requirements of 40 CFR Part 280
Existing USTs	Allowed Must be double walled Must include leak detection (40 CFR 280.43) Must have release detection on connection piping (40 CFR 240.44)	Allowed Must meet all requirements of 40 CFR Part 280
Class 5 Injection Wells (e.g., dry wells)	Prohibited	Prohibited
Liquid transfer areas	Allowed. Must prevent release to ground; and must be appropriately maintained	Allowed. Must prevent release to ground; and must be appropriately maintained

SECTION 25. TELECOMMUNICATIONS

A. PURPOSE

The purpose of this ordinance is to provide for sensible and reasonable land uses to allow for the provision of adequate reliable public and private telecommunications service and to maximize the use of any transmission tower in order to reduce the total number of towers needed to serve the telecommunications needs of the area; to minimize adverse visual effects of towers through careful design, siting, and vegetative screening.

B. FACILITY GENERAL REQUIREMENTS

All wireless telecommunications facilities shall meet the following provisions:

The location of the tower and equipment buildings shall comply with all local, state, and federal natural resource protection standards.

1) The following buffer plantings shall be located around the perimeter of the outer most perimeter or security fence of a wireless telecommunications facility.
   a) A live evergreen screen shall be planted around the entire facility including the guy wires and anchors, if used, that consist of a hedge, planted three feet on center maximum, or a row of evergreen trees planted a maximum of ten feet on center, height of plants at time of planting shall be no less than five feet tall.
   b) Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.
2) An antenna may be located on a building or structure that is listed on a historic registry only after obtaining all necessary and required approvals. Any antenna located in a historic district will require approval by the BZA for a special use approval.
3) Vehicular access to the tower and equipment building shall, whenever feasible, be provided along the existing driveways.
4) The wireless telecommunications facility shall be fully automated and unattended on a daily basis and shall be visited only for periodic maintenance and emergencies.

C. ROOF MOUNTED ANTENNAS.

The following chart shows where roof mounted antennas are permitted, and where and how they are restricted and necessary approvals.

Unscreened 11 or more feet above the roof line	Unscreened 10 or less** feet above the roof line
BZA approval for Development Standard Variance	Director's approval
Screened 11 or more feet above the roof line	Screened 10 or less feet above the roof line
Director's approval	Director's approval
**If within 200′ of residential property lines BZA approval required	

D. ZONING DISTRICTS

1) RESIDENTIAL

a) A wireless telecommunications facility shall require a special use approval from the BZA and meet all the general and following requirements when located in a residential and or agriculture district:

b) The tower shall be setback from any property line a distance equal to at least 100 percent the height of the tower.
c) Maximum height: tower 125 feet, accessory structures 15 feet.
d) Minimum number of antenna sites for a 125 feet tower is three, if tower is less than 125 feet
e) The tower shall be a monopole design.

2) BUSINESS

a) Wireless telecommunications facility shall require approval as special uses by the BZA in all office and commercial districts and meet the following and all other requirements within this ordinance.

b) Minimum setback: equal to 80 percent of the height of the tower.
c) Maximum height: tower 180 feet accessory structure 15 feet.
d) Minimum number of antenna sites for a 180 feet tower is four; if tower is less than 180 feet.
e) Tower shall be placed no closer than 500 feet to any residential structure if closer will require special use approval by the BZA.

3) MANUFACTURING

a) A wireless telecommunications facility shall be permitted in manufacturing districts that meet the following and all other requirements within this ordinance.

b) Minimum setback from the property line: equal to 50 percent of the height of the tower.
c) Maximum height: tower 250 feet—accessory structure 15 feet.
d) Minimum number of antenna sites for a 250 feet tower is six, if tower is less than 250 feet
e) Tower shall be placed no closer than 500 feet to any residential structure if closer will require special use approval by the BZA.

4) TOWER, ANTENNA AND SUPPORT STRUCTURES DESIGN REQUIREMENTS

Proposed or modified towers and antennas shall meet the following design requirements:

i) Tower and antennas shall be designed to blend into the surrounding environment through the use of color, camouflaging and architectural treatment, except in instance where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
ii) Wireless telecommunications service towers less than 131 feet tall shall be of a monopole design and when located within an environmentally, aesthetically sensitive area or a residential district, designed in such a way as to architecturally camouflage the wireless telecommunications service tower as much as reasonably practical to blend into the surroundings.
iii) The entire facility must be aesthetically and architecturally compatible with its environment. The use of residentially compatible materials such as wood, brick, or

stucco is required for associated support structures, which shall be designed to architecturally match the exterior of residential or commercial structures within the neighborhood or area. Only if the facility will be 100 percent screened during all seasons will other materials be approved.

iv) Only when lighting is for safety or security reasons or required by the Federal Aviation Administration or other federal or state authority will it be permitted. When approved the lighting shall be oriented inward so as not to project onto surrounding residential properties.

E. APPLICATION REQUIREMENTS

1) At the time of submission of an application for special uses or building permit theapplicant shall submit an initial or updated plan showing the location of existing and future planned telecommunications towers, within an area of ten miles in all directions of the proposed facility for a two-to-five-year time period.
2) Site plan(s) drawn to scale identifying the site boundary; tower(s); guy wire anchors; existing and proposed structures, including accessory structures; existing and proposed ground- mounted equipment; vehicular parking and access road; and any existing uses, structures, and land use designations on the proposed site and within 500 feet or abutting parcels, whichever is further.
3) A landscape plan drawn to scale generally showing proposed landscaping, including species type, size, spacing, other landscape features and existing vegetation to be retained, removed, or replaced.
4) A report from a qualified individual(s) containing the following, which shall not limit the tower height or design or the number and type of antennas that shall be permitted unless expressly so stated in this ordinance:
   a) A description of the tower and the technical and other reasons for the tower design.
   b) Documentation to establish that the tower has sufficient structural integrity for the proposed uses at the proposed location and meets the current minimum safety requirements.
   c) The general capacity of the tower in terms of the number and type of antennas it is designed to accommodate.
5) A letter of intent stating that applicant intends to lease excess space on the tower to other potential users at reasonable rental rates and on reasonable terms. The letter shall commit the tower owner and successors in interest to do the following
   a) Respond in a timely, comprehensive manner to a request for information from another potential user of the tower.
   b) Negotiate in good faith for shared use by others.
   c) Allow shared use if an applicant agrees in writing to pay reasonable rental charges or other consideration and to pay all costs of adapting the tower or existing users' equipment to accommodate a shared user without causing uneconomically correctable electromagnetic interference, and otherwise agree on reasonable business terms and conditions for shared use of the tower.
6) Letter of consent by property owner if not same owner of the tower.

7) Show any easements necessary for access, guy wire anchors or other off-site uses on the site plan.
8) Applications for towers intended for transmitters that will broadcast at a power in excess of 1,000 watts of radio frequency power per transmitter must include evidence that the applicant has contacted owners of all existing or approved towers and that the equipment for which the proposed tower is being constructed cannot be technologically or structurally accommodated on an existing or approved tower. Applicants for FM radio and high-power UHF and VHF television station antennas shall only be required to contact the owners of towers whose height in 200 feet or whose tower can reasonably satisfy the requirements for height above average terrain and geographic location as set forth in their application and/or granted of construction authority from the FCC. Such evidence shall include the following:
    a) A list of contacts.
    b) The antenna specifications including, but not limited, to the weight and wind loading requirements; length, width, and height; and transmitter space requirements provided to the tower owner(s) or representative(s).
9) The board may require in residential areas visual study containing, at a minimum, a viewshed map depicting where within one mile radius any portion of the proposed tower could be seen, and a graphic simulation showing the appearance of the proposed tower and accessory structures from three points within the view shed, such points to be mutually agreed upon by the Plan Commission staff and applicant
10) An analysis of the area to be used containing the following:
    a) Existing topographical contours based on the best available existing maps.
    b) Bodies of water and intermittent or perennial streams.
    c) Major vegetation masses.
    d) Existing roads and structures.
    e) Existing easements or rights-of-way (i.e., drainage, utility, irrigation, access, etc.) in or contiguous to the site.
    f) Identified mineral resource area.
    g) Where the area in which construction will occur contains slopes greater than ten percent, a slope analysis of the area affected by construction depicting locations and direction of slope faces for slope faces for slopes within the following categories: 0—8 percent, 9—15 percent, 16—22 percent, 23—30 percent, greater than 30 percent.
    h) Floodplains/floodways.
    i) Location of special potential hazards such as geologic hazard overlay zone, airports, or radiological hazards.
    j) Location of special resources such as well fields, historic structures, and archaeologically significant remains.
11) Elevations of the proposed tower and accessory structures generally depicting all proposed antennas, platforms, finish materials, and all other accessory equipment.

F. PERMITS

It shall be unlawful for any person, firm, or corporation to erect, construct, place or re-erect, or replace any tower or antenna without first making application to the City of Gary Plan Commission or its designee and securing a permit therefor as hereinafter provided.

The applicant shall provide at the time of application sufficient information to indicate that construction, installation, and maintenance of the antenna and tower will not create a safety hazard or damage to the property of other persons.

Permits are not required for:

1) Adjustment or replacement of the elements of antenna array affixed to a tower or antenna, provided that the re does not reduce the safety factor.

Antennas and/or towers erected temporarily for test purposes, for emergency communication, provided that no safety or personal property will be hindered in the process. All temporary antennas and or towers will be removed within 72 hours following installation.

G. CO-LOCATION REQUIREMENTS

Any request submitted to the Office of the City of Gary Plan Commission to install an antenna to be located on an existing approved or grandfathered tower will only require a building permit and the contract between the applicant company and the owner of the tower.

All commercial wireless telecommunications towers erected, constructed, or located within the City of Gary Plan Commission jurisdiction shall comply with the following requirements:

1) All towers at a minimum are to be constructed to support the initial user (wireless telecommunications antenna) plus handle the anticipated loading of a second user on a monopole and third user on all other towers equal to the antenna loading of the initial user.
2) The size of the site of the initial tower and support facility shall be sufficient area to allow for the location of one additional support facility for future co-location antennas on a monopole tower and sufficient area to allow for the location of two additional support facilities for future co-location antennas or all other towers.
3) A proposal for a new commercial wireless telecommunications service tower shall not be approved unless the applicant submits verification that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building or other structure due to one or more of the following reasons:
    a) The planned equipment would exceed the structural capacity of the existing or approved tower, building, or structure as documented by a qualified and licensed professional engineer, and the existing or approved tower, building or structure cannot be reinforced, modified, or replaced to accommodate existing and planned equipment at a reasonable cost.
    b) The planned equipment would cause interference impacting the usability of other existing or planned equipment at the tower site. Supportive documentation shallbe provided by a qualified and licensed professional engineer indicating that the interference cannot be prevented at a reasonable cost.

c) No existing or approved tower, building or structure within the search radius can accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
d) Unforeseen reasons make it infeasible or impossible to locate the planned telecommunications equipment upon an existing or approved tower, building or structure.
e) Unable to enter a commonly reasonable lease term with the existing tower owner.
f) If agreement cannot be reached between parties both parties shall agree to binding arbitration. Additional land area is not available.

4) Any proposed commercial wireless telecommunications service tower shall be designed, and engineered structurally, electrically and in all other respects to accommodate both the applicant's antenna array and at least one additional user's antenna array for every 30 feet of tower above 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and accept antennas mounted at varying heights.

H. CONSTRUCTION AND MAINTENANCE OF WIRELESS TELECOMMUNICATIONS FACILITY

1. CONSTRUCTION REQUIREMENT

All antennas, towers, accessory structures, and wiring constructed within the City of Gary Plan Commission jurisdiction, shall comply with the following requirements:

1) All applicable provisions of this Code and the Building Code of the State of Indiana and the Federal Communications Commission when applicable.
2) Towers shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the uniform building code and the electronics industry association.
3) With the exception of necessary electric and telephone service and connection lines approved by the BZA no part of any antenna or tower nor any lines, cables, equipment or wires or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk,trails, or property line without appropriate approval in writing.
4) The tower and associated antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the national electrical code.
5) All towers shall be constructed to conform with the requirements of the occupational safety and health administration.
6) An eight-foot-high security fence shall completely surround the tower (and guy wires if used) and equipment building.
7) All signal and remote-control conductors of low energy extending substantially horizontally above the ground between a tower, antenna, and a structure, or between towers, shall be at least ten feet above the ground at all points, unless buried underground.
8) The tower shall be designed and constructed to all applicable manuals and standards of the American National Standards Institute as amended.
9) An engineer's certification shall be submitted to document and verify the design specifications, including, but not limited to, the foundation for the tower, and anchors for

the guy wires if used, co-location, strength requirements, for natural forces, including, but not limited to, ice, wind, and earth movements.

10) Towers and antenna shall be designed and constructed, at a minimum, to withstand wind gusts of at least 80 miles per hour with one-half inch of ice and to accommodate any co-location requirements.

2. INSPECTIONS

All towers may be inspected at least once every five years by an official of the City of Gary Plan Commission and/or a qualified and licensed engineer to determine compliance with the original construction standards. Deviation from original construction for which a permit is obtained constitutes a violation of this ordinance.

Notice of violations will be sent by registered mail or certified mail to the owner and the owner will have 30 days from the date the notification is issued to make repairs. The owner will notify the Building Commissioner that the repairs have been made, and as soon as possible thereafter, another inspection will be made, and the owner notified of the results.

3. ABANDONMENT

Any tower unused or left abandoned for 12 months shall be removed by the tower owner.

SECTION 26. ANIMAL STANDARDS

This section allows the keeping of farm animals in single-family and two-family residential areas as a permitted use. The Ordinance applies in City's zoning jurisdiction area.

A. DOMESTIC ANIMALS ON SINGLE-FAMILY RESIDENTIAL LOTS

Domestic Animal	Lot Size	Number Allowed
Dogs and Cats	4,999 sq.ft. or less	No more than three (3) adult dogs and/or cats over the age of six (6) months shall be kept on any residential lot.
Other Small Household Pets (e.g., hamsters, fish, small birds)	Any	Reasonable numbers permitted, provided they are kept indoors and do not create a nuisance.

B. FARM ANIMALS PERMITTED ON SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL LOTS

Farm Animal	Lot Size	Number Allowed
Any	2,500 sq.ft. or less	0
Female Domesticated Chicken (Hen) Rabbits	5,000 sq. ft. or more	1 per 3,000 sq. ft. of lot area, up to 10 hens
Rooster	5,000 sq. ft. or more	1 per 10,000 sq. ft. of lot area
Fowl (Hens, Ducks, Geese, Turkeys), and Other Grain-fed Rodents	40,000 sq. ft. or more	10 total farm animals
Honeybees**	At least 10,000 sq. ft.	3 beehives
	40,000 sq. ft. or more	5 beehives
Honeybees (Nucleus Hives)	At least 6,000 sq. ft.	1 nucleus hive per 1 regular beehive
Livestock	Not permitted	0

** Honeybees are permitted in any use district.

C. MAXIMUM HEIGHT

Maximum height of 6 feet for small animal structures (e.g., chicken coops) and beehive structures.

D. MINIMUM SETBACK

Minimum distances from property lines for small animal structures (e.g., chicken coops, rabbit hutches) and beehive structures:

Average Lot Width	Minimum Distance from		
	Front Property Line	**Side Property Line**	**Rear Property Line**
Less than 50 feet	30 feet/animal structures and beehives	5 feet/animal structures 10 feet/beehives***	10 feet/animal structures 15 feet/beehives***
50 feet or more, but less than 120 feet	30 feet/animal structures and beehives	25 feet/animal structures and beehives	25 feet/animal structures and beehives
120 feet or more	60 feet/animal structures and beehives	40 feet/animal structures and beehives	40 feet/animal structures and beehives

*** If the beehive structure is located less than 15 feet from any property line, the structure must be separated by a 6-foot-high natural or constructed solid barrier directly between the structure and the property line."

E. ADDITIONAL BEEKEEPING REQUIREMENTS

An apiary must be registered and identified. A freshwater source for bees must be provided at all times on a lot on which an apiary is located.

Established honeybee colony structures that do not meet the requirements of this ordinance at the time of its adoption shall be considered legal non-conforming uses and are exempt from these requirements. However, any structures that are moved, added, or replaced thereafter or are reestablished after an abandonment of one year must be compliant with the terms of this Section.

An apiary must be identified and registered with the Indiana Department of Natural Resources Division of Entomology and Plant Pathology, or its successor. A freshwater source for honeybees must be always provided on a lot on which an apiary is located.

SECTION 27. SEXUALLY ORIENTED BUSINESS STANDARDS

The purpose of this Section is to control certain land uses that have a direct and detrimental effect on the character of the City's community.

A. INTENT

It is not the intent of the City to prohibit adult uses or sexually oriented businesses or establishments from having an opportunity to locate in the City. It also is not the intent of the City to regulate these businesses on the basis of content, but only on the basis of likely adverse secondary effects.

B. CONDITIONS

No adult use principal or sexually oriented business may be open to the public between the hours of 2:00am and 10:00 am.

C. CONDITIONS, ADULT USE PRINCIPAL

1) The City prohibits any building owner or operator from having more than one of the following uses, tenants, or activities in the same building or structure: adult body painting studio, adult bookstore, adult cabaret, adult car wash, adult companionship establishment, adult entertainment facility, adult hotel or motel, adult modeling studio, adult sauna/steam room/bathhouse, adult motion picture theater, adult mini-motion picture theater, adult massage parlor, adult health/sports club, adult novelty business, or any business or establishment in which there is an emphasis on the presentation, display, depiction, or description of sexual activities or anatomical areas that the public could see.

2) No adult use principal and sexually oriented business entertainment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the adult use establishment that is prohibited by any ordinance of the City or the laws of the state or United States of America. Nothing in this Section shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances including, but not limited to, statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally or the exhibition, sale, or distribution of specified materials to minors.
3) No adult use principal or sexually oriented businesses shall be conducted in any manner that permits the perception or observation from any property not approved as an adult use of any materials depicting, describing, or related to specified sexual activities or specified anatomical areas by any visual or auditory media, including display, decoration, sign, show window, sound transmission, or other means.
4) All adult use principal and sexually oriented businesses shall prominently display a sign at the entrance and located within two feet of the door opening device of the adult use establishment or section of the establishment devoted to adult books or materials which states: "This business sells or displays material containing adult themes. Persons under age 18 years of age shallnot enter."

5) No person under the age of 18 shall be permitted on or in the premises of an adult use or sexually oriented business establishment. No person under the age of 18 shall be permitted access to material displayed, offered for sale, given, transferred, conveyed, or rented by an adult use or sexually oriented business.

D. ADDITIONAL SIGN RESTRICTIONS

The following sign regulations shall apply to all adult use and sexually oriented businesses in the City. These regulations are to protect children from exposure to sexually oriented or shocking signs and materials and to preserve the value of property near adult use and sexually oriented businesses. These regulations are aside from any other provision of this Ordinance:

1) No signs shall be located on the roof or contain any flashing lights, moving elements, or electronically or mechanically changing messages.

2) The City's sign regulations for the zoning district where the business is located shall regulate the amount of allowable sign area and the number of allowed signs for an adult use or sexually oriented business.
3) No merchandise photos or pictures, silhouettes, photographs, or drawings of the products, content of the products, or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or public right-of-way adjoining the building or structure in which the adult use or sexually oriented business is located.
4) No signs shall be placed in any window. A two square foot sign may be placed on the door to state hours of operation and admittance to adults only.
5) No sign shall display an exterior sign or interior sign visible from outside larger than 25 square feet.
6) An adult use principal or sexually oriented business shall prominently display a sign at the entrance and located within two feet of the door, in letters that are at least one inch high but not more than three inches high that states: "This business sells or displays material containing adult themes. Persons under the age of 18 shall not enter."
7) Similarly, businesses that contain a section devoted to adult books, materials, or entertainment shall prominently display a sign within two feet of the entrance to that section, in letters that are at least one-inch-high stating: "This section (or department) contains adult books, materials, or entertainment. Persons under the age of 18 shall not enter."
8) Only one sign is permitted in addition to the sign limiting access to those over 18.
9) No sign shall depict, describe in words, or relate to specific sexual activities or specified anatomical areas.
10) All signs shall be flat wall signs. No sign shall be freestanding, located on the roof, illuminated, containing moving elements or mechanically changing messages. No sign shall contain fluorescent paint or other highly reflective materials such as, but not limited to, metallic finishes.

SECTION 28. ADVISORY PLAN COMMISSION

A. CREATION, COMPOSITION AND ORGANIZATION

1. ESTABLISHMENT

Establishment. The City Advisory Plan Commission was established pursuant to Gary City Code Section 2-1439 and shall operate in accordance with IC 36-7-4-200 et seq.MEMBERSHIP OF COMMISSION

i. Attendance: An appointed member who misses three (3) consecutive regular meetings of the Plan Commission may be treated as if the member had resigned, at the discretion of the appointing authority.
ii. Terms of office: 4 years. The term of office of a member (who is appointed from the membership of a legislative body, a park board, or the advisory council on town affairs) is coextensive with the member's term of office on that body, board, or council, unless that body, board, or council appoints, at its first regular meeting in any year, another to serve as its representative.
iii. Conflict of interest.
    a. No member of the commission shall participate in a hearing or decision of the commission concerning a matter in which they have a direct or indirect financial interest or, which for any other reason brought to the attention of the commission, results in his disqualification either by himself/herself or by the commission.
    b. The commission shall enter in its records the fact that a regular member has such a disqualification and the name of the alternate member, if any, who participates in the hearing or decision.
    c. Any participating alternate member shall be appointed by the same body which appointed the regular member who has been disqualified.

B. ORGANIZATION

At its first regular meeting in each year, the commission shall elect from its members a president and a vice president. The commission may appoint and fix the duties and compensation of a secretary and those employees necessary for this discharge of its duties, all in conformity to and compliance with salaries and compensations fixed by the City Commission and state law.

C. PROCEDURE

1. RULES OF PROCEDURE

The commission shall supervise, and make rules for, the administration of the affairs of the commission; and prescribe uniform rules pertaining to investigations and hearings.

2. MEETINGS AND RECORDS

Except as otherwise provided by law, all meetings of the commission shall be open to the public. The commission shall keep minutes of its meetings, keep records of its examinations and other official actions,

prepare written findings of fact and record the vote, disqualification, abstention, or failure to vote of each member upon each question. The minutes of commission meetings and all records shall be filed in the office of the commission and are public record.

D. AUTHORITY

1. POWERS AND DUTIES

1) The commission shall:
   a) Make recommendations to the Gary Common Council concerning:
      i) The adoption of the comprehensive plan, zoning ordinance, and amendments thereto; and
      ii) Any other matters, within the jurisdiction of the commission, authorized by the advisory planning law as defined in IC 36-7-4-101; and
   b) Render decisions concerning and approve:
      i) Plats or replats of subdivisions; and
      ii) Planned developments for residential, commercial, and manufacturing uses.

2. COMMITMENTS

Pursuant to the authority granted under IC 36-7-4-1015, commitments may be permitted or required in connection with the approval of: (a) As a condition to the: (1) adoption of a rezoning proposal; (2) primary approval of a proposed subdivision plat or development plan; (3) approval of a vacation of all or part of the plat; or (4) approval of an application for a: (A) special exception; (B) special use; (C) contingent use; (D) conditional use; or (E) variance; the owner of a parcel of real property may be required or allowed to make a commitment concerning the use or development of that parcel.

Commitments shall be regulated as follows:

1) **Zone map changes.** The Plan Commission may permit or require the owner of real property which is the subject of a zone map change request, to make written commitments concerning the use or development of the such real property pursuantto IC 36-7-4-615 and IC 36-7-4-1512 in connection with making a recommendation on a zone map change request to any zoning district classification contained in this article, including a zone map change request for a PUD district, as a condition of development.
2) **Secondary approval of a PUD or modification of a PUD.** The Plan Commission Director, on behalf of the Plan Commission, or the Plan Commission in the case of a referral or appeal, may permit or require the owner of real property which is the subject of a secondary approval of a PUD or a request for a modification of permitted uses or development requirements of a PUD to make written commitments concerning the use or development of the such real property pursuant to IC 36-7-4-615 and IC 36- 7-4-1512 in connection with the issuance of a secondary approval or modification of permitted uses or development requirements of a PUD as a condition of development.
3) **Development plans.** The Plan Commission Director, on behalf of the Plan Commission, or the Plan Commission in the case of a referral or appeal, may permit or require the owner of the real property which is the subject of a development plan approval to make a written commitment regarding the use or development of such real property pursuant to IC 36-7-4-

1405(b)(3) and IC 36-7-4-613 in connection with the approval of a development plan as a condition of development.

4) **Recording**. The commitments shall be reduced to writing in recordable form and signed by the owner(s) of the real estate. The commitments shall be in effect for: (i) as long as the real estate to which they apply remains zoned to the classification to which the real estate was zoned when the commitments were made; or (ii) modified or terminated as provided below. The commitments shall authorize their recording by Staff of the City of Gary Plan Commission in the Office of the Recorder of City of Gary, Indiana upon the final approval of a development plan by the Plan Commission or the final approval of the zone map change by the Board of Commissioners of City of Gary, Indiana. Following the recording of the commitments, Staff of the City of Gary Plan Commission shall return the original recorded commitments to petitioner and shall retain a copy of the recorded commitments in its file.
5) **Enforcement**. The Plan Commission, owners of all parcels of ground adjoining the real estate and all owners of real estate within the area included in the petition who were not petitioners for approval, and other specially affected persons designated in such commitments shall be entitled to enforce such commitments pursuant to IC 36-7-4-1015(d) or as otherwise provided by applicable law.
6) **Form of commitments.** The commitments required by the Plan Commission shall be in writing on the form provided by the Plan Commission Director.
7) **Modification**. Commitments may be modified or terminated by a decision of the Plan Commission, made at a public hearing after notice to adjoining owners within the lesser of 600 feet or two ownerships of the subject property by certified mail - return receipt requested. Any modification or termination of the commitments shall not be effective until: (i) reduced to writing; (ii) approved by the Plan Commission; (iii) executed and notarized by the present owner(s) of the real estate; and recorded in the Office of the Recorder of City of Gary, Indiana, in substantially the same manner as set forth in subsection 2., d., above.
8) **Form of modification.** The modification or termination of commitments shall be in writing on the form provided by the Plan Commission Director.

SECTION 29. ADVISORY BOARD OF ZONING APPEALS (“BZA”)

A. ESTABLISHMENT

The BZA is hereby established in accordance with IC36-7-4-900 et seq. For the purpose of this article, the term "board" refers to the BZA.

B. ORGANIZATION

At the first meeting of each year, each division of the board shall elect a chairperson and a vice- chairman from among its members. The board may appoint and fix the compensation of a secretary and those employees necessary for this discharge of its duties, all in conformity to and compliancewith salaries and compensations fixed by the City Commission and state law.

C. PROCEDURE

1. RULES OF PROCEDURE

In addition to other powers and duties specified by state law, the board shall adopt rules concerning the filing of appeals, applications for variances and special uses, the giving of notice, the conduct of hearings and other subjects or matters as required by state law or as deemed necessary or desirable by the board.

2. MEETINGS AND RECORDS.

Except as otherwise provided by law, all meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, keep records of its examinations and other official actions, make written findings of fact in all cases heard by it and record the vote, disqualification, abstention, or failure to vote of each member upon each question. All minutes and records shall be filed in the office of the board and are public records.

3. FINDINGS AND DECISIONS.

All decisions of the board on all matters within their jurisdiction and authority shall be in writing supported by specific findings of fact on each material element pertaining to the matter under consideration.

4. REVIEW BY CERTIORARI.

Each decision of the board is subject to review by certiorari as prescribed by state law.

D. AUTHORITY

1. POWERS AND DUTIES

The board:

1) Shall hear and determine appeals from and review any order, requirement, decision, or determination made by the Plan Commission Director, a staff member or administrative board designated by ordinance, other than the Plan Commission, made in the enforcement of the zoning ordinance or the issuance of building and occupancy permits under IC tit. 36, art. 7.
2) May reverse or affirm, wholly or partly, or may modify any order, requirement, decision, or determination appealed from as in its opinion ought to be done in the premises and to that end shall have all the powers vested in the person or board from whom the appeal is taken.

3) Shall hear, and approve or deny, all special uses as specified in the zoning ordinance. A special use may be approved under this section only upon a written determination as provided in this article.
4) The board shall make written findings of fact and decisions as provided in this article pursuant to and consistent with the following criteria:
5) To grant a special use, the board shall find that:
   a) The establishment, maintenance, or operation of the special uses will not be injurious to the public health, safety, morals, or general welfare of the community.
   b) The special uses will not affect the use and value of other property in the immediate area in a substantially adverse manner.
   c) The establishment of the special uses will be consistent with the character of the district (particularly that area immediately adjacent to the special uses) and the land use permitted therein.
6) The board may impose conditions as part of its approval to protect the public health, and for reasons of safety, comfort, and convenience.
7) To approve or deny a variance from the development standards, as defined in the district regulations of the zoning ordinance, the board shall determine in writing that:
   a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
   b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
   c) The strict application of the terms of the zoning ordinance would result in a practical difficulty in the use of the property.
8) To approve or deny variances of use from the terms of the zoning ordinance, the board shall determine in writing:
   a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
   b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
   c) The need for the variance arises from some condition peculiar to the property involved.
   d) The strict application of the terms of the zoning ordinance would constitute an unnecessary hardship if applied to the property for which the variance is sought; and
   e) The approval does not interfere substantially with the City comprehensive plan.
9) To reverse or modify, in whole or in part, an order, requirement, decision or determination of the Plan Commission Director, staff member or administrative board (other than the Plan Commission), the board shall find that the Plan Commission Director, staff member or administrative board:
   a) Improperly interpreted any relevant portion of a law, ordinance, or rule; or
   b) Improperly took administrative action pertaining to a relevant law, ordinance, or rule; or
   c) Improperly enforced a relevant law, ordinance, or rule.

2. COMMITMENTS

The board may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel to receive a special use or a variance from the terms of the zoning ordinance. Those commitments shall be recorded in the office of the City recorder and shall

take effect upon the granting of the special use or variance. A recorded commitment shall be binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel.

A commitment may be modified or terminated only by a decision of the board made at a public hearing after notice as provided by rule.

E. CONFLICT OF INTEREST

1) No member of the board shall participate in a hearing or decision of the board concerning a matter in which they have a direct or indirect financial interest or, which for any other reason brought to the attention of the board, results in his disqualification either by himself/herself or by the board.
2) The board shall enter in its records the fact that a regular member has such a disqualification and the name of the alternate member, if any, who participates in the hearing or decision in place of the regular member.
3) Any participating alternate member shall be appointed by the same body which appointed the regular member who has been disqualified.

F. COMMUNICATION WITH BOARD MEMBERS

No person shall communicate with any board member prior to a hearing or decision with the intent to influence the actions of any member of the board regarding any matter pending before the board. However, the staff may file a written statement with the board setting forth facts or its opinions concerning that matter.

SECTION 30. ADMINISTRATION

A. AMENDMENTS

All amendments to this ordinance shall be in conformance with relevant provisions of IC 36-7-4-600 et seq., as now or hereafter amended.

B. VALIDITY

If any title, article, section, clause, paragraph, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other title, article, section, clause, paragraph, provision, or portion of this ordinance.

C. DUTIES OF PLAN COMMISSION DIRECTOR

1) It shall be the duty of the Plan Commission Director to enforce this ordinance and receive applications required by this ordinance, issue permits, and furnish the prescribed certificates. Shall examine premises for which permits have been issued and shall make necessary inspections to see that the provisions of law are complied with. Shall enforce all laws relating to the construction, alteration, repair, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, except as may be otherwise provided for. Shall, when requested by the board of commissioners or when the interests of the City so require, make investigations in connection with matters referred to in this ordinance and render written reports on the same. For the purpose of enforcing compliance with law, shall issue such notices or orders as may be necessary and submit an annual report of the activities of the office to the Plan Commission, BZA and Mayor's office.
2) The Plan Commission Director shall keep careful and comprehensive records of applications, of permits issued, of certificates issued, or inspections made, or reports rendered, and of notices or orders issued. Copies of all papers in connection with building work may be provided electronically.

D. APPLICATION NOTIFICATIONS

Plan Commission Applications and Board of Zoning Appeals Requests shall have a public notification/mailing requirement. Notification requirements shall be set forth in the application material.

E. ADMINISTRATION OF PERMIT PROCESS

1. APPLICATION AND APPROVAL OF PERMITS.

1) Any person, who shall make application for a building permit, shall, at the time of making such application furnish a site plan or development plan of the real estate upon which said application for improvement location and/or building permit is made at least five days prior to the issuance of said permit(s), which five-day period may be waived. Said site plan shall be drawn to scale and show items required of a site plan under this ordinance.
2) An application for an improvement location and/or building permit for any manufacturing use subject to the provisions of this ordinance shall be accompanied by a "certificate of compliance" subscribed by a registered professional engineer or architect, certifying that the

use intended will satisfy the performance standards of manufacturing uses in the district in which it is to be located. The Plan Commission Director may take five business days in which to study the application, during which time they may consult with appropriate technical consultants. If, after the ten-day period, the Plan Commission Director has not required any additional information or stated any objections in writing, the Plan Commission Director shall issue the building permit.

3) Site plans so furnished shall become a permanent public record.
4) An applicant for an improvement location and/or building permit must also file for site plan review and approval, and the Plan Commission Director, zoning administrator, or an authorized designee, shall consider and evaluate such application and associated site plan, and thereupon render his decision in writing, which decision shall consist of either
   a) Approval of the site plan based upon the determination that the proposed plan will constitute a suitable development and is in compliance with the general standards and design standards as specified
   b) Disapproval of the site plan based upon the determination that the proposed project does not meet either the general standards or design standards set forth; or
   c) Approval of the site plan subject to any conditions, modifications and restrictions as required by the Plan Commission Director which will ensure that the project meets the general standards and design standards set forth
5) No building permit or certificate of occupancy can be issued by the Building Commissioner until the site plan submitted by the applicant shall have first been approved as being consistent with those standards specified.

2. CERTIFICATE OF OCCUPANCY

i. No land shall be occupied or used and no building hereafter erected, reconstructed, or structurally altered shall be occupied or used, in whole or in part, for any purpose whatsoever, until a certificate of occupancy shall have been issued stating that the building and use comply with all the provisions of this ordinance applicable to the building or premises of the use in the district in which it is to be located.

ii. When the improvement covered by the building permit has been completed in conformity with the site plan or development plan submitted in the application pursuant to paragraph a of this section, a certificate of occupancy shall then be issued.

iii. No change shall be made in the use of land or in the use of any building or part thereof, now, or hereafter erected, reconstructed, or structurally altered, without a certificate of occupancy having been issued and no such certificate shall be issued to make such change unless it is in conformity with the provisions of this ordinance.

iv. A certificate of occupancy shall be applied for coincidentally with the application for a building permit and shall be issued within ten days after the lawful erection, reconstruction, or structural alteration of such building or other improvement of the land shall have been completed.

v. A record of all certificates of occupancy shall be kept on file in the office of the Plan Commission Director and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected.

vi. No building permit shall be issued for excavation for or the erection, reconstruction, or structural alteration of any building, before application has been made for a certificate of occupancy.

3. IMPROVEMENT LOCATION PERMIT

1) An application for an building permit for any use shall not be approved until it has been ascertained by the Plan Commission Director that the proposed use will meet the minimum standards for sewage disposal and water as required by the health officer, who is any officer of authority, City of Gary Health Department, and state department of health, and as may be required by ordinances of City of Gary, Indiana.
2) No certificate of occupancy shall be issued for a commercial or Manufacturing structure or for any other applicable use until the plans for such structure shall have been approved by the administrative building Commission of the State of Indiana and any other appropriate state agency including the state fire marshal.
3) No building permit shall be issued unless the lot for which the building permit is sought is located on a public way.
4) No building permit or certificate of occupancy shall be issued until the appropriate fees have been paid to the planning office in accordance with those established in this ordinance.
5) Improvement location permits and building permits shall expire six months after date of issuance if construction has not commenced. Primary Structures must be completed within 18 months and accessory structures must be completed within 9 months. One extension for 12 months may be granted by the Plan Commission Director upon presentation of reasonable justification for such an extension. This provision does not apply to Special Uses as otherwise provided.
6) When a developer of any commercial land or facility for any reason will be constructing or developing the site or facility with major changes from the final plans approved by the Plan Commission, then such developer shall notify and send to the Plan Commission Director information outlining and supporting such changes. It shall be the discretion of the Plan Commission Director to approve or disapprove such changes and to determine whether further action or concurrence should be received by the Plan Commission or BZA and to determine whether any additional building improvement fees are due the City or to be refunded to developer. Any such changes so approved by the Plan Commission Director, or by the Plan Commission, or BZA, shall be deemed approved amendments of such final plans originally approved by the Plan Commission.

4. FILING OF FEES.

Applications and petitions filed pursuant to the provisions of this ordinance shall be accompanied by the filing fees specified in a stand-alone Ordinance.

F. AMENDMENT, VALIDITY, AND ADOPTION

1. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

2. INTERPRETATION

In the interpretation and application of this ordinance all provisions shall be:

1. Considered as minimum requirements
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

3. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of City of Gary, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance, or any administrative decision made lawfully thereunder.

SECTION 31. ENFORCEMENT

A. VIOLATIONS

If any new construction shall be commenced; or if any structural change, alteration, or extension shall be commenced; or if any building shall be moved within the jurisdictional area of the City, prior to the issuance of an building permit therefore, such action is hereby declared to be a violation of this section by the person performing such construction or work and the person owning such real estate.

B. COMMON NUISANCE.

A structure erected, raised, or converted, or land or premises used, in violation of IC 36-7-4 or this ordinance, is a common nuisance, and the owner or possessor of the structure, land, or premises is liable for maintaining a common nuisance.

State law reference— Similar provisions, IC 36-7-4-1012. City Codes regulating Public Nuisance.

C. PENALTIES FOR VIOLATION

The procedures for the enforcement of this ordinance are as follows:

1) Actions for injunction for violations of this ordinance shall be instituted by the commission to restrain individuals or governmental units from violating the provisions of this ordinance as enacted pursuant to IC 36-7-4, except that such actions may also be instituted by the City, as hereinbefore provided.
2) The Plan Commission Director shall be the designated enforcement officer and shall act for the commission and shall not be liable for his or her official acts.
3) The commission as relator or otherwise, may institute suits for mandatory injunctions directing individuals or governmental units to remove structures erected in violation of the provisions of this ordinance. If the commission shall be successful in any such suit, the respondent shall bear the cost of the action.

D. ADDITIONAL FEES AND FINES

i. Any person who knowingly engages in any activity under the control of this ordinance without first obtaining the required building permit shall have violated the terms of this ordinance and shall be liable to pay a fine of 1.5x the permit fee.
ii. Any person who violates any Section of this Ordinance shall pay a fine of structure as outlined in the City of Gary Fee Ordinance.
iii. Each day constitutes a new violation for fees and fines.

E. CITATION FOR CIVIL ZONING VIOLATIONS

The Director or his duly authorized designee(s), upon verification of a zoning violation, may issue a violation to any responsible party(ies) who commit(s) a zoning violation. The citation may be served by certified mail or by placement in a conspicuous place on the property where the zoning violation occurs.

The citation shall serve as notice to the responsible party(ies) that he has committed a zoning violation.

Where a Zoning Violation exists, the Director, or his duly authorized designee, may issue a Citation against the property owner for the violation without first issuing a Notice of Violation. In sole discretion, the Director, or duly authorized designee, may issue a Notice of Violation and allow a period of time for the property owner to correct the violation and to comply with the appropriate Section of the Zoning Ordinance. At the expiration of the period of time granted in the Notice of Violation for compliance, the Director, or designee, may issue a citation for the zoning violation in his discretion.

1) The Notice of Violation and/or Citation shall be on a form adopted by the Department and include:

2) Date of issuance.
3) The name and address of the persons(s) charged.
4) Section number of the Zoning Ordinance that has been violated.
5) Nature of the Violation.
6) The place and time that the Violation occurred.
7) Range of fines which could be assessed upon continued noncompliance activity.
8) Specific time allowed to bring the Violation into compliance.
9) Name, business address and telephone number of Zoning Official issuing the citation; and
10) Date and time of notice given, and number of days given on notice.

F. TRIAL FOR CIVIL ZONING VIOLATION

Upon issuance of the citation, the Zoning Official shall forward a copy of the citation to the designated enforcement entity and the City Court shall schedule the case for trial.

The City Attorney, designee, or the Department is responsible for the enforcement of this Ordinance.

All procedures will be in compliance with the Indiana Rules for Civil Procedure and will adopt Court cost recovery for infractions according to the State of Indiana.

In proceedings before the Court for a Zoning Violation:

1) The designated enforcement entity has the burden of proving the Civil Zoning Violation and the violator committed the infraction, by a preponderance of the evidence presented at trial.
2) The violator may question all witnesses who appear for the designated enforcement entity and produce evidence or witnesses on the violator's behalf.
3) A person found guilty of a civil zoning violation is liable for the fine, Court costs and fees. No costs may be assessed against the designated enforcement entity in any such action.

Seeking a civil penalty as authorized in this Section, does not practice the designated enforcement entity from seeking alternative relief from the Court in the same action, or from seeking injunctive relief available under the law of the State of Indiana, or any other remedy in a separate action for the enforcement of the Zoning Ordinance.

When a violator has been guilty of a Civil Zoning Violation, the Court may impose additional civil penalties and grant appropriate relief to abate or halt the violation, and the Court may direct that payment of the civil monetary fine or additional civil penalties be suspended or deferred under conditions established by the Court. If a violator fails to pay the civil penalty or violates the terms of any other order imposed by the Court, the failure is contempt; and a change of venue from City of Gary, Indiana, shall not be granted in such a case.

SECTION 32. SUBDIVISION CONTROL ORDINANCE

A. PURPOSE

In order to promote the realization of the comprehensive plan of the City; in order to provide reasonable requirements for public streets, community facilities and other public grounds; in order to provide for the health, safety, comfort and convenience of the residents of the City; in order that developers of land may have a procedural guide, the following regulations establishing reasonable standards of design and procedure for re-subdivisions of land and of areas subject to redevelopment within the City, are hereby adopted as part of the City of Gary Unified Development Ordinance.

B. GENERAL REQUIREMENTS FOR SUBDIVISION OF LAND

Any subdivision of land shall follow the Primary and Secondary platting process.

1. GENERAL CRITERIA FOR ACCEPTABILITY

1) ***Conformance to comprehensive plan.*** The subdivision shall conform to the comprehensive plan, or the portions thereof now existing and shall not encroach upon areas designated in the comprehensive plan for future public facilities.
2) ***Provision for future subdivision.*** If a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged to allow the opening of future streets and logical further subdivision.
3) ***Reserve strips prohibited.*** There shall be no reservation of strips of land that prevent or limit access to land dedicated or intended to be dedicated to public use.
4) ***Building sites***. Every lot must contain a suitable building site.
5) ***Landscaping.*** All subdivisions shall comply with Landscape Standards of the City of Gary Zoning Ordinance.
6) ***Variations and exceptions.*** Variations and exceptions from the design and dimensional standards and improvement requirements of these regulations may be made by the Plan Commission in cases when showing exceptional conditions, there are extreme difficulties or hardships in the way of carrying out the strict letter of these regulations. Resubdivision of a single lot of a platted block of an old subdivision shall be considered as an exceptional condition meriting departure from the strict letter of these regulations. No variation or exception shall be made that will be detrimental to the public welfare or that will affect adversely the comprehensive plan. In addition, no variation or exception may be made by the Plan Commission which would violate or be contradictory to the requirements contained within the zoning ordinance, as well as any other applicable statute or regulation.

2. STANDARDS

1) **Sidewalks**. 5-foot minimum concrete sidewalks or pedestrian ways shall be provided for pedestrian traffic per the discretion of the director for all developments.

2) **Pedestrian Ways**. Paved pedestrian paths not adjacent to a curb and street shall have a minimum width of 8-foot.
3) **Open space**, vegetation, wildlife, recreation environmental, historic, and archaeological features. For all projects, including subdivisions and planned developments, in excess of three acres in area, except single family residence and agricultural uses, a minimum of 15 percent of the gross land area shall be devoted to open space; vegetation; wildlife; recreation; or environmental, historical, or archaeological preservation; or any combination of the same, as in the discretion of the Plan Commission is deemed appropriate.

3. MONUMENTS AND MARKERS

1) Monuments shall be concrete with a diameter of not less than six inches and 36 inches long, case in place, with a copper dowel three-eighths [of an] inch in diameter, at least 2½ inches in length, imbedded so that the top of the dowel shall be not more than one-fourth [of an] inch above the surface and at the center of the monument.
2) Monuments shall be set so that the top is level with the established grade adjoining it and placed so that the marked point on the metal center shall coincide exactly with the intersection of street property lines, the intersection of all angles in the boundary line and at the beginning and ending of all curves along streets on the inside street lines.
3) Lot corners not marked by concrete monuments, as required above, shall be marked by galvanized or wrought iron pipe, or iron or steel bars at least three feet in length and not less than five-eighths [of an] inch in diameter, the top of the pipe or bar to be set level with the established grade of the ground adjoining it.

4. PUBLIC PLACES

1) Whenever a park recreation area, playground, school site or other open space shown on the comprehensive plan is located in whole or in part in the proposed subdivision, the commission may require the dedication of those spaces.
2) Outstanding natural and cultural features, such as scenic spots and watercourses shall be preserved insofar as possible.
3) The name of the subdivision and new street names shall not duplicate, nor too closely approximate phonetically, the name of any other subdivision or street within or near the City. Street names shall be subject to the approval of the City engineer/planner's office.

5. IMPROVEMENTS

1) ***Working drawings and specifications required.*** Before considering the approval of the secondary plat for any subdivision, the Plan Commission may require that complete working drawings and specifications be submitted for those improvements requested at the time of approval of the primary plat.

6. SOURCE OF DRAWINGS AND SPECIFICATIONS.

1) The subdivider shall have working drawings and specifications for improvements prepared by a registered professional engineer retained by the subdivider.
2) All working drawings, specifications and cost estimates shall be checked by a representative of the City, duly authorized by the Plan Commission.
3) Working drawings and specifications shall be in strict accordance with City standards and requirements and shall be subject to approval by the City.
4) Permission required: Specific permission of the Board of Works shall be secured before commencement of construction of any improvement. Approval of the secondary plat by the Plan Commission shall constitute permission to proceed with construction providing the plat is accepted for recording by the City recorder. If the subdivider elects to construct an improvement prior to approval of the secondary plat, the Board of Works may extend permission to proceed upon recommendation of the Plan Commission, together with certification by the City that working drawings and specifications have been prepared and checked.
5) Other permission: The subdivider shall also secure any permission required by law of state or other officials and permission extended by the Board of Works shall not relieve the subdivider of responsibility to secure state and other approvals.

7. TYPES OF IMPROVEMENTS

The Plan Commission may require one or more of the following improvements depending upon the nature and scope of the subdivision. Particular attention shall be given to means for disposition of stormwater and to the desirability of curb and gutter or other provisions to prevent breakdown of pavement edges. The design, layout and carrying capacities of stormwater, sanitary sewer and water facilities shall recognize the future requirements of adjacent undeveloped area.

Street and alley grading and surfacing
Grading and surfacing of parking space
Curb and gutter
Sidewalks
Sanitary sewerage facilities
Water mains and hydrants
Stormwater drainage facilities
Street signs
Streetlights
Driveways
Survey monuments
Compacted fill.

8. INSPECTION

1) All improvements shall be subject to inspection by a duly authorized and qualified City inspector both during the course of construction and after construction is complete. The inspector shall have authority over materials of construction, methods of construction and workmanship to ensure compliance with working drawings and specifications. The contractor shall provide for reasonable tests and proof of quality of materials as requested by the inspector. Upon due cause the inspector may require that work be suspended, and due cause shall include weather conditions, questionable materials of construction, methods of construction, workmanship or nonadherence to specifications and drawings.

2) Approval by the inspector or absence of inspection shall in no way relieve the subdivider of full responsibility for adherence by his contractors to specifications and working drawings nor for high standards of materials, methods, and workmanship.
3) Approval by the inspector shall not be deemed acceptance of the improvement by the City. Acceptance shall be only by action of the Plan Commission and acceptance shall be contingent upon a favorable inspection report.
4) It shall be the responsibility of the subdivider or his contractor to notify the Administrator when work is to be started. The initial notification that a particular improvement is to be startedshall be in writing.

9. RESPONSIBILITY OF MAINTENANCE

As further assurance of serviceable construction and to provide for repair and damage resulting from subsequent construction operations of the subdivider or his contractors, the subdivider shall be responsible for all maintenance of an improvement until acceptance by the Board of Works providing, in addition that the subdivider shall be responsible for all maintenance of roadways, curb and gutter, sidewalk, parkway strips and extension boxes and hydrants of water facilities until all construction work has been completed upon such improvements.

10. GUARANTEE OF COMPLETION

The Plan Commission shall not consider approval of the secondary plat unless and until the subdivider has guaranteed the completion of all required improvements within a reasonable period and in compliance with working drawings and specifications. This guarantee shall consist of the following:

1) ***Notice***. A notice from the City Commission stating that there has been filed with and approved, one of the following:
   a) A certificate that all improvements and installations to the subdivision required for its approval have been made or installed in accordance with specification; or
   b) A bond or irrevocable letter of credit which shall:
      i) Run to City of Gary Plan Commission, Indiana.
      ii) Be in an amount determined by the Board of Works to be sufficient in amount to complete the improvements and installations in compliance with this ordinance.
      iii) Be with security satisfactory to the commission.
      iv) Specify the time for the completion of the improvements and installations.
2) ***Use of funds.*** Any funds received from these bonds shall be used by the Plan Commission only for the completion of the improvements and installations for which they were provided; and said board is authorized to complete such improvements and installations on the failure of applicant to do so.
3) ***Acceptance***. Acceptance of an improvement for the City shall be only by resolution of the City Plan Commission. Acceptance shall be contingent upon:
   a) Fulfillment of the requirements of this ordinance.
   b) Satisfactory and proper conveyances being made by the subdivider to theCity.
   c) Improvement being complete and in good repair in accordance with City standards and requirements.
   d) Inspection reports indicating compliance with working drawings and specifications.

e) A single improvement shall not be accepted in part; it shall be completethroughout the subdivision as indicated in the secondary plat and working drawings. The subgrade and base course of a street and alley shall be considered as a single improvement.
f) Acceptance of an improvement shall constitute release of the applicable portion of the performance bond or the applicable portion of the balance of cash deposit.
g) Submittal of as-built drawings of the subdivision improvements to the Plan Commission office shall be provided electronically (shape file) and hard copy.

11. PROTECTION AND REPAIR OF EXISTING IMPROVEMENTS

The subdivider, his contractors and suppliers shall be jointly and severally responsible that existing improvements and the property of the City are not damaged or rendered less useful or unsightly by the operation of the subdivider, his contractors, or suppliers. **This provision is intended to include damage or nuisance with respect to the land, improvements or landscaping of the City; damage to existing streets, sidewalks, curb and gutter, parkways by passage there over of equipment or trucks or by excavation for any purpose; the spillage or tracking of earth, sand or rock onto existing streets, sidewalks, curb and gutter or parkways; the washing by stormwater of earth or sand onto streets, sidewalks, curb and gutter or parkways or into catch basins; damage to water mains, sanitary sewers, culverts or storm sewers.** To reduce or localize the possibility of damage to streets by heavy trucking, the Plan Commission Director shall instruct the subdivider as to the streets to be used for access to the subdivision by equipment and trucks, and the subdivider shall be responsible for enforcement of this instruction upon his contractors and their suppliers. The subdivider shall make provisions to prevent washing of earth or sand onto sidewalks, streets, curb, and gutter and into catch basins by stormwater. Where deemed advisable, the Plan Commission Director shall have the power to require, either prior to commencement of construction or after construction is in process, that the subdivider post a surety to guarantee repair of damages or abatement of nuisance. Where need for surety becomes apparent after construction is in process, the Plan Commission Director shall have the power to order construction discontinued until surety has been posted. Expenses incurred by the City in repairing damages, cleaning streets, catch basins and sewers shall be deducted from the surety.

12. OTHER REGULATIONS PREVAIL

None of the provisions of these regulations pertaining to permission, surety, fees, acceptance and approval shall be construed as exempting subdividers, general contractors, sidewalk contractors, cement contractors, building contractors, plumbing contractors or plumbers, sewer contractors, sewer builders,

drain layers, electrical contractors, electricians or any other contractor or craftsman from any other ordinance or regulation of the City with respect to licenses, fees, surety, inspection or other control.

C. PROCEDURE FOR APPROVAL OF PLAT

1. INFORMAL CONSIDERATI ON

The subdivider shall be required to present a sketch in the form noted above for staff review prior to submitting an application for a primary plat. The purpose of this review is to acquaint the subdivider with applicable plans and ordinances, as well as, to make the subdivider aware of procedural and application requirements. The Plan Commission may consider the failure to present a sketch to staff prior to the submission of a primary plat as an improper form or an incomplete application and may not receive or

consider the application until the staff review has occurred in accordance with the requirements set forth herein.

2. APPLICATION

The procedure for submission of a primary plat shall be as follows:

1) The subdivider shall submit a written application with payment of filing fee, together with ten copies of the primary plat to the City engineer/planner. In addition, the subdivider shall also submit an electronic copy of the plat in PDF or a format which is compatible to the current City computer system.
2) The application shall specify the intent of the subdivider with respect to land use, drainage, sewage disposal and water supply. Where applicable, the application shall also specify the intent of the subdivider with respect to schools, recreation facilities, essential municipal services and street improvement proposed by the subdivider; the application shall also specify any existing restrictions or intended restrictions on the property to be subdivided, as well as the expected date of its development.
3) The Plan Commission shall determine whether the application and the primary layout are in proper form and shall not receive or consider the application as filed until all documents are in accordance with the requirements set forth herein.

3. CONSIDERATION

The Plan Commission will study the primary layout in connection with the comprehensive plan, the zoning ordinance, and the topography of the area, and will take into consideration the general requirements of the community, the particular requirements of the neighborhood, and the best use of the land to be subdivided. Particular attention will be given to specific requirements for parks, playgrounds, school sites, major streets, the adequacy of street connections and the suitability of the land for development.

4. PUBLIC HEARING

Upon receipt of an application for primary approval, the Plan Commission staff shall review the application for technical conformity with the standards fixed in this ordinance. Within 30 days after receipt, the staff shall announce the date for a hearing before the Plan Commission and provide notice in accordance with IC 36-7-4-706, as amended. The procedures for the setting of hearing dates and the conduct of hearings are determined by the Plan Commission as part of its rules of procedure.

5. ACTION

After the public hearing, the Plan Commission shall act on the primary plat in one of the following ways:

1) ***Approval***. If the Plan Commission approves the plat as submitted, it shall prepare written findings and affix the commission's seal upon the plat indicating approval. The plat shall also be signed by one of the designated officials identified within this ordinance.
2) ***Approval subject to.*** If the Plan Commission approves the plat subject to certain conditions, it shall set forth written findings and these conditions in the records of the meeting and provide the applicant with a copy. These conditions shall also be signed by one of the designated officials identified within this ordinance.
    a) The applicant shall make the changes as required by the commission and resubmit the plat ten days prior to the next meeting of the commission.

b) The Plan Commission shall consider the revised plat without a public hearing at their next meeting and if they find all conditions to be satisfied, shall affix the commission's seal upon the plat indicating approval. The plat shall also be signed by one of the designated officials identified within this ordinance.
c) If the applicant fails to resubmit the plat with the required changes or to request, in writing, an extension of time, the primary plat shall be considered as disapproved based upon the findings and conditions previously identified by the commission.

3) ***Disapproval.*** If the Plan Commission disapproves the plat as submitted, it shall prepare written findings and set forth all of its reasons in the records of the meeting. These reasons shall be signed by one of the designated officials identified within this ordinance. A copy of these signed reasons in the records shall be provided to the applicant.

6. EFFECTIVE PERIOD OF APPROVAL

Approval of the primary plat shall be effective for a maximum of 12 months, except that submission within this period of a secondary plat applying to a portion of the area covered by the primary plat shall extend the effective period of approval to a maximum of 24 months from the date of approval of the primary plat. If a secondary plat has not been submitted to the Plan Commission within this time limit, the primary plat shall again be submitted to the Plan Commission approval.

7. FEES

At the time of filing an application for approval of the plat, the application shall be accompanied by a certified check or money order, payable to the City as follows:

1) *Amount.* Filing fees for primary plats shall be determined by the Plan Commission as part of its rules of procedure. Fee amounts shall be established based on recovering costs incurred bythe City for processing and reviewing applications.
2) *Use*. All fees collected for the review and approval of subdivisions shall be credited to the general fund of the City.

8. EXEMPT PARCELS

In the event a proposed subdivision is one acre or less in area and does not involve the extension of a street, the subdivider shall have the right to apply concurrently for primary and secondary plat approval. All the information and submittals required for both the primary and secondary plats shall be submitted with the application for plat approval. In such case, the fee required by this ordinance shall be payable upon submission of the secondary plat. In the event a proposed subdivision involves the conveyance of portions of existing lots or parcels to other existing lots or parcels, the subdivision may be considered exempt and need not file an application for primary or final subdivision approval as restricted by the following:

1) The conveyance does not involve the extension of a street.
2) All resultant properties must comply with the requirements contained in this ordinance, the zoning ordinance, and any other applicable code or ordinance.

9. PLANNED UNIT DEVELOPMENTS

The procedure for platting or subdividing land within a planned unit development district shall be the same as that prescribed by this ordinance. The design and development of planned unit development districts shall be identical to those standards prescribed by this ordinance, unless specificallyapproved otherwise as part of the planned unit development.

10. COMMENCEMENT OF CONSTRUCTION

No grading, building or construction of any kind relating to development of land within the definition of subdivision shall be started except in accordance with these regulations. Construction of buildings and dwellings shall be started only after issuance of building permits, and no building permit shall be issued prior to recording of the secondary plat.

D. PRIMARY PLAT

Prior to a Primary Plat filing, all petitioners shall meet and review the proposed filing with the Plan Commission Director.

1. PREPARATION

The primary plat shall be prepared and presented as follows:

1) The plat shall be drawn at a scale of 50 feet to one inch on a sheet or sheets 24 inches by 36 inches in size, except that when the drawing at that scale requires more than two sheets, the plat may be drawn at a scale of 100 feet to one inch.
2) The plat shall include a vicinity key map at an appropriate scale with a layout of the proposed subdivisions and all existing subdivisions, street and tract lines, and acreage parcels of land immediately adjoining the proposed subdivision and between it and the nearest existing thoroughfares. It shall show how streets in the proposed subdivision may connect with existing and proposed streets in the contiguous subdivisions or undeveloped property to produce the most advantageous development of the entire neighborhood.

2. CONTENT

The plat shall contain the following information:

1) Description
   a) Proposed name of subdivision; preferably such names shall be brief.
   b) Location by section, Township, and range, or by other legal description.
   c) Name, address, phone number and fax number of subdivider.
   d) Name, address, phone number, fax number and seal of registered professional engineer or land surveyor preparing the plat.
   e) Scale of plat, graphic scale, north point, and date.
2) Existing conditions
   a) Boundary line of proposed subdivision indicated by solid heavy line.
   b) Location, width, and names of all existing or prior platted streets or other public ways, railroad and utility rights-of-way, parks, and other public open spaces. Location of permanent buildings or structures and section and municipal corporation lines within or adjacent to the tract.
   c) In case of a replat, all descriptive liens of the original plat being vacated shall be shown by dotted lines in their proper position in relation to the new arrangement of the plat, the new plat being clearly shown in solid lines so as to avoid confusion.
   d) Existing sewers, water mains, culverts, or other underground facilities within and adjacent to the tract, indicating pipe sizes, grades and exact location as obtained from public records. If water mains and sewers are not adjacent to the tract, the direction to, distance to the nearest ones and their size shall be shown.

e) Existing zoning of proposed subdivision and adjacent tracts in zoned areas.
f) Contours based on City datum of not more than five feet nor less than two feet vertical intervals. One-foot contour intervals and spot elevations of specific structures and improvements may be requested as part of the primary plat review by the Plan Commission.
g) Subsurface conditions on the tract, location and results of tests made to ascertain subsurface soil, rock and groundwater conditions, depth of groundwater, unless test pits are dry to a depth of seven feet.
h) Other conditions on the tract such as watercourses, marshes, wooded areas, etc.
i) If individual sewage disposal systems are proposed, the location and results of the soil percolation test shall be shown.

3) ***Proposed conditions***. The primary plat shall be subject to the following conditions:
a) Layout of streets, their names and widths, and widths of alleys, crosswalks, and easements. The names of streets shall conform so far as practicable to the names of corresponding streets existing in the vicinity of the subdivision.
b) Layout, dimensions and number of lots, gross acreage, total acreage of lots, linealfeet of streets.
c) Parcels of land to be dedicated or temporarily reserved for public use or set asidefor the use of property owners in the subdivision. Land dedicated for parks or other public uses shall be set forth and described in the articles of dedication and shall also be shown on the plat under the appropriate heading such as "Park Land" or "Out Lot for Public Use" on the plat thereof.
d) Building setback lines.
e) Proposed methods of providing for stormwater, sanitary sewage, and water.
f) Where the primary plat covers only a part of the subdivider's entire holding, a sketch of the prospective street system of the unsubmitted part shall be furnished and the street system of the submitted part will be considered in the light of adjustments and connections with the street system of the part not submitted.

4) ***Additional data***. When required by the Plan Commission, at the time of informal consideration, the primary plat shall be accompanied by profiles showing existing ground surface and proposed street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision; typical cross sections of the proposed grading, roadway, and sidewalk; and primary plan of proposed sanitary and storm sewers with grades and sizes indicated. All elevations shall be based on a datum plan approved by the City engineer/planner.

E. PROCEDURE FOR FINAL APPROVAL OF SUBDIVISION

1. APPLICATION

The procedure for submission of a secondary plat shall be as follows: After approval of the primary plat by the Plan Commission and fulfillment of the required conditions, the subdivider shall apply in writing to the president of the Plan Commission for approval of a secondary plat.

1) The application shall be in duplicate and shall be accompanied by the original inked plat on mylar, ten prints, and an electronic copy of the plat on computer disk in a format which is compatible to the current City computer system.
2) If desired, the secondary plat may constitute only that portion of the approved primary plat which is proposed to be recorded and developed at the present time; provided, however, that such portion conforms to all requirements of these regulations.

2. CONSIDERATION

The secondary plat will not be considered as submitted unless it is in agreement with the specifications and accompanied by the required documents.

The Plan Commission shall submit the secondary plat to the City engineer/planner's office forreview and report.

3. HEARING

The Plan Commission shall consider the application and secondary plat, without public hearing, not later than the second regular monthly meeting following its proper submittal.

4. ACTION

The Plan Commission shall take action on the secondary plat in one of the following ways:

1) *Approval*. If the Plan Commission approves the secondary plat, it shall place a certification thereof on the original drawing and the reproduced copies thereof.
2) *Disapproval*. If the Plan Commission disapproves the secondary plat, it shall set forth the reasons for disapproval and recommendations for correction in the records of the meeting and provide the applicant with a copy, along with the original tracing of the secondary plat.

5. RECORDING

After approval of the secondary plat and certification by the Plan Commission, the original tracing shall be transmitted to the subdivider for recording with the City recorder of City of Gary. All costs for recording shall be borne by the subdivider at the time of recording.

6. PLAN COMMISSION COPY

The subdivider shall provide a copy of the recorded secondary plat to the City engineer's office and will serve as record for the Plan Commission copy.

7. CONDITIONS OF APPROVAL

Approval of the secondary plat shall not be deemed to constitute or effect an acceptance by the City of any improvements shown on the plat.

Approval of the secondary plat shall be invalid if the plat is not acceptable for recording or is not recorded within six months from the date of approval, in the office of the recorder of deeds of City of Gary.

8. ASSURANCE TO SUBDIVIDE

If, at the time the subdivider applies for secondary plat approval, it has been demonstrated to the satisfaction of the Plan Commission that the conditions of these regulations have been met, and if the secondary plat conforms substantially to the primary plat as approved, the commission shall give secondary plat approval.

F. SECONDARY PLAT

1. PREPARATION

The secondary plat shall conform to the primary plat as approved.

2. CONTENTS

The secondary plat shall contain the following information:

1) General and engineering data.
- a) Name of subdivision.
- b) Location by section, township and range or other legal description.
- c) Scale shown graphically and numerically, date and north point.
- d) Boundary of plat, based on an accurate traverse with angular and lineal dimension.
- e) Exact location, width, and name of all streets within and adjoining the plat and the exact location and width of all alleys and crosswalks.
- f) Through courses and distances to the nearest established street lines of official monument, which shall accurately describe the location of the plat.
- g) Town, township, City, or section line accurately tied to the lines of the subdivision by distances and courses.
- h) Radii, internal angles, points of curvature and tangency, length of tangents, lengths of all arcs and similar data.
- i) All easements for right-of-way provided for public services, utilities, or drainage.
- j) All lot numbers and lines with accurate dimensions in feet and hundredths. Lots in numbered additions to subdivisions bearing the same name may be numbered consecutively through the several additions. All lots within one addition shall be numbered consecutively.
- k) Lines of all streets with accurate dimensions in feet and hundredths showing angles to all other street and alley lines.
- l) Accurate locations of all monuments.
- m) Accurate outlines and legal descriptions of any areas other than public ways to be dedicated or reserved for public use and semipublic use, with the purpose indicated thereon; and for any areas to be reserved for use of all property owners.
- n) Building setback line accurately shown with dimensions which are not in conflict with the zoning ordinance of the town.

2) Certifications and approvals.
- a) Accurate location and reference of all monuments.
- b) Certification by a registered land surveyor to the effect that the plat represents a survey made by him and that the monuments shown thereon actually exist as located and that all dimensional and other details, such as curve data, are correct.
- c) Notarized certification by the owner or owners of the land or other persons having an interest therein of the adoption of the plat and the dedication of streets and other public areas.
- d) Space for approval of the Plan Commission by date and signature of the president and secretary of the commission.
- e) Space for approval of City auditor by date, signature, and certification.

f) Space for approval of City recorder by date, signature, and certification.
g) Items (a) through (f) shall be executed in order of listings.

3. ATTENDANT ITEMS

The secondary plat shall be accompanied by documents including the following:

1) Two copies of working drawings and specifications for improvements.
2) Two copies of restrictions to be incorporated into deeds or covenants to be recorded with the plat.

4. ENFORCEMENT OF ORDINANCES AND PENALTIES FOR VIOLATION THEREOF

1) Violations: A failure to comply with any of the requirements of this Ordinance, including violations of conditions and safeguards established in connection with the granting of waivers, as well as subdivision approval, shall constitute a violation of this Ordinance.
2) Legal Proceedings: The Plan Commission, Plan Commission attorney, the Board of Zoning Appeals, the Building Commissioner, or any designated enforcement official may bring to the attention of the Building Commissioner and/or Town Attorney a violation of the provisions of this Ordinance in order to initiate legal proceedings pursuant to statute.
3) Mandatory Injunction: The Plan Commission, the Board of Zoning Appeals, the Building Commissioner, or any designated enforcement official may request the Town Attorney to bring an action for a mandatory injunction directing any person to remove a structure and/or to discontinue working in violation of the provisions of this Ordinance pursuant to statestatute.
4) Common Nuisance: Any structure erected, raised, or converted, or land or premises used in violation of any provision of this Ordinance or of the requirements thereof, is hereby declared to be a common nuisance and as such may be abated in such a manner as nuisances are now or may hereafter be abated under existing law.
5) Fines: Any person who violates this Ordinance shall, upon conviction, be fined not less than$25 nor more than $2500.00 for each offense. For the purposes of this Ordinance, each day a violation of terms of this Ordinance exists shall constitute a separate offense.
6) Person in Violation: Any person who attempts, commits, participates in, assists, or maintains a violation of this Ordinance may be found guilty and suffer the penalties herein provided.
7) Remedy for Failure: The remedy provided in this section for failure to comply with any of the requirements of this Ordinance, whether civil, criminal or otherwise, shall be cumulative and shall be in addition to any other remedy provided by law. The civil penalty hereinafter described shall be used in preference to the criminal penalty on all violations except in the case of repeated, malicious, willfully prolonged, or flagrant violations.
8) Assurance of Discontinuance: For all violations, the Building Commissioner may accept an assurance of discontinuance of any act or violation. Such assurance shall specify a time limit in which the act or violation shall be discontinued.

5. AMENDMENTS

The Plan Commission may, from time to time, amend, supplement, or change the regulations of this ordinance as provided by law.

G. CERTIFICATES

1. LAND SURVEYOR CERTIFICATE

I,_____, hereby certify that I am a Land Surveyor, licensed in compliance with the laws of the State of Indiana, that this plat correctly represents a survey completed or certified by me on__;that all monuments will be installed in accordance with the provisions of the Platting Ordinance; and that their location, size, type, and material are accurately shown.

	By: (Signature)
	Registered Land Surveyor Number:
(SEAL)	

2. COMMISSION CERTIFICATE OF APPROVAL

Pursuit to the authority provided by the Acts of the General Assembly of the State of Indiana, and all Acts amendatory thereto, the undersigned certify that this plat was considered; found to be in compliance with the standards set forth in the Ordinance; and approved by the City of Gary Plan Commission on the ____ day of__, 20_.

In witness whereof, we have attached our signatures and the Commission's seal hereupon.

	President
	President's Name Printed
	Secretary
	Secretary's Name Printed
(SEAL)	

3. AUDITOR CERTIFICATE OF APPROVAL

Duly entered taxation this____ day of_,_.

LAKE COUNTY AUDITOR	
(PRINTED NAME OF AUDITOR)	

4. RECORDER CERTIFICATE OF APPROVAL.

Received for record this_____day of_,_____, at____o'clock_____and entered as Plat No._____in Book No._____on page number _____, in the records of Lake [City].

LAKE COUNTY RECORDER	
(PRINTED NAME OF RECORDER)	

DEED OF DEDICATION

I (we), the undersigned_____certify that I (we) are the owner(s) of the real estate shown and described herein; and do hereby lay off, plat, and subdivide, said real estate in accordance with the within plat.

This subdivision shall be known and designated as_____, an addition to City of Gary, Indiana. All streets and alleys shown and not heretofore dedicated, are hereby dedicated to the public. Front and side yard setback lines are hereby established as shown on this plat, between which lines and the property lines of the street, there shall be erected or maintained no building or structure.

There are strips of ground shown on this plat and marked "Easement," reserved for the use of public utilities for the installation of water and sewer mains, poles, ducts, lines and wires, subject at all times to the proper authorities and to the easement herein reserved.

No permanent or other structures are to be erected or maintained upon said strips of land, but owners of lots in this subdivision shall take their titles subject to the rights of public utilities.

(Additional dedications and protective covenants, or private restrictions can be inserted here upon the subdivider's initiative or the recommendations of the Commission.)

WITNESS our Hands, this ____ day of_, 20_.

By: (Signature)	By: (Signature)
By: (Name Printed)	By: (Name Printed)
By: (Signature)	By: (Name Printed)

STATE OF INDIANA	)	
	)	SS:
CITY OF	)	

Before me the undersigned Notary Public, in and for the City and State, personally appeared

_____, and (each) separately and severally acknowledged the foregoing instrument as his/her (their) voluntary act and deed for the purposes therein expressed.

Witness my hand and notarial seal this____ day of___, 20_.

My Commission Expires	Notary Public (Printed)
City of Residence	

COUNCIL PENDING ORDINANCE NO. 2026 -16
ORDINANCE NO. 9842
AS AMENDED May 19, 2026
CERTIFICATION DATE
CERTIFIED BY
FAVORABLY
UNFAVORABLY

AN ORDINANCE AMENDING CHAPTERS 103, 107, 121 AND 123 OF THE MUNICIPAL CODE OF THE CITY TO A UNIFIED DEVELOPMENT ORDINANCE

WHEREAS, Chapter 103 of the Gary Municipal Code is entitled Airport Ordinances and deals with zoning and planning around the Gary airport; and

WHEREAS, Chapter 107 is entitled Condominium Conversion Procedures and deals with planning and zoning regarding condominiums; and

WHEREAS, Chapter 121 of the Gary Municipal Code is entitled Subdivision Regulations, and provides planning and zoning requirements for subdivisions in the City of Gary; and

WHEREAS, Chapter 123 is entitled Zoning Ordinances, and provides general planning and zoning requirements for the City of Gary; and

WHEREAS, amending each of the above named Chapters is necessary to update the current zoning and planning ordinances of the City; and

WHEREAS, it is in the best interests of the City of Gary that each of the above named Chapters be repealed and replaced with a new Unified Development Ordinance; and

WHEREAS, the City of Gary Plan Commission has studied this update for several months and held several public hearings on this matter; and

WHEREAS, the City of Gary Plan Commission, after holding public hearings in compliance with Indiana law, voted at a public meeting held on February 24, 2026 by a vote of 7-0 to repeal previous zoning laws and replace with the attached Unified Development Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF GARY, INDIANA as follows:

Section 1. That the attached Unified Development Ordinance, as set forth on Exhibit "A," which is attached hereto and fully incorporated herein, is hereby adopted as the new zoning and planning Ordinance of the City, which shall be known as the Unified Development Ordinance.

Section 2. That Chapters 103, 107, 121 and 123 of the previous code are hereby repealed and replaced with the Unified Development Ordinance.

Section 3. That this Ordinance shall be in full force and effect on August 1, 2026.

PASSED by the Common Council of the City of Gary, Indiana, this 19 day of May, 2026.

PRESIDING OFFICER

ATTEST:

CITY CLERK

Presented by me to the Mayor for approval and signature this 20th day of May 2026.

CITY CLERK

APPROVED and **SIGNED** by me this 21st day of May, 2026.

MAYOR, CITY OF GARY, INDIANA

PREPARED BY: Marco A. Molina, Law Department

SPONSORED BY: Mayor Eddie D. Melton
Planning and Zoning Department
Gary City Plan Commission

C.P.O. 2026-16/9842

COMMITTEE ASSIGNMENT P/Land Dev Reported-out/Date 4-7-26
1st Reading/Date 4-7-26 Committee Hearing/Date 4-14-26 2nd Reading/Date 4-7-26 Public Hearing/Date 5/19 3rd Reading/Date 5-19-26 Final Reading/Date 5-19-26
Passed/Date 5-19 Defeated/Date____ Deferred/Date___ Tabled/Date_____ Override/Date_____
Adopted/Date____ Publication/Date_____ Community Hearing/Date_____ Veto_____ Pocket Veto_____ Adopted