



# **TOWN OF EVANSVILLE**

## **ZONING ORDINANCE**

**Adopted**  
**August 13, 2007**

—

**Effective**  
**August 19, 2007**

—

**Amended**  
**August 11, 2008**

—

**Amended**  
**March 9, 2009**

# TABLE OF CONTENTS

DESCRIPTION	SECTION & PAGE
<b>ARTICLE 1 – GENERAL PROVISIONS .....</b>	<b>1-1</b>
§ 1-1 <u>TITLE OF ORDINANCE</u> .....	1-1
§ 1-2 <u>AUTHORIZATION</u> .....	1-1
§ 1-3 <u>PURPOSE</u> .....	1-1
§ 1-4 <u>CONFORMITY WITH COMPREHENSIVE PLAN</u> .....	1-1
§ 1-5 <u>CONFORMITY REQUIRED</u> .....	1-1
§ 1-6 <u>APPLICABILITY</u> .....	1-1
§ 1-7 <u>CONTINUATION OF EXISTING USES</u> .....	1-2
§ 1-8 <u>RESTRICTIVE COVENANTS NO SUBSTITUTE</u> .....	1-2
§ 1-9 <u>HIGHER OR MORE RESTRICTIVE STANDARDS</u> .....	1-2
§ 1-10 <u>RENT, SALE OR LEASE IN VIOLATION</u> .....	1-2
§ 1-11 <u>EFFECTIVE DATE</u> .....	1-2
§ 1-12 <u>SEVERABILITY</u> .....	1-2
§ 1-13 <u>RELATIONSHIP TO OTHER LAWS</u> .....	1-3
§ 1-14 <u>JURISDICTION</u> .....	1-3
§ 1-15 <u>APPLICABILITY OF REGULATIONS</u> .....	1-3
§ 1-16 <u>TITLE CONFORMANCE</u> .....	1-3
§ 1-17 <u>LOT REDUCTION</u> .....	1-3
§ 1-18 <u>COMBINATION OF LOTS</u> .....	1-3
§ 1-19 <u>OFFICIAL ZONING MAP</u> .....	1-4
§ 1-20 <u>FEES</u> .....	1-4
<b>ARTICLE 2 – ADMINISTRATION AND ENFORCEMENT.....</b>	<b>2-1</b>
§ 2-1 <u>PLANNING AND ZONING COMMISSION</u> .....	2-1
§ 2-2 <u>POWERS AND DUTIES OF ADMINISTERING OFFICE</u> .....	2-2
§ 2-3 <u>ENFORCEMENT</u> .....	2-3
§ 2-4 <u>VIOLATIONS</u> .....	2-3
§ 2-5 <u>PENALTY</u> .....	2-3
<b>ARTICLE 3 – PERMITS.....</b>	<b>3-1</b>
§ 3-1 <u>ZONING CERTIFICATE</u> .....	3-1
§ 3-2 <u>BUILDING PERMITS</u> .....	3-1
§ 3-3 <u>REVOCAION OF PERMITS</u> .....	3-2
§ 3-4 <u>CERTIFICATES OF OCCUPANCY</u> .....	3-2
§ 3-5 <u>NON-LIABILITY FOR DAMAGES</u> .....	3-2
§ 3-6 <u>PERMITTED AND CONDITIONAL USE DEFINITION</u> .....	3-3
<b>ARTICLE 4 – DEFINITIONS.....</b>	<b>4-1</b>
§ 4.1 <u>GENERAL</u> .....	4-1
<i>FIGURE 4.1 - Typical Normal Lot</i> .....	4-7
<i>FIGURE 4.2 - Setbacks</i> .....	4-8
<i>FIGURE 4.3 - Sight Distance Triangle</i> .....	4-9
<b>ARTICLE 5 – ZONING DISTRICTS .....</b>	<b>5-1</b>
§ 5.1 <u>DISTRICT CLASSIFICATIONS</u> .....	5-1
§ 5.2 <u>RESIDENTIAL DISTRICT USES AND REGULATIONS</u> .....	5-2
A.    R-1 Single Family Residential District.....	5-2
B.    R-2 Single Family, Twin Homes and Duplex Residential District.....	5-3
C.    R-3 Multi-Family Residential District.....	5-4
D.    R-4 Mobile Home Residential District.....	5-5

**TABLE OF CONTENTS (Continued)**

<b>DESCRIPTION</b>	<b>SECTION &amp; PAGE</b>
<u>§ 5.3</u> BULK REGULATIONS FOR RESIDENTIAL ZONING DISTRICTS .....	5-6
<u>§ 5.4</u> COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS USES & REGULATIONS ..	5-7
A. C-1 Commercial District.....	5-7
A.1 C-4 Highway Business District.....	5-9
B. I-L Light Industrial District .....	5-11
C. I-H Heavy Industrial District .....	5-12
D. UCA Use Control Area District .....	5-14
<u>§ 5.5</u> BULK REGULATIONS FOR COMMERCIAL & INDUSTRIAL ZONING DISTRICT...	5-23
<u>§ 5.6</u> (O-P) OPEN SPACE AND PUBLIC DISTRICT USES AND REGULATIONS.....	5-24
<u>§ 5.7</u> PLANNED UNIT DEVELOPMENT.....	5-25
<b>ARTICLE 6 – DEVELOPMENT STANDARDS .....</b>	<b>6-2</b>
<u>§ 6.1</u> FENCES, HEDGES AND WALLS.....	6-2
<u>§ 6.2</u> OFF-STREET PARKING.....	6-3
<u>§ 6.3</u> SIGNS.....	6-10
<u>§ 6.4</u> HOME OCCUPATIONS .....	6-13
<u>§ 6.5</u> DAY CARE .....	6-14
<b>ARTICLE 7 – NONCONFORMING USES.....</b>	<b>7-1</b>
<u>§ 7.1</u> NONCONFORMING LOTS: .....	7-1
<u>§ 7.2</u> NONCONFORMING USES OF LAND .....	7-1
<u>§ 7.3</u> NONCONFORMING STRUCTURES .....	7-2
<b>ARTICLE 8 – CONDITIONAL USE .....</b>	<b>8-1</b>
<u>§ 8.1</u> GENERAL.....	8-1
<u>§ 8.2</u> PURPOSE.....	8-1
<u>§ 8.3</u> PROCEDURE.....	8-1
<b>ARTICLE 9 – VARIANCES .....</b>	<b>9-1</b>
<u>§ 9.1</u> GENERAL.....	9-1
<u>§ 9.2</u> PURPOSE.....	9-1
<u>§ 9.3</u> PROCEDURE.....	9-1
<b>ARTICLE 10 – AMENDMENT PROCEDURES.....</b>	<b>10-1</b>
<u>§ 10.1</u> GENERAL.....	10-1
<u>§ 10.2</u> ZONE CHANGES – PETITION .....	10-1
<u>§ 10.3</u> HEARING.....	10-1
<u>§ 10.4</u> NOTICE OF HEARING .....	10-1
<u>§ 10.5</u> PLANNING AND ZONING COMMISSION REVIEW.....	10-2
<u>§ 10.6</u> NATURE OF REVIEW.....	10-2
<u>§ 10.7</u> PROCEDURE BEFORE TOWN COUNCIL.....	10-2
<u>§ 10.8</u> NOTICE RECITING ZONING .....	10-3
<u>§ 10.9</u> ACTION BY COUNCIL .....	10-3
<u>§ 10.10</u> COSTS .....	10-3
<u>§ 10.11</u> ANNEXED TERRITORY.....	10-3
<b>ARTICLE 11 – SITE PLAN APPROVAL.....</b>	<b>11-1</b>
<u>§ 11.1</u> APPROVAL CRITERIA .....	11-1
<u>§ 11.2</u> DEFINITION .....	11-1
<u>§ 11.3</u> PROCEDURE.....	11-1
<u>§ 11.4</u> WAIVERS .....	11-3

**TABLE OF CONTENTS (Continued)**

<b>DESCRIPTION</b>	<b>SECTION &amp; PAGE</b>
<b>ARTICLE 12 – LANDSCAPING REGULATIONS .....</b>	<b>12-1</b>
<u>§ 12.1</u> <u>GENERAL</u> .....	12-1
<u>§ 12.2</u> <u>DEFINITIONS</u> .....	12-1
<u>§ 12.3</u> <u>PROCEDURE</u> .....	12-2
<u>§ 12.4</u> <u>LANDSCAPING CRITERIA</u> .....	12-3
MINIMUM LANDSCAPING PERCENTAGES .....	12-5
<b>APPENDIX 1 – PLANTS CONDUCTIVE TO GROWTH IN EVANSVILLE AREA .....</b>	<b>12-7</b>
<b>ARTICLE 13 – WIRELESS TELECOMMUNICATION SERVICES (WTS).....</b>	<b>13-1</b>
<u>§ 13.1</u> <u>PURPOSE:</u> .....	13-1
<u>§ 13.2</u> <u>DEFINITIONS</u> .....	13-1
<u>§ 13.3</u> <u>GENERAL REQUIREMENTS</u> .....	13-2
<u>§ 13.4</u> <u>REMOVAL OF ABANDONED ANTENNAS AND TOWERS</u> .....	13-7
<u>§ 13.5</u> <u>NONCONFORMING USES</u> .....	13-9

*(This page intentionally left blank.)*

**CHAPTER X**  
**ZONING**

**ARTICLE 1 – GENERAL PROVISIONS**

**§ 1-1 TITLE OF ORDINANCE**

The ordinance codified in this title shall be known, and referred to as the “Zoning Ordinance of Evansville, Wyoming.”

**§ 1-2 AUTHORIZATION**

This title is adopted pursuant to and in accordance with the authority vested in the Town Council by Sections 15-1-601 through 15-1-612, and 15-1-701 through 15-1-709, Wyoming Statutes, as amended.

**§ 1-3 PURPOSE**

The purpose of this title is to lessen congestion in the streets; secure safety from fire and other danger; promote health and general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; facilitate adequate provisions for transportation, water, sewerage, schools, parks and other public requirements.

**§ 1-4 CONFORMITY WITH COMPREHENSIVE PLAN**

The zoning districts in this ordinance are based on the proposed land uses in the town’s Community Development Plan, adopted in October 2005.

**§ 1-5 CONFORMITY REQUIRED**

After the effective date of the title codified in this title, no land shall be used or occupied and no structure shall be erected, altered, used or occupied except in conformance with the provisions of this title.

**§ 1-6 APPLICABILITY**

This title shall apply to all private lands within the corporate limits of the town, as they may from time to time be amended, and to all public lands within the same area that are legally subject to these provisions.

**§ 1-7 CONTINUATION OF EXISTING USES**

The enactment of the title codified in this title, shall not prohibit the continuance of the use of any land, building or structure for the purpose for which such land, building or structure is used at the time the title takes effect, and it shall not be necessary to secure any permit or certificate permitting such continuance; provided, however, that any significant alteration of or addition to any existing building or structure within any area subject to the provisions of these regulations shall be regulated or prohibited.

**§ 1-8 RESTRICTIVE COVENANTS NO SUBSTITUTE**

The existence of restrictive covenants or agreements shall not be a substitute for these zoning regulations. The Town is not a party to and will not enforce private covenants.

**§ 1-9 HIGHER OR MORE RESTRICTIVE STANDARDS**

Wherever higher or more restrictive standards are established by the provisions of any other applicable title, statute, resolution or regulation, such other title, statute, resolution or regulation shall apply.

**§ 1-10 RENT, SALE OR LEASE IN VIOLATION**

No person, firm or corporation and no officer or employee thereof shall knowingly sell, rent or lease, or offer to sell, rent or lease, any land or structure for any use or purpose contrary to the provisions of this title.

**§ 1-11 EFFECTIVE DATE**

This title shall be in full force and effect, as adopted by the Town Council.

**§ 1-12 SEVERABILITY**

All parts and provisions of this title are hereby declared to be severable, If any clause, section, subsection, sentence, paragraph, part, word, phrase or provision of this title shall, for any reason, be adjusted by any court of competent jurisdiction to be invalid, illegal or unconstitutional, such judgment shall be confined in its operation to the clause, section, subsection, sentence, paragraph, part, word, phrase or provision directly involved in the controversy in which such judgment shall have been rendered.

**§ 1-13 RELATIONSHIP TO OTHER LAWS**

Where this title imposes greater restrictions upon the use of buildings or land than are imposed or required by existing provisions of law or resolution, this title shall prevail. Compliance with this title does not presume to give authority to violate or cancel the provisions of any federal, state or local law. This title shall supersede and repeal all previously adopted conflicting zoning related ordinances.

**§ 1-14 JURISDICTION**

These regulations apply to all subdivision of land within the jurisdictional area of the Governing Body of the Town of Evansville in accordance with the applicable state law and the boundary provisions under the code of the Town of Evansville.

**§ 1-15 APPLICABILITY OF REGULATIONS**

These regulations shall apply to any and all lands within the Town of Evansville.

**§ 1-16 TITLE CONFORMANCE**

No land shall be used or occupied and no structure shall be located, erected, used, occupied, constructed, reconstructed, enlarged, changed, maintained or altered, except in conformity with all provisions of this title.

**§ 1-17 LOT REDUCTION**

No platted lot of record or unplatted lot of land which is existing at the time of the passage of this title shall be reduced in dimensions or area below the minimum requirements set forth herein. Lots created after the effective date of this title shall meet or exceed the minimum requirements established by this title and shall comply with the Town subdivision regulations.

**§ 1-18 COMBINATION OF LOTS**

No portion of any lot which has been designated or used to satisfy the minimum lot size required for an existing or proposed structure shall be included as a portion of the minimum lot size required for another structure.

**§ 1-19 OFFICIAL ZONING MAP**

There are two parts to this title 1) the text and 2) the map. The official zoning map of the Town of Evansville will be maintained by the Town, shall be available at the Town Hall and the latest version noted by date.

**§ 1-20 FEES**

The fees for conditional use permits, variances and amendments, including zone changes, are set by the Town Council, by resolution, as amended from time to time. The Town Clerk maintains the fee schedule.

## ARTICLE 2 – ADMINISTRATION AND ENFORCEMENT

### § 2-1 PLANNING AND ZONING COMMISSION

There is a planning and zoning commission known as “Planning and Zoning Commission,” hereinafter referred to in this title as the “Commission.”

a. Composition, appointment, terms of and removal from office, vacancies, rules, secretary – The membership of the Commission shall consist of five members appointed by the Town Council all of whom shall reside, own property or manage a business, in the town. The terms of office of members appointed shall be for a period of three years. Commissioners may serve two consecutive three-year terms. Any member of the Commission may be removed from office for cause, other than politics or religion, after a public hearing by the Town Council. If a vacancy occurs in the Commission, the Town Council shall fill the vacancy by appointment for the unexpired term. The Commission shall adopt rules for the transaction of its business. The Town Clerk or a designee shall serve as secretary of the Commission.

b. The Commission shall elect, from its own membership, a chairman and vice-chairman who shall serve annual terms and who may succeed themselves.

c. Meetings of the Commission shall be held at the call of the Chairman and at such other times as the Commission may determine. For the conduct of any meeting, public hearing or the taking of any action, a quorum of three members is required. An affirmative vote of the majority of the members present at the meeting is required to authorize any action of the Commission. In the case of a tie vote, the matter shall be forwarded to the Town Council without a recommendation. The Commission shall render decisions and forward such decisions to the Town Council. The Commission shall keep minutes of its proceedings showing the vote of each member upon each action. All meetings, records and accounts of the commission shall be public.

d. The Commission shall have the following powers and duties:

- (1) To adopt rules and regulations for the conduct of its own business.
- (2) To hear and make recommendations on applications for conditional use permits, variances, zone changes and amendments to this title.
- (3) To prepare and amend the Comprehensive Land Use Plan and certify the plan to the council.
- (4) To make recommendations on land use planning decisions, such as subdivisions and annexations, etc.

- (5) Any powers and duties granted by the council.

**§ 2-2 POWERS AND DUTIES OF ADMINISTERING OFFICE**

The Planning Staff of the Town of Evansville, or other appointee of the Mayor shall have the power and duty to administer this title. In the performance of these duties, the Building and Planning Staff or appointee will:

- a. Administer rules and procedures, which include the development of necessary forms and permits, development of procedures not described by this title and coordinate with other officials and departments as directed by the council.
- b. Receive all applications for variances, conditional uses, zone changes and amendments to the title, refer such applications to the proper agencies for examination, and submit to the Planning and Zoning Commission and council all such applications together with the recommendations of the examining agencies and the recommendations of the Planning Staff.
- c. Participate, when deemed appropriate, in public hearings or meetings before the planning and zoning commission and the council on variances, conditional use permits, zone changes or amendments to this title.
- d. Maintain the official zoning map or maps showing the current zoning classification of all lands with the town.
- e. Propose to the Planning and Zoning Commission and the Town Council any changes to this title or the official zoning map that may, from time to time, be desirable or necessary. All such changes shall be subject to the amendment procedures set forth in this title.
- f. Designate a zoning enforcement officer who is hereby given the authority to enforce the provisions of this title. Said officer shall have the authority to make inspections or any necessary investigations as allowed by law, relative to the use of land or structures to determine compliance with this title.
- g. Maintain such records and files as may be necessary in the efficient conduct of the above duties.
- h. Establish and collect fees, as approved by the council.
- i. All Planning and Zoning Commission actions are recommendations to the council, and not appealable.

**§ 2-3 ENFORCEMENT**

This title shall be enforced by the Building and Planning Staffs which shall have the authority to grant zoning certificates, building, occupancy and other required permits, to make inspections and to make all decisions necessary to properly carry out the provisions of this title. No mistake, oversight or dereliction on the part of any official or employee of the town shall legalize, authorize or excuse the violation of any provisions of this title.

**§ 2-4 VIOLATIONS**

No person shall use or occupy any land or locate, erect, occupy, construct, reconstruct, enlarge, change, maintain or alter any building or structure in violation of the provisions of this title. Persons found to be in violation of any provision of this title shall be notified, in writing, by the zoning enforcement officer of the nature of the violation and the need to remedy or correct said violation. Within ten working days of such notification, the violation shall be remedied or corrected. If the violation is not remedied or corrected within the ten-day period, the matter may be referred for legal action by the office of the town attorney.

In the event of a violation or threatened violation of this title, the planning and building staff, the council or any adjacent property owner, or other property owner who would be damaged by such violation, in addition to the other remedies, may institute an injunction, mandamus, or other appropriate action in proceeding to prevent, restrain, correct or stop such violations or threatened violations.

**§ 2-5 PENALTY**

Any person violating any provision of this title shall be guilty of a misdemeanor and upon conviction, may be fined up to \$750 for each offense according to Chapter 1 of the Code of Evansville.

*(This page intentionally left blank.)*

## **ARTICLE 3 – PERMITS**

### **§ 3-1 ZONING CERTIFICATE**

No building shall be commenced, erected or altered nor any building, electrical or plumbing permit issued until a zoning certificate has been issued by the town staff certifying that the proposed building(s) or mobile home(s) complies with all of the provisions of this title. Accessory buildings, that are less than 120 square feet in floor area, do not require a permanent foundation, are not fixed to a permanent location on the ground, and are not attached to a building containing a permitted use, shall not require a zoning certificate or a building permit. However, all such accessory buildings shall meet all minimum setback requirements.

The Planning Staff shall act promptly upon any zoning certificate application filed; and shall grant said certificate in cases where the proposed construction or use complies with the requirements of this title, and other applicable rules and regulations. If the application is denied, the reason for such denial shall be specified in writing and the applicant notified of his right of appeal to the Town Council.

Any future modifications of existing buildings or changes of use of any building or land area, excluding internal renovations that do not represent a change in use, shall require a zoning certificate.

A zoning certificate shall be valid up to one year from the date of issuance. If rezoning is proposed for property for which a zoning certificate has been issued, the use for which the zoning certificate was issued must be in existence on the property prior to the date of approval of the new zoning by the council.

### **§ 3-2 BUILDING PERMITS**

It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove or convert any building or structure or cause the same to be done, without first obtaining the required permits for each building or structure from the Town Council.

All applications for building permits shall be accompanied by an approved zoning certificate, a legal description of the property, a plot plan showing the dimensions of the lot to be built upon, the dimensions and location of any existing buildings or structures on the lot, the dimensions and location of the proposed building and structure, and any other such information as may be necessary to provide for the enforcement of the provisions of this title.

The Building Department shall act promptly upon any permit application filed with it and shall review permits to insure that the proposed construction or use complies with the requirements of this title, and the International Building Code (IBC) and International Residential Code (IRC). After review and upon approval by the Council the Building Department shall issue the building permit. If construction has not been started within 180 days of the date of the issuance of the building permit, the permit shall become void.

A copy of all issued permits shall be filed by the Building Department and shall be available for examination.

### **§ 3-3 REVOCATION OF PERMITS**

If the Building Department finds that any work is not in accordance with the information supplied on the permit application or is in violation of this or any other pertinent regulations, or should the department find that there has been any misrepresentation in connection with the application for the permit, the department shall notify the owner or owner's representative of such findings and notify him that the violation must be corrected. The owner or owner's representative shall have five working days in which to reply to such notification. If such reply or correction is not made, the Building Department shall revoke the permit and shall serve written notice on the grounds therefore and of the right of appeal to the Town Council upon the owner or owner's representative. No person shall proceed with any part of such work after such notice is received.

### **§ 3-4 CERTIFICATES OF OCCUPANCY**

No newly constructed building shall be used or occupied and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until a certificate of occupancy has been issued by the Building Department stating that the entire building and proposed use complies with the provisions of this title, the IBC (formerly the Uniform Building Code,) and Casper-Natrona County Health Department Regulations. Certificates of occupancy must be signed by all applicable inspectors.

### **§ 3-5 NON-LIABILITY FOR DAMAGES**

This title may not be construed to hold the Town of Evansville or its officers, agents or employees responsible for any damage to persons, property or business interests resulting from any inspection or any failure to inspect, from the issuance, denials, suspension or revocation of any permit or from the institution of any enforcement action.

**§ 3-6 PERMITTED AND CONDITIONAL USE DEFINITION  
INTERPRETATION**

- a. The Planning Staff shall make the determination as to whether a proposed use not listed as a permitted or conditional use meets the intent of the permitted or conditional use sections of each zoning district.
  
- b. Any applicant may appeal the Planning Staff's decision in writing to the Planning Commission for review and recommendation to the Town Council, who will uphold or overrule the Planning Staff's decision.

*(This page intentionally left blank.)*

## ARTICLE 4 – DEFINITIONS

### § 4.1            **GENERAL**

The words and terms defined in this Chapter shall be interpreted in the same manner throughout this title. In general, the word “shall” is always mandatory; the word “may” is permissive. Words used in the present tense include the future tense, and words used in the singular shall include the plural. Words not defined shall have the meaning that is typically given to them.

**Accessory Structure:** A subordinate building, the use of which is incidental to that of the main building located on the same lot. A storage shed on skids shall also be included in the definition of a building, for the purposes of this title.

**Accessory Use:** A use dependent upon or pertaining to the principal use or main use. Such use must be incidental to the principal use or main use; and, (a) constitute a use which is secondary to significance to the principal or main use; and, (b) be reasonably related to the main use.

**Alley:** A public or private thoroughfare that provides only a secondary access to abutting property.

**Automobile Body Repair:** Restoration, repair, and painting of the external bodies of passenger vehicles and pick-up trucks rated at one and one-half tons or less.

**Automobile Repair:** Repair of internal, mechanical components of passenger vehicles and pick-up trucks rated at one and one-half tons or less.

**Automobile Sales:** Sales of new and used passenger vehicles automobiles and pick-up trucks rated at one and one-half tons or less.

**Automobile Service:** Minor repair, tune-up, and routine servicing of passenger vehicles and pick-up trucks rated at one and one-half tons or less.

**Bed and Breakfast:** A private owner-occupied home where a portion is used to provide accommodations to registered guests for up to 30 consecutive days for a charge. Four or less lodging units may be provided, and one or two family style meals must be provided for the guests in a 24 hour period. Signage shall comply with signs allowed for home occupations. A bed and breakfast shall require an approved Conditional Use Permit and shall not impair the residential character of the neighborhood in which it is located.

**Building:** Any covered structure permanently affixed to the ground intended for the shelter, housing, or enclosure of persons, animals, or goods.

**Building Frontage:** The façade of a structure containing a permitted use that is generally parallel to and closest to the front line of a lot.

**Building Height:** Vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of the roof of the top story; in the case of a flat roof, to the deck line of a mansard roof, and to the average height between the plate and ridge of a gable, hip, or gambrel roof.

**Commercial Storage Facility:** A building or group of buildings containing varying sizes of individual stalls or lockers for the storage of articles or goods. This use does not include retail uses or any other activities conducted within the structure or structures, other than the temporary storage of articles or goods. All storage shall be totally contained within the building, with no outdoor storage allowed. No hazardous materials shall be allowed to be stored. A 'mini-storage' facility is included in this definition.

**Commission:** Planning and Zoning Commission.

**Condominium:** A multiple dwelling or development containing individually owned units and jointly owned and shared areas and facilities, subject to the provisions of this title.

**Convenience Store:** A facility associated with the sale of gasoline products that also offers prepackaged food items and tangible consumer goods, primarily for self-service by the consumer.

**Corner Lot:** A lot situated at the intersection of two or more streets. (See Figure 4.2)

**Corrective Action Management Unit (CAMU):** An area permitted by the Wyoming Department of Environmental Quality (WDEQ) to accept both hazardous and non-hazardous remediation waste generated in association with voluntary Solid Waste Management Unit (SWMU) and soil remediation activities. (Amd. 19-2008, 11/2008)

**Council:** Town Council

**Day Care:** A facility operated for the purpose of providing care for individuals during only part of a 24-hour day. This term includes nursery schools, preschools, day care centers for individuals, and other similar uses. It excludes public and private educational facilities or any facility offering care for a full 24-hour period. The activity shall be regulated by the Wyoming Department of Family Services and the town.

**Duplex:** A building comprised of two dwelling units with separate entrances located on one parcel of property.

**Dwelling Unit:** One or more rooms and a single kitchen designed as a unit for occupancy by only one family unit for cooking, living and sleeping purposes.

**Family Unit:** An individual or a group of two or more persons related by blood, marriage or adoption, including foster children, or a group not to exceed five persons not related by blood marriage or adoption living together as a single housekeeping unit and using a common cooking facility.

**Front Lot Line:** Any boundary line of a lot parallel to and abutting the right-of-way line of an officially approved street or highway. In residential zoning districts this shall be the property line separating the narrowest street frontage of the lot from the street right-of-way. (See Figure 4.1)

**Gas Station:** A retail establishment engaged in the sale of automotive fuels, motor oil or other automobile accessories and providing incidental services, including minor mechanical work and repairs but not painting or body work.

**Group Home:** An establishment used to provide twenty-four (24) hour care or supervision, by persons living on the premises, of not more than ten (10) persons who, by reason of circumstances, require daily care or supervision. “Care” is defined as room and board, and the provision of a planned treatment program. “Planned Treatment” means a previously determined program of counseling, therapy, or other rehabilitation social service which provides for a group of persons of similar or compatible circumstances or conditions.

**Home occupation:** An occupation conducted in a dwelling unit or accessory structure by the resident, provided that the use is limited in extent and clearly incidental to the use of the dwelling for residential purposes and does not change the outside character of the dwelling or accessory structure.

**Junkyard:** A lot, land, or structure used primarily for the collecting, storage, and sale of wastepaper, rags, scrap metal or discarded material; or for the collection, dismantling, storing, and salvaging of machinery or vehicles not in running condition, or for the sale of their parts. Junkyards are neither a permitted or conditional use.

**Loading Area or Space:** Space within the main building or on the same lot that provides for the standing, loading, or unloading of a vehicle.

**Lot:** A single parcel of contiguous land occupied or intended to be occupied by structures and/or uses, as permitted by this title, together with the open spaces required; all lots shall abut on a public street or an officially approved access way.

**Manufactured Home:** A structure, transportable in one or more dependent sections, constructed in conformance with the National Manufactured Housing Construction and Safety Standards Act of 1974 as updated, which is built on a permanent chassis and designed to be used as a single family residential dwelling unit.

**Mobile Home:** A structure, transportable in one or more sections, designed for use as a single family residential dwelling unit, built on a permanent chassis and not in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974.

**Mobile Home Park:** Two or more mobile homes located on one parcel under single ownership.

**Mobile/Manufactured Home Subdivision:** A subdivision consisting of two or more lots and meeting all of the requirements of the Subdivision Regulations of the Town of Evansville, the lots of which are intended to be sold, leased or assigned for use by mobile/manufactured homes to create a place for long term residential occupancy.

**Modular Home:** A structure, transportable in one or more dependent sections, designed for use as a single family residential dwelling unit, not built on a permanent chassis, capable of being transported from place of fabrication to the site on which it is to be erected, where it is placed on a permanent foundation and, when assembled, meets all of the provisions of the Uniform Building Code (IBC) or International Residential Code for residential dwelling units.

**Motor Vehicle Salvage:** See “Junkyard”.

**Motor Vehicle:** Passenger vehicles, light pick-up trucks and any other motorized heavy equipment, commercial trucks, buses, semi-tractor trailers, tractors, farm implements and other utility vehicles.

**Motor Vehicle, Licensed or Registered:** Operable vehicle with a currently valid registration affixed to that vehicle.

**Motor Vehicle, Unlicensed or Inoperable:** A motor vehicle which does not have a valid state license, is not mechanically able to operate, or which cannot otherwise legally operate on the highway. Only one inoperable or unlicensed vehicle is permitted per premises.

**Multiple Family Dwelling:** A structure containing three or more dwelling units on one lot.

**Open Space:** Portion of a lot that is not occupied by a structure, or utilized for parking, or occupied by an impervious surface.

**Parcel:** See “Lot”

**Parking Space:** An off-street space available for the parking of one motor vehicle which has a hard surface of gravel, pavement, or concrete and is at least nine feet in width and eighteen feet in length, exclusive of passageways and driveways.

**Passenger Vehicle:** Cars, light trucks, vans, motorcycles, RV's or any other vehicles intended to transport persons and light cargo.

**Permitted Use:** An allowed use listed for a zoning district.

**Premises:** Any lot or combination of lots or parcels used as one entity under single ownership.

**Public Utility:** All lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and includes facilities for the generation of electricity.

**Rear Lot Line:** The lot line that is opposite and most distant from the front lot line; the rear lot line of an irregular or triangular lot shall be a line entirely within the lot at least 10 feet long and parallel to and most distant from the front lot line.

**Recreational Facilities:** Land, structures, and accessory equipment that is designed and utilized for leisure time activities taking place indoors or outdoors and being of a more specific purpose than passive, park-like open space.

**Recreational Vehicle:** A vehicular-type unit designed as temporary living quarters for recreational, camping, living, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. Use of recreational vehicles as permanent dwellings or as a primary residence on a lot is prohibited.

**Recreational Vehicle Park/Campground:** A tract of land having two or more recreational vehicles or tent sites for lease, established or maintained for transient occupancy by the general public.

**Restaurant:** An establishment whose principal business is the sale of prepared food and beverages for consumption within the restaurant building; a convenience food restaurant is an establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer, ready to be consumed on or off premises.

**Setback Line:** The lines defining the buildable area of the lot and the inside limits of the required yards. (See Figures 4.1 and 4.2)

**Side Lot Line:** Any boundary of a lot that is not a front line or a rear line. (See Figures 4.1 and 4.2)

**Solid Waste Management Unit (SWMU):** An area defined by the Wyoming Department of Environmental Quality (WDEQ) as an area that was believed to have managed solid waste and in conjunction with a Voluntary Remediation Program and Use Control Area. (Amd. 19-2008, 11/2008)

**Spot Zoning:** The singling out of a particular property or small groups of properties for different treatment from that accorded to similar surrounding land; which is contrary to the general pattern of zoning in the surrounding geographic area and is not in accordance with the comprehensive plan; and, which is designed solely for the economic benefit of the owner of the property receiving special treatment.

**Structure:** Anything constructed or erected that requires a more or less permanent location on the ground; fences, signs, monuments, statues, flagpoles, and bridges shall be considered structures for the purpose of this title.

**Temporary Use:** Seasonal or transient use which is non-permanent in nature and does not alter the intent of the district. Temporary use permits for any district shall require a Conditional Use Permit as regulated in Article 8.

**Town:** Town of Evansville, Wyoming.

**Townhouse:** A rowhouse or other unit of a building containing two or more units on separate lots, in which generally no part of a living unit extends over or under another living unit; townhouse units may consist of one or more stories.

**Twin Homes:** A single family dwelling attached to one other single family dwelling by a common wall, each of which is located on an individually owned, and separately platted subdivision lot, and sharing one common lot line. (Amd. 1-2009, 3/2009)

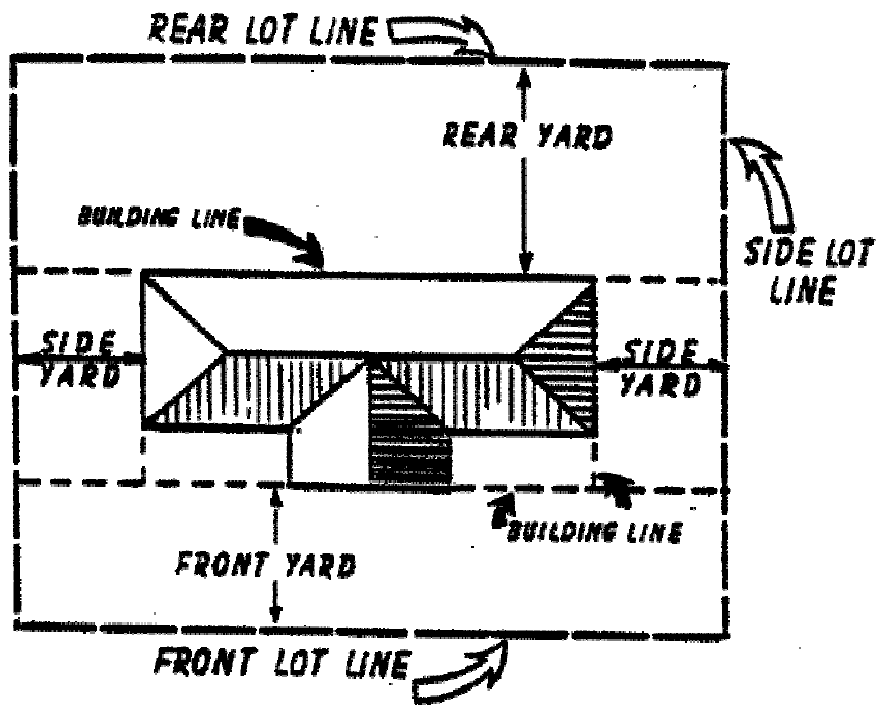
**Unit:** That portion of a condominium or townhouse building designated for separate ownership on a recorded plat.

**Use Control Area (UCA):** A legally enforceable form of property use restriction that is only available under the Voluntary Remediation Program (VRP) and as defined and governed by Wyoming Statute 35-11-1609. (Amd. 19-2008, 11/2008)

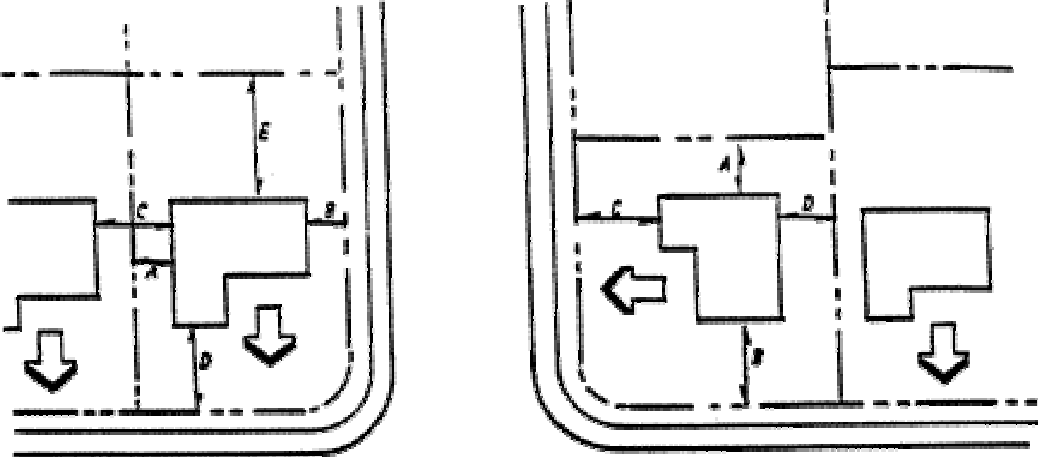
**Voluntary Remediation Program (VRP):** A set of comprehensive standards and procedures for voluntary remediation of contaminated sites in Wyoming as defined by the provisions in the Wyoming Environmental Quality Act (WEQA), W.S. 35-11-1609. (Amd. 19-2008, 11/2008)

**Yard:** A space on the same lot with a main building that is open, unoccupied, and unobstructed by buildings or structures.

**FIGURE 4.1 - Typical Normal Lot**



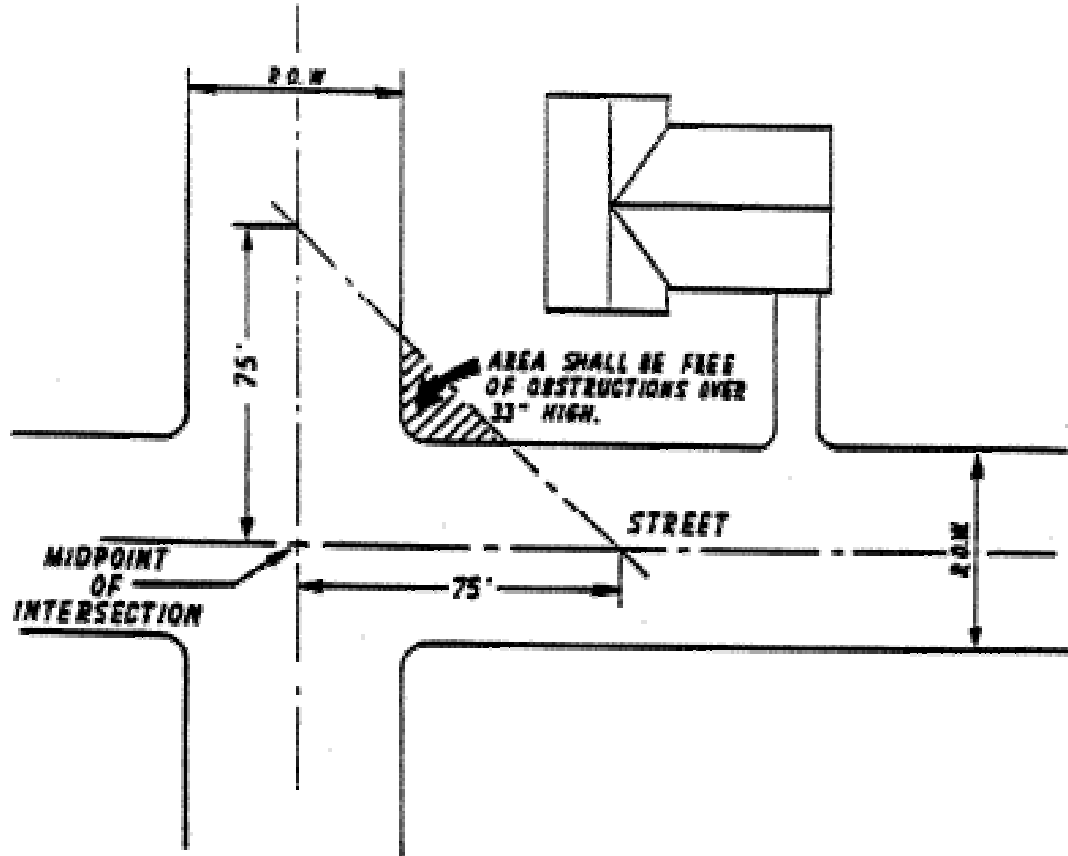
**FIGURE 4.2 - Setbacks**



**REGULAR CORNER LOT**  
**A & B SIDE YARDS**  
**C DISTANCE BETWEEN BUILDINGS**  
**D FRONT YARD**  
**E REAR YARD**

**REVERSE CORNER LOT**  
**A SIDE YARD**  
**B STREET SIDE YARD**  
**C FRONT YARD**  
**D REAR YARD**

**FIGURE 4.3 - Sight Distance Triangle**



*(This page intentionally left blank.)*

# ARTICLE 5 – ZONING DISTRICTS

## **§ 5.1 DISTRICT CLASSIFICATIONS**

### **R-1 – Single Family Residential District**

This district is for single family units that have been constructed on-site and are conventional, stick-built residences.

### **R-2 – Single Family, Twin Homes and Duplex Residential District** (Amd. 1-2009, 3/2009)

The district is for single family, twin homes, and duplex residential units, including houses constructed on-site and manufactured and modular houses. (Amd. 1-2009, 3/2009)

### **R-3 – Multi-Family Residential District**

Multi-family units are permitted in this district. Single family residences are also allowed, along with manufactured and modular homes.

### **R-4 – Mobile Home Residential District**

The district is intended for mobile homes, including subdivisions specifically designed for manufactured and mobile housing. Conventional single family residences and manufactured and modular homes are allowed as a permitted use. Mobile home parks are allowed as a conditional use.

### **C-1 – Commercial District**

This district is intended for retail, commercial, office, and institutional (public or semipublic) uses meant to serve the community and surrounding area.

### **C-4 – Highway Business District**

The district is intended for commercial businesses which generate higher traffic volumes and require access to arterial streets. (Amd. 12-2008 §5.1, 5.4, 5.5, 2008)

### **I-L – Light Industrial District**

The I-L district allows non-obtrusive light industrial uses and the manufacture of finished products or parts, including the processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of products. The manufacturing conducted in this zoning district is primarily from previously prepared materials and

excludes basic industrial processing. These processes shall not be detectable beyond the property line.

### **I-H – Heavy Industrial District**

This district allows basic processing and manufacturing of materials or products primarily from extracted or raw materials, or a use that involves storage or manufacturing processes that use flammable or explosive materials or that potentially involve hazardous or commonly recognized offensive conditions.

### **UCA – Use Control Area District**

The intent of a Use Control Area is to encourage the reuse of formerly heavily contaminated industrial sites which have been or are in the process of remediation through Wyoming’s Voluntary Remediation Program (VRP). The UCA is part of a comprehensive remedy to achieve continued compliance with the Wyoming Environmental Quality Act (EQA) and to protect human health and the environment by restricting in perpetuity incompatible uses through institutional controls. The administrative process envisions adopting a new zoning district (UCA District) by amending the Town of Evansville’s existing zoning ordinance. If approved, the Town of Evansville will submit the amended zoning ordinance to the Wyoming Department of Environmental Quality (WDEQ). (Amd. 19-2008, 11/2008)

### **O-P – Open Space and Public District**

The Open Space and Public District is intended to provide for public land areas and public and semi-public institutional uses, including land reserves for future public and institutional use, and for the preservation of publicly established historic sites.

## **§ 5.2 RESIDENTIAL DISTRICT USES AND REGULATIONS**

### **A. R-1 Single Family Residential District**

The purpose of this district is to provide an area for single family units that have been constructed on-site and are conventional, stick-built residences, free from other conflicting uses.

#### **Permitted Uses**

1. Single family dwelling, not including mobile homes.

#### **Conditional Uses**

The following uses may be allowed upon review and approval of a conditional use permit by the Town Planning and Zoning Commission and Town Council. The requirements of Article 8 of this title must be met.

1. Bed and Breakfast
2. Public Utilities
3. Churches

### **Accessory Uses**

A use that complies with all of the following may be operated as an accessory use to a permitted use in the R-1 district:

- A. The use is clearly incidental and secondary to the operation of the permitted use;
- B. The use is commonly associated with the operation of the permitted use;
- C. It is operated and maintained under the same ownership and on the same lot as the permitted use;
- D. Does not include structures or structural features inconsistent with the permitted use;
- E. The gross floor area of a separate, detached structure from a permitted use shall not exceed the gross floor area of the permitted use;
- F. Does not include residential occupancy.

### **B. R-2 Single Family, Twin Homes and Duplex Residential District (Amd. 1-2009, 3/2009)**

The district is for single family, twin homes and duplex residential units, including houses constructed on-site and manufactured and modular houses. (Amd. 1-2009, 3/2009)

### **Permitted Uses**

1. Single family dwelling, including conventional unit, manufactured home, and modular units, not including mobile homes.
2. Duplex
3. Twin Homes

### **Conditional Uses**

The following uses may be allowed upon review and approval of a conditional use permit by the Town Planning and Zoning Commission and Town Council. The requirements of Article 8 of this title must be met.

1. Bed and Breakfast
2. Public Utilities
3. Townhouses
4. Churches

### **Accessory Uses**

A use that complies with all of the following may be operated as an accessory use to a permitted use in the R-2 district:

- A. The use is clearly incidental and secondary to the operation of the permitted use;
- B. The use is commonly associated with the operation of the permitted use;
- C. It is operated and maintained under the same ownership and on the same lot as the permitted use.
- D. Does not include structures or structural features inconsistent with the permitted use;
- E. The gross floor area of a separate, detached structure from a permitted use shall not exceed the gross floor area of the permitted use;
- F. Does not include residential occupancy.

### **C. R-3 Multi-Family Residential District**

Duplex and multi-family units are permitted in this district. Single family residences are also allowed, including manufactured and modular homes.

### **Permitted Uses**

- 1. Multiple Family Dwelling
- 2. Duplex
- 3. Single Family Dwelling, including conventional unit, manufactured home, and modular unit, not including mobile homes.

### **Conditional Uses**

The following uses may be allowed upon review and approval of a conditional use permit by the Town Planning and Zoning Commission and Town Council. The requirements of Article 8 of this title must be met.

- 1. Bed and Breakfast
- 2. Public Utilities
- 3. Townhouses
- 4. Churches
- 5. Group Home

### **Accessory Uses**

A use that complies with all of the following may be operated as an accessory use to a permitted use in the R-3 district:

- A. The use is clearly incidental and secondary to the operation of the permitted use;

- B. The use is commonly associated with the operation of the permitted use;
- C. It is operated and maintained under the same ownership and on the same lot as the permitted use.
- D. It does not include structures or structural features inconsistent with the permitted use;
- E. The gross floor area of a separate, detached structure from a permitted use shall not exceed the gross floor area of the permitted use;
- F. It does not include residential occupancy.

**D. R-4 Mobile Home Residential District**

The district is intended for mobile homes, including subdivisions specifically designed for manufactured and mobile housing.

**Permitted Uses**

- 1. Mobile Homes
- 2. Single family dwelling, including conventional, manufactured, modular units, and mobile homes

**Conditional Uses**

The following uses may be allowed upon review and approval of a conditional use permit by the Town Planning and Zoning Commission and Town Council. The requirements of Article 8 of this title must be met.

- 1. Mobile home park
- 2. Public utility structures
- 3. Churches

**Accessory Uses**

A use that complies with all of the following may be operated as an accessory use to a permitted use in the R-3 district:

- A. The use is clearly incidental and secondary to the operation of the permitted use;
- B. The use is commonly associated with the operation of the permitted use;
- C. It is operated and maintained under the same ownership and on the same lot as the permitted use.
- D. It does not include structures or structural features inconsistent with the permitted use;
- E. The gross floor area of a separate, detached structure from a permitted use shall not exceed the gross floor area of the permitted use;
- F. It does not include residential occupancy.

**§ 5.3 BULK REGULATIONS FOR RESIDENTIAL ZONING DISTRICTS**

<b>Zoning District</b>	<b>Minimum Lot Size</b>	<b>Minimum Setbacks</b>	<b>Maximum Height</b>
R-1	7,000 square feet	Front: 25' *Side: 10' *Rear: 20' for permitted use 5' for accessory structures *There shall be a minimum of 10' between buildings on the same or adjacent lots	35'
R-2	5,000 square feet (single family and duplex) 3,500 square feet (twin homes and townhouses)	Front: 25' *Side: 5' *Rear: 20' for permitted use 5' for accessory structures *There shall be a minimum of 10' between buildings on the same or adjacent lots	35'
R-3	5,000 square feet, plus, 1,500 square feet for each unit in a multi- family dwelling with 3 or more units	Front: 25' *Side: 5' *Rear: 10' for permitted use 5' for accessory structures *There shall be a minimum of 10' between buildings on the same or adjacent lots	35'
R-4	4,000 square feet for each space in a mobile home park or subdivision; 5,000 square feet for all other dwellings	Front: 25' *Side: 5' *Rear: 5' for permitted use 5' for accessory structures *There shall be a minimum of 10' between buildings on the same or adjacent lots	35'

(Amd. 1-2009, 3/2009)

**E. Additional Requirements**

**Corner Lots:**

Minimum setbacks for all residential corner lots shall be:

Front – 25’

Side adjacent to street – 12’

Side not adjacent to street – 5’

Rear – Refer to specific district

**Open Space:**

Single family dwellings located in all residential zoning districts shall maintain 50 percent of their lot area as unobstructed open space.

Duplexes and multi-family dwellings shall maintain 750 square feet of unobstructed open space for each dwelling unit.

**Mobile Home Parks:**

The requirements addressing mobile home parks found in Chapter 25 of the Town Code must be complied with.

**§ 5.4 COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS USES AND REGULATIONS**

**A. C-1 Commercial District**

The district is intended for retail, commercial, office, and institutional (public or semipublic) uses meant to serve the community and surrounding area.

**Permitted Uses:**

1. Antique shop, with all merchandise displayed and sold inside a building;
2. Apparel and accessory store;
3. Appliance store, household;
4. Athletic clubs, health and exercise center, or commercial recreation;
5. Automobile and pick-up trucks rated at one and one-half tons or less sales, service and repair, new and used;
6. Automobile and truck washing establishment;
7. Auto supply store;
8. Bank, savings and loan institutions;
9. Bar, liquor store, or lounge;
10. Barbershop and beauty shop;
11. Bicycle sales, service and repair shop;
12. Boat sales, service and repair;
13. Bookstore or stationary store;
14. Business and office machine sales, service, and repair shop;
15. Business, technical, or vocational school, including music and dance;
16. Church and parish house;

17. Convenience store;
18. Drugstore and prescription shop;
19. Dry cleaning and laundry;
20. Electrical shop;
21. Florist and gift shop;
22. Furniture and home furnishing store;
23. Garden shop;
24. Gas station;
25. Miniature golf course;
26. Government building;
27. Grocery store, including retail meat market, produce store, delicatessen, and catering
28. Hardware and paint store;
29. Heating and air conditioning shop;
30. Hobby and craft store;
31. Hotel and motel;
32. Locksmith;
33. Medical, dental, optician, optometrist, or health clinic;
34. Mortuary;
35. Office;
36. Office supply and equipment;
37. Off-track betting;
38. Package liquor store;
39. Pawn shop;
40. Plumbing shop;
41. Private club or lodge;
42. Public or private school;
43. Recreational vehicle sales;
44. Rental store;
45. Repair shop, for household appliances;
46. Restaurant and convenience food restaurant;
47. Self-service laundry;
48. Sporting and athletic goods store;
49. Tire sales and repair;
50. Travel agency;
51. Other commercial uses, similar to listed uses and approved by Planning Staff.

**Conditional Uses:**

- A. Campground;
- B. Child care center;
- C. Group Home
- D. Mini-warehouses;
- E. Veterinary clinic and animal boarding;
- F. Sale and service and repair of heavier motor vehicles;

- G. Other potentially compatible uses provided they are not contrary to the intent of the district.

**Accessory Uses:**

A use that complies with all of the following may be operated as an accessory use to a permitted use in the C-1 district:

- A. The use is clearly incidental and secondary to the operation of the permitted use;
- B. The use is commonly associated with the operation of the permitted use;
- C. It is operated and maintained under the same ownership and on the same lot as the permitted use.

**A.1 C-4 Highway Business District**

The district is intended for commercial businesses which generate higher traffic volumes and require access to arterial streets.

**Permitted Uses:**

- 1. Animal shelters, animal clinics, and animal boarding and treatment centers;
- 2. Assembly of devices or instruments, or packaging of products from previously prepared materials;
- 3. Automobile parks;
- 4. Automobile, Truck and Recreational Vehicle sales and repair areas and shops including vehicles that exceed a rating of one and one-half tons;
- 5. Automobile service stations, automobile service centers, and public garages;
- 6. Automobile and Truck Washes
- 7. Automobile, Truck and Trailer Sales, including vehicles that exceed a rating of one and one-half tons;
- 8. Bar, liquor store or lounge;
- 9. Bed and breakfast;
- 10. Bed and breakfast homestay;
- 11. Bed and breakfast inn;
- 12. Builders' supply yards;
- 13. Churches;
- 14. Commercial laundries;
- 15. Convenience establishment, high volume;
- 16. Drive-in/through facilities such as restaurants, package liquors, branch banks, etc.;
- 17. Farm implement sales and service;
- 18. Frozen food lockers;
- 19. Greenhouses;
- 20. Grocery stores;

21. Hotels, motels;
22. Kennels;
23. Manufactured home (mobile) sales;
24. Medical laboratories, clinics, health spas, rehabilitation centers, real estate brokers, insurance agents, and public health facilities;
25. Nurseries;
26. Offices, general and professional;
27. Outside storage as an accessory use to a permitted use and excluding junkyards;
28. Parks, playgrounds, historical sites, golf courses, and other similar recreational facilities;
29. Pawn shops;
30. Plumbing, welding, electrical supply, service shops, and fabrication shops;
31. Printing and newspaper houses;
32. Recreation centers, restaurants, cafes, coffee shops, and retail business;
33. Retail businesses;
34. Trade or business schools;
35. Transportation depots;
36. Truck/car stops;
37. Warehouses, including mini-storage, climate controlled storage and recreational vehicle storage.

**Conditional Uses:**

The following are conditional uses in the C-4 district:

1. Parking lots;
2. Public utility and public service installations and facilities, including repair and storage facilities;
3. Radio and television stations, including transmitting and receiving towers;
4. Recycling businesses;
5. Other compatible uses, as determined by the commission and council.

**Accessory Uses:**

A use that complies with all of the following may be operated as an accessory use to a permitted use in the C-4 district:

- A. The use is clearly incidental and secondary to the operation of the permitted use;
- B. The use is commonly associated with the operation of the permitted use;
- C. It is operated and maintained under the same ownership and on the same lot as the permitted use. (Amd. 12-2008)

**B. I-L Light Industrial District**

The I-L district allows non-obtrusive light industrial uses and the manufacture of finished products or parts, including the processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of products. The manufacturing conducted in this zoning district is primarily from previously prepared materials and excludes basic industrial processing.

**Permitted Uses:**

1. Assembly or fabrication of materials already processed or manufactured into final product;
2. Automobile and truck repair, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial;
3. Automotive washing facilities;
4. Boat sales, service and repairs, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial;
5. Building material storage or sales;
6. Bulk storage of non-explosive or non-caustic liquids;
7. Carpenter, cabinet, plumbing or sheet metal shop;
8. Contractor's yard for vehicles, equipment, and supplies, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial;
9. Convenience store;
10. Dry cleaning and laundry;
11. Feed, grain and fertilizer retail sales;
12. Frozen food locker;
13. Gas station;
14. Grain elevator and grain mill;
15. Greenhouse;
16. Heavy equipment sales, service, and repair, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial;
17. Machinery and implement sales, service and repair, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial;
18. Monument making and sales;
19. Motor vehicle sales, service, repair, and storage, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial;
20. Oil and gas field supply, sales, and storage, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial;
21. Office;
22. Radio or television transmitting station;
23. Railroad tracks;
24. Recreational Vehicle Parks;
25. Restaurant and convenience food restaurant;
26. Truck terminal;

27. Veterinary clinic and animal boarding;
28. Vocational or training school;
29. Warehousing or mini-warehousing or inside storage;
30. Welding shop;
31. Wholesale business;
32. Other light industrial uses, similar to those listed and approved by the Planning Staff.

**Conditional Uses:**

These uses may be allowed upon review and approval of a conditional use permit by the Town Planning and Zoning Commission and Town Council. The requirements of Article 8 of this title must be met.

1. Outside storage excluding junkyards as defined in 4.1 of this title.
2. Railroad yard.
3. Underground oil or gas storage facilities.
4. Other potentially compatible uses provided they are not contrary to the intent of the district.

**Accessory Uses:**

A use that complies with all of the following may be operated as an accessory use to a permitted use in the I-L district:

- A. The use is clearly incidental and secondary to the operation of the permitted use;
- B. The use is commonly associated with the operation of the permitted use;
- C. It is operated and maintained under the same ownership and on the same lot as the permitted use.

**C. I-H Heavy Industrial District**

This district allows basic processing and manufacturing of materials or products primarily from extracted or raw materials, or a use that involves storage or manufacturing processes that use flammable or explosive materials or that potentially involve hazardous or commonly recognized offensive conditions.

**Permitted Uses:**

1. Assembly or fabrication of materials already processed or manufactured into final product;
2. Automobile and truck repair;
3. Automotive washing facilities;
4. Boat sales, service and repairs;
5. Building material storage or sales;

6. Bulk storage of non-explosive or non-caustic liquids;
7. Carpenter, cabinet, plumbing or sheet metal shop;
8. Contractor's yard for vehicles, equipment, and supplies;
9. Convenience store;
10. Dry cleaning and laundry;
11. Feed, grain and fertilizer retail sales;
12. Frozen food locker;
13. Gas station;
14. Grain elevator and grain mill;
15. Greenhouse;
16. Heavy equipment sales, service, and repair;
17. Machinery and implement sales, service and repair;
18. Monument making and sales;
19. Motor vehicle sales, service, repair, and storage;
20. Oil and gas field supply, sales, and storage;
21. Office;
22. Outside storage excluding junkyards as defined in 4.1 of this title;
23. Radio or television transmitting station;
24. Railroad yard;
25. Recreational Vehicle Parks;
26. Restaurant and convenience food restaurant;
27. Truck terminal;
28. Veterinary clinic and animal boarding;
29. Vocational or training school;
30. Warehousing or storage;
31. Welding shop;
32. Wholesale business;
33. Underground oil or gas storage facilities as approved by the Town of Evansville;
34. Other heavy industrial uses, similar to those listed and approved by the Planning Staff.

**Conditional Uses:**

These uses may be allowed upon review and approval of a conditional use permit by the Town Planning Staff and Town Council. The requirements of Article 8 of this title must be met.

1. Animal or livestock sales;
2. Asphalt plant;
3. Bottling works;
4. Bulk plant, gasoline or LP gas;
5. Grinding mill;
6. Incinerator;
7. Motor freight terminal;
8. Railroad switching and classification yard;

9. Refineries, oil and gas;
10. Storage, utilization, or manufacture of materials or products that can explode.
11. Other potentially compatible uses provided they are not contrary to the intent of the district.

**Accessory Uses:**

A use that complies with all of the following may be operated as an accessory use to a permitted use in the I-H district:

- A. The use is clearly incidental and secondary to the operation of the permitted use;
- B. The use is commonly associated with the operation of the permitted use;
- C. It is operated and maintained under the same ownership and on the same lot as the permitted use.

**D. UCA Use Control Area District**

The intent of a Use Control Area is to encourage the reuse of formerly heavily contaminated industrial sites which have been or are in the process of remediation through Wyoming's Voluntary Remediation Program (VRP). The UCA is part of a comprehensive remedy to achieve continued compliance with the Wyoming Environmental Quality Act (EQA) and to protect human health and the environment by restricting in perpetuity incompatible uses through institutional controls.

**Zone Change Procedures:**

To be eligible for zoning under the UCA District, property owners shall petition the Town of Evansville for creation of a Use Control Area to establish long-term restrictions on the use of the site and shall comply with all requirements of W.S. 35-11-1601 through 1613. After approval of the petition for a UCA District by the Town and acceptance of the UCA District by the WDEQ, the property owner shall submit a zone change petition in compliance with Article 10, Amendment Procedures, Evansville Zoning Ordinance. Further, the property owner shall demonstrate cleanup activities comply with the WDEQ corrective action requirements under the Resource Conservation and Recovery Act (RCRA) and the VRP, such as work plans, reports, implementation of interim measures, risk assessments, public notices, public participation plan, and periodic newsletters to adjacent property owners, the Town of Evansville, and other interested parties summarizing progress of remediation activities, as applicable. The EQA (W.S. 35-11-1607 and 1609) establishes that UCA's cannot be modified or amended without first modifying the WDEQ remedy agreement or equivalent mechanism.

### **Permitted Uses:**

1. Accessory buildings and uses;
2. Assembly or fabrication of materials already processed or manufactured into final product;
3. Auto and truck wash;
4. Boat sales, service and repair, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial;
5. Building material storage or sales;
6. Business, including outside storage provided it is enclosed by a six foot solid fence if adjacent to property zoned residential or commercial;
7. Bus terminal;
8. Contractor's yard for vehicles, equipment, and supplies, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial;
9. Convenience store;
10. Dry cleaning and laundry;
11. Gas station;
12. Heavy equipment sales, service, and repair, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial;
13. Machinery and implement sales, service and repair, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial;
14. Mobile home sales and service;
15. Monument making and sales;
16. Motor vehicle sales, service, repair, and storage, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial;
17. Office;
18. Oil and gas field supply, sales, and storage, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial;
19. Parking structure;
20. Railroad tracks;
21. Sign, billboard/off-premise, under 150 square feet;
22. Supply and service shop, including plumbing, welding, electrical and building;
23. Utility installation, above ground;
24. Warehousing or mini-warehousing or inside storage.

### **Conditional Uses:**

1. Airport;
2. Asphalt plant;
3. Auto wrecker service, provided it is enclosed by a six foot solid fence if adjacent to property zoned residential or commercial;
4. Bulk storage of non-explosive or non-caustic liquids;
5. Chemical plant, processing and storage;
6. Communication towers and wireless telecommunication facilities (see Article 13, Wireless Telecommunication Services (WTS), Evansville Zoning Ordinance);
7. Concrete batch plant;

8. Corrective Action Management Unit (special type of industrial landfill for remediation waste);
9. Creosote manufacturing and treating;
10. Gas and LPG processing plant;
11. Heliport;
12. Incinerator;
13. Mineral processing and refining (oil and gas excepted);
14. Mining: aggregate extraction;
15. Motor freight terminal;
16. Pipeline terminal and pump station;
17. Pre-cast concrete manufacturing;
18. Railroad switching;
19. Refineries, oil and gas;
20. Research and lab facility, excluding those involving animals;
21. Sawmill;
22. Sign, billboard/off-premise over 150 square feet;
23. Storage, utilization, or manufacture of materials or products that can explode;
24. Truck terminal;
25. Underground oil or gas storage facilities;
26. Wind generator, domestic.

**Prohibited Uses:**

1. Adult entertainment establishment;
2. Animal or livestock sales;
3. Animal shelter, animal treatment or care facility, Kennel;
4. Arena, Commercial;
5. Bottling works/factory;
6. Dairy processing, commercial;
7. Dwelling; single family, mobile home or manufactured home; one per lot, as the only building on the lot or in addition to permitted industrial buildings;
8. Day care;
9. Fishing or swimming except in the North Platte River;
10. Feed, grain and fertilizer retail sales (bagged or packaged);
11. Food processing facility;
12. Fraternity or sorority;
13. Frozen food locker;
14. Grain elevator and grain mill;
15. Greenhouse, plant nursery;
16. Grinding mill;
17. Hospital or hospice;
18. Hotel or motel;
19. Hunting or trapping;
20. Jail or detention center;
21. Meat processing;
22. Nursing home;

23. Public facility;
24. Recreational vehicle parks;
25. Rendering plant;
26. Residential;
27. Restaurant; food preparation;
28. Municipal sanitary landfill, sewage treatment facility;
29. School;
30. Truck stop where food is prepared;
31. Veterinary clinic and animal boarding;
32. Vocational or training school;
33. Water well drilling terminating in the uppermost aquifer;
34. Zoo.

**UCA: Table of Permitted, Conditional, and Prohibited Uses:**

<b>USE</b>	<b>Permitted</b>	<b>Conditional Use</b>	<b>Prohibited</b>
Accessory buildings and uses	X		
Adult entertainment establishment			X
Airport		X	
Animal or livestock sales			X
Animal shelter, animal treatment or care facility, Kennel			X
Arena, Commercial			X
Asphalt plant		X	
Assembly or fabrication of materials already processed or manufactured into final product	X		
Auto and truck wash	X		
Auto wrecker service, provided it is enclosed by a six foot solid fence if adjacent to property zoned residential or commercial		X	
Boat sales, service and repair, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial	X		
Bottling works/factory			X
Building material storage or sales	X		
Bulk storage of non-explosive or non-caustic liquids		X	
Businesses that are similar or compatible to permitted or conditional uses listed in this district and which are not inconsistent with the intent of the VRP or UCA, including outside storage provided it is enclosed by a six foot solid fence if adjacent to property zoned residential or commercial.	X		
Bus terminal	X		
Chemical plant, processing and storage		X	
Communication towers and wireless telecommunication facilities (see Natrona County 2000 Regulations, Chapter VII, Section 15 – Communication Towers and Wireless Telecommunication Facilities)		X	

<b>USE</b>	<b>Permitted</b>	<b>Conditional Use</b>	<b>Prohibited</b>
Concrete batch plant		X	
Contractor's yard for vehicles, equipment, and supplies, provided it s enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial	X		
Convenience store	X		
Corrective Action Management Unit (CAMU)		X	
Creosote manufacturing and treating		X	
Dairy processing, commercial			X
Dwelling; single family, mobile home or manufactured home; one per lot, as the only building on the lot or in addition to permitted industrial buildings.			X
Day care			X
Dry cleaning and laundry	X		
Fishing or swimming except in the North Platte River			X
Feed, grain and fertilizer retail sales (bagged or packaged)			X
Food processing facility			X
Fraternity or sorority			X
Frozen food locker			X
Gas station	X		
Gas and LPG processing plant		X	
Grain elevator and grain mill			X
Greenhouse, plant nursery			X
Grinding mill			X
Heavy equipment sales, service, and repair, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial	X		
Heliport		X	
Hospital or hospice			X
Hotel or motel			X
Hunting or trapping			X
Incinerator		X	
Jail or detention center			X

<b>USE</b>	<b>Permitted</b>	<b>Conditional Use</b>	<b>Prohibited</b>
Machinery and implement sales, service and repair, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial	X		
Meat processing			X
Mineral processing and refining (oil and gas excepted)		X	
Mining: aggregate extraction		X	
Mobile home sales and service	X		
Monument making and sales	X		
Motor freight terminal		X	
Motor vehicle sales, service, repair, and storage, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial	X		
Nursing home			X
Office	X		
Oil and gas field supply, sales, and storage, provided it is enclosed by a six-foot solid fence if adjacent to property zoned residential or commercial	X		
Parking structure	X		
Pipeline terminal and pump station		X	
Pre-cast concrete manufacturing		X	
Public facility			X
Railroad switching		X	
Railroad tracks	X		
Recreational vehicle parks			X
Refineries, oil and gas		X	
Rendering plant			X
Research and lab facility, excluding those involving animals		X	
Residential			X
Restaurant; food preparation			X
Sanitary landfill (Municipal), sewage treatment facility			X
Sawmill		X	
School			X

USE	Permitted	Conditional Use	Prohibited
Sign, billboard/off-premise, under 150 square feet	X		
Sign, billboard/off-premise over 150 square feet		X	
Storage, utilization, or manufacture of materials or products that can explode		X	
Supply and service shop, including plumbing, welding, electrical and building	X		
Truck stop where food is prepared			X
Truck terminal		X	
Underground oil or gas storage facilities		X	
Utility installation, above ground	X		
Veterinary clinic and animal boarding			X
Vocational or training school			X
Warehousing or mini-warehousing or inside storage	X		
Water well drilling terminating in the uppermost aquifer			X
Wind generator, domestic		X	
Zoo			X

**Engineering Controls and Institutional Controls:**

The WDEQ issues Remedy Agreements (RAs) that may include Remedial Action Plans (RAPs). The RA (and the RAP) provides the administrative and legal provisions necessary for remedy implementation and provides the mechanism for performance, oversight and enforcement. The RA (and the RAP) contains the engineering and institutional controls necessary for protection of human health and the environment, including a reference to a UCA. Pursuant to W.S. 35-11-1607(e), use restrictions and institutional controls listed in RA's (and RAPs) are directly enforceable by the WDEQ. In addition, according to W.S. 35-11-1607(f), the restrictions in a UCA are enforceable by the issuing governmental entity by injunction, mandamus or abatement, or any other remedies provided by law.

Examples of institutional controls included in RAPs are:

1. Slab on grade construction for new buildings with active and/or passive vapor mitigation systems to restrict vapor migration into buildings;
2. Future excavations limited to construction of utility corridors and trenches to a maximum depth of six (6) feet below ground surface;

3. Prohibition on excavation in the vicinity of subsurface remedial systems that are part of the engineering controls.

In order to qualify for a building permit on property zoned UCA, the permit applicant, developer or property owner must contact the VRP Volunteer and the WDEQ to obtain the specific institutional and engineering controls applicable to the property.  
(Amd. 19-2008, 11/2008)

**§ 5.5 BULK REGULATIONS FOR COMMERCIAL AND INDUSTRIAL ZONING DISTRICT**

<b>Zoning District</b>	<b>Minimum Lot Size</b>	<b>Minimum Setbacks</b>	<b>Maximum Height</b>
<b>C-1</b>	No minimum	Front: 0' (local street) 50' (state or federal hwy) 20' if there is no direct access  *Side: 0' *Rear: 0' *There shall be a minimum of 10' between buildings on the same or adjacent lots	35'
<b>C-4</b>	10,000 square feet	Front: 25' (local streets) 50' (state or federal hwy)  Side: 10' Rear: 10' *There shall be a minimum of 10' between buildings on the same or adjacent lots	0
<b>I-L</b>	No minimum	Front: 25'  *Side: 5'  *Rear: 20' *There shall be a minimum of 10' between buildings on the same or adjacent lots	35'
<b>I-H</b>	No minimum	Front: 25'  *Side: 5'  *Rear: 20' *There shall be a minimum of 10' between buildings on the same or adjacent lots	35'
<b>UCA</b>	No minimum	Front: 25'  *Side: 5'  *Rear: 20' *There shall be a minimum of 10' between buildings on the same or adjacent lots	35'

Note: In cases where commercial or industrial zones abut a residential zoning district, the side or rear setbacks abutting the residential district shall be 20'. (Amd. 19-2008, 11/2008)

**§ 5.6 (O-P) OPEN SPACE AND PUBLIC DISTRICT USES AND REGULATIONS**

The Open Space and Public District is intended to provide for major public land areas and public and semi-public institutional uses, including land reserves for future public and institutional use, and for the preservation of publicly established historic sites.

**Permitted Uses:**

1. Cemeteries;
2. Hospitals;
3. Municipal, county, state and federal uses, facilities, services and buildings;
4. Parks, playfields, playgrounds, and golf courses operated by a public agency;
5. Public colleges and universities;
6. Publicly established historical sites and buildings;
7. Public utility uses, facilities services and buildings.

**Conditional Uses:**

These uses may be allowed upon review and approval of a conditional use permit by the Town Planning Staff and Town Council. The requirements of Article 8 of this title must be met.

1. Churches;
2. Private facilities such as golf courses;
3. Other potentially compatible uses provided they are not contrary to the intent of the district.

**Accessory Uses:**

A use that complies with all of the following may be operated as an accessory use to a permitted use in the O-P district:

- A. The use is clearly incidental and secondary to the operation of the permitted use;
- B. The use is commonly associated with the operation of the permitted use;
- C. It is operated and maintained under the same ownership and on the same lot as the permitted use.

## **§ 5.7 PLANNED UNIT DEVELOPMENT**

### **§ 5.7.01 Purpose**

The planned unit development (PUD) is a development process which allows some variance from the strict application of bulk area and open space requirements of the zoning district regulations imposed in this section. The purpose of the PUD is to allow flexibility and innovative design in development which will result in more economical use of land, provide for streets and utilities, improve the quality of development, preserve the natural and scenic features of land as open space and avoid development in potentially hazardous areas.

### **§ 5.7.02 General Requirements**

- A. PUDs may include any uses permitted by right or by special review in a residential zoning district, neighborhood commercial uses, school sites, other public buildings, parks and open space uses.
- B. PUDs may or may not involve subdivision of land. Those involving subdivision of land must meet the submittal and review requirements set forth by the Subdivision Chapter of the Code, except that minimum right-of-way widths and roadway widths may be waived provided that adequate consideration is given to ingress and egress of emergency vehicles.
- C. A tract or parcel of land proposed for a PUD must be in one ownership or the application must be filed jointly by the owners of the property included in the PUD. Evidence of all owners' agreement to the proposal must also be submitted.
- D. District Regulations, such as lot sizes, setbacks, etc. may be varied in accordance with minimum requirements herein established to provide for appropriate use of the individual qualities of the site. Maximum allowed height of structures is 35 feet.
- E. Off-Street Parking – two spaces per dwelling unit. The parking provisions listed in 6.2.03 shall apply.
- F. Open Space Requirements – a minimum of 20 percent of the total area of the site shall be reserved as common open space. Common Open Space is defined as open air areas designed for use by owners and inhabitants of the property, including recreational facilities, parks, garden areas, but not including streets, roadways or parking areas.

### **§ 5.7.03 Application Requirements**

An application for approval of a Planned Unit Development may be filed by a person having an interest in the property to be included in the PUD. The application will be made on a form provided by the Town and must include a consent by the owners of all

property to be included in the PUD. The application must be accompanied by a site plan and a written statement of design.

A. Site Plan – A complete site plan showing the major details of the proposed PUD prepared at a scale of not less than 1"= 50', but a multiple of 1"= 10', shall be submitted in sufficient detail to evaluate the land planning, building, design and other features of the PUD. The site plan must contain, insofar as applicable, the following minimum information:

1. The existing topographic character of land; at a two foot contour interval;
2. proposed land uses;
3. the location and size of all existing and proposed buildings, structures and improvements;
4. the maximum height of all buildings;
5. the density and type of dwellings;
6. locations and dimensions of the internal traffic and circulation systems, off-street parking areas, number of parking spaces, service areas, loading areas, and major points of access to public rights-of-way;
7. the location, height and size of proposed signs, lighting and advertising devices;
8. areas which will be conveyed, dedicated or reserved as common park areas, including public parks and recreational areas, and sites for schools or other public buildings;
9. areas within the 100-year flood plain;
10. a general landscape plan at the time of initial submission to be followed by a detailed landscaping plan, once the site plan has been approved, showing the spacing, sizes and specific types of landscaping material.

B. Written Statement – The written statement to be submitted with the PUD application must contain the following information:

1. A statement of the present ownership and a legal description of all the land included in the plan;
2. an explanation of the objectives to be achieved by the PUD, including building descriptions, sketches or elevations as may be required to describe the objectives;

3. a development schedule indicating the approximate date when construction of the PUD can be expected to begin and be completed;
4. copies of any special agreements, conveyances, restrictions or covenants, which will govern the use, maintenance and continued protection of the PUD and any of its common area.

#### **§ 5.7.04 Review**

- A. The planner shall receive all site plans and upon determination that the application is complete shall forward such plans to appropriate agencies and the Planning Commission for review.
- B. The Planning Commission shall review the application and make a recommendation for approval, denial or approval with contingencies to be forwarded to the Town Council for final action. The Planning Commission may postpone the decision, with reasonable cause, for a maximum of 35 days to allow the applicant time to prepare any additional information that may be requested or required. (If action is not taken within 35 days, the request shall be referred to the Town Council accordingly.)
- C. Upon receipt of the recommendations from the Planning Commission and relevant agencies, the Town Council shall hold a public hearing on the application and shall grant the application, whole or in part, with or without modifications and conditions, or deny the application.

#### **§ 5.7.05 Site Plan Approval - Requirements**

The Town Council must be satisfied that the site plan for the PUD has met each of the following criteria or can demonstrate that one or more of them is not applicable and that a practical solution consistent with the public interest has been achieved for each of these elements:

- A. That there is an appropriate relationship to the surrounding area and there must be a minimum 30 foot buffer zone in any PUD that is adjacent to a low-density residential use district. The buffer zone must be kept free of buildings or structures and must be landscaped, screened or protected by natural features, so that adverse effects on surrounding areas are minimized;
- B. Circulations in terms of an internal street circulation system designed for the type of traffic generated, safety, separation from living areas, convenience, access, noise and exhaust control. Private internal streets may be permitted if they can be used by police and fire department vehicles, as well as other vehicles, for emergency purposes. Bicycle traffic shall be considered for and provided for when the site is used for an area for living purposes. Proper circulation shall be

- provided in parking areas in terms of safety, convenience, separation and screening;
- C. Functional Open Space in terms of: optimum preservation of natural features including trees and drainage areas, recreation, views, density relief, convenience and function;
  - D. Variety in terms of: housing type, densities, facilities and open space;
  - E. Privacy in terms of the needs of: individuals, families and neighbors;
  - F. Pedestrian traffic in terms of: safety, separation, convenience, access to points of destinations and attractiveness;
  - G. Building type in terms of; appropriateness to density, site relationship and bulk;
  - H. Building design in terms of: orientation, spacing, materials, color and texture, storage, signs and lighting;
  - I. Landscaping of total site in terms of: purpose such as screening or ornamental; types used and materials use, if any; maintenance; sustainability; suitability; and effect on the neighborhood;
  - J. All site plans for PUDs, including modifications or conditions, shall be approved by the Town Council. The applicant shall file the approved PUD site plan with the Planning Department who shall indicate on the zoning district map that a PUD has been approved for the area included in the site plan.

**§ 5.7.06 Planning Staff and Building Official Review**

At least once every twelve months, the Planner and Building Official (Staff) shall review all building permits which have been issued for the PUD and shall examine the construction which has taken place on the site. If a violation of any of the provisions of this section or of the terms of the PUD approval is found, Staff shall forward a report of this information to the Town Council. The Town Council shall hold a hearing on the report of violations submitted by Staff, having first given notice to the PUD applicant and all owners of abutting property. Upon review of the alleged violations, the Town Council may, if it deems necessary, require that appropriate action be taken to remedy the violations, amend or modify the PUD, or revoke approval of the PUD.

**§ 5.7.07 Completion of Planned Unit Development**

- A. The Planning Staff and town engineer shall issue a certificate for the planned unit development certifying the completion thereof and shall note the issuance of the certificate on the official copy of the district zoning map and on the site plan;
- B. After completion, the use of land and the construction, modification or alteration of

any buildings within the planned unit development will be governed by the approved site plan;

- C. Except as hereafter stated, no changes may be made in a planned unit after its approval:
  - (1) Minor changes in the location, siting or character of buildings and structures may be authorized by the Planning Staff, if required by engineering or other circumstances not foreseen at the time the final development program was approved. No change authorized by the Planning Staff under this section may increase the size of any building or structure by more than five percent, nor change the location of any building or structure by more than five feet in any direction; provided, notwithstanding anything in the foregoing, the Planning Staff may not permit changes beyond the minimum or maximum requirements set forth in this chapter.
  - (2) All other changes in the planned unit development and planned unit site plan must be made under the procedures that are applicable to the initial approval of a planned unit.

**§ 5.7.08 Subdivision and Resale**

- A. A planned unit development may be subdivided or resubdivided for purposes of sale or lease.
- B. An application for approval of the subdivision or resubdivision must be made if the subdivision or resubdivision will create a new lot line. The procedures applicable to the initial approval of a planned unit development are also applicable to the approval of a subdivision of a planned unit.
- C. The subdivision or resubdivision may be approved if it does not increase the dwelling unit density of the planned unit and if the planned unit, following the subdivision or resubdivisions is in compliance with the standards for planned units provided in this article.

*(This page intentionally left blank.)*

## **ARTICLE 6 – DEVELOPMENT STANDARDS**

### **§ 6.1 FENCES, HEDGES AND WALLS**

A fence, hedge, wall, column, pier, post or any similar type structure, or any combination of such structures, may be permitted in the required yards of the zoning districts, subject to the following conditions and requirements. It is intended that these conditions and requirements shall provide privacy and protection without unduly interfering with the view from neighboring properties or jeopardizing the safety of pedestrians and vehicles.

1. All fences and walls are subject to code requirements.
2. It shall be the responsibility of the property owner to locate all property lines and to certify their location to the Town.
3. No fence, hedge, or wall may extend beyond or across a property line unless in joint agreement with the abutting property owner.
4. No electrical fences shall be permitted.
5. No barbed wire or other sharp or pointed fence shall be permitted, without approval of the Planning and Zoning Commission and Town Council and only within the Heavy Industrial (I-H) District.
6. No fence between the building front and the front property line shall exceed 42 inches.
7. Fences, walls or compact hedges shall not exceed 7 feet in height. Height, including retaining walls or other structures, shall be measured as follows:
  - a. In required yards abutting a street, it shall be the total effective height measured from the finished grade on the side nearest the street.
  - b. In other required yards, it shall be the total effective height above the finished grade measured on the side nearest the abutting property.
  - c. On property lines the height may be measured from the finished grade of either side when the abutting property owners are in joint written agreement.
8. Any fence, hedge or wall placed within 15 feet of the intersection of a public sidewalk (or proposed location of such walk) and an alley or driveway, shall not restrict or obscure the visibility through such fence, hedge, or wall by more than 25 percent of its total vertical plane area. Such fence, hedge or wall shall maintain at

least 75 percent of the unobstructed view when viewed at an angle of 90° from the direction of the fence, hedge or wall, and a distance of 30 feet. (See diagram.)

9. On corner lots, no fence, hedge, wall or landscaping display shall interfere with the unobstructed view over 36 inches above the nearest street in a restricted triangular area formed by the three points established by the intersection of the property lines at the corner and by measuring 30 feet back from this intersection on each property line. Excepting however, that rail type or chain link fences not exceeding 42 inches in height, with not more than two 4 inch rails, mounted on a minimum number of 4 inch posts, may be permitted in the restricted triangular area. (See sight distance triangle diagram.)
10. In I-L and I-H Districts chain link fence 7 feet in height may be constructed along all lot lines. Only open chain link fence shall be permitted between the building front and street at a height over 42 inches. Seven foot open chain link fence may be permitted in the sight distance triangle defined in (8), upon review by the Planning and Zoning Commission and subsequent approval of the Town Council. Neither the fence nor anything inside the fence shall impair the sight distance triangle.
11. Tree branches which overhang the public sidewalk shall be kept trimmed to a height of at least 8 feet above the sidewalk level.
12. Tree branches which overhang the public street shall be kept trimmed to a height of not less than 14 feet above the street.
13. The Planning and Zoning Commission may recommend waiver any of the above requirements where cause can be shown that the need of security or safety would be served by variance of the requirements. Subsequent approval by the Town Council is also required.

## **§ 6.2 OFF-STREET PARKING**

### **6.2.01 Purpose and Intent**

In order to control the rate of precipitation runoff from impervious surfaces, lessen congestion in the streets, provide safe and orderly traffic flow, and otherwise promote general safety and welfare, off street parking standards are hereby established to require that each building or structure not exempted herein is provided with sufficient off street parking, conscientiously designed to accommodate the traffic reasonably expected for its particular use.

### **6.2.02 Acceptable Methods of Providing Off-Street Parking**

Off-street parking may be provided by open air spaces, carports, service bays, and covered or enclosed garages. All off street parking shall be provided in one of the following manners, after review by the Planning and Zoning Commission for a recommendation to be forwarded to the Town Council for final action:

- a. On the premises of a use requiring off street parking.
- b. Off premises, within five hundred feet (500') of the use served, provided that the off premises location has a zone designation appropriate for the use requiring parking; the location of the off premises parking is not so distant that on site parking facilities provided by other uses is adversely impacted; and, said off premises parking is guaranteed for such use, by agreement approved by the Planning and Zoning Commission and subsequently recorded in the office of the Evansville Town Clerk.
- c. Off street parking facilities for separate uses may be provided collectively on one connecting lot if the area can accommodate the total number of spaces required for each separate use and all other requirements can be met.
- d. Up to one hundred percent (100%) of off street parking may be provided through the shared use of any parking facility, assuming the applicant can satisfy the Commission that the principal operating hours of such uses do not substantially conflict with each other, and required parking provided for present and subsequent uses is perpetually guaranteed by contract or agreement reviewed by the Planning and Zoning Commission and subsequently approved by the Town Council and recorded in the office of the Evansville Town Clerk.

### **6.2.03 Minimum Off-Street Parking Standards**

If varying standards apply, the greater shall prevail. Where two or more uses occur, the total of the activities computed separately shall prevail, except as allowed for under subsection 6.2.02 of this section. When required parking calculation results in a fractional space, the fractional portion shall be deleted.

If a use is not specified herein or if ambiguity arises, the Planning Staff shall determine the requirements for off street parking spaces by applying the formula(s) for the most comparable use. Appeals of the decision may be filed with the Planning and Zoning Commission.

One handicapped parking space per twenty parking spaces shall be designed to comply with ADA specifications for handicapped parking.

Commercial operations shall provide off-street loading spaces as determined by the Planning Staff.

**A. Residential**

Single-family dwellings:

Two spaces per unit

Two, three, and four-family dwellings:

Two spaces per unit

Multi-family dwellings  
with five or more units:

Two spaces per unit, plus one additional space per  
every three units

Mobile homes:

Two spaces for each home

**B. Business**

Banks, savings and loans, credit unions:

A minimum of one space for each 300 square feet  
of gross floor area plus one space for each  
employee of the institution. Floor area not used by  
the institution shall be treated in the same manner  
as professional offices

Furniture and major appliance stores:

A minimum of one space for each 600 square feet  
of gross floor area

General retail and service structures:

A minimum of one space for each 300 square feet  
of gross floor area

Medical, dental and professional offices:

A minimum of one space for each 300 square feet  
of gross floor area

Motels and hotels:

One space per unit

Rentals and auto sales, boat sales or rentals, retail nurseries, and other open  
uses not in a building:

A minimum of one space for each employee and  
one space for each 2,000 square feet of gross land  
area devoted to open display and sales

Restaurants, cafes, drive-ins, nightclubs, private clubs, bars, and similar

places dispersing food and/or beverages:

A minimum of one space for each three fixed seats or one space for every 50 square feet of gross floor area available for assembly where there are no fixed seats. Drive-up facilities, in addition to other requirements, shall provide a vehicle holding lane able to accommodate the number of vehicles anticipated for peak drive-up facility use

**C. Public**

Elementary and junior high schools:

A minimum of two spaces for each classroom plus one space per 1000 square feet of structure

High schools:

A minimum of two spaces for each classroom and one space for each four students in which the school is designed to accommodate

Libraries:

A minimum of one space for each 500 square feet of gross floor area

Other public buildings:

A minimum of one space for each 300 square feet of gross floor area.

**D. Semi-Public**

Bowling alleys:

A minimum of six spaces for each lane

Churches:

A minimum of one space for each five seats.

Hospitals, convalescent hospitals or other establishments used for the care and treatment of the sick or injured:

A minimum of one space per four beds and one space for each member of the staff, or hospital employee

Rest homes, group homes, nursing homes or the care and treatment of the sick, other similar establishments used for the residences of aged persons:

A minimum of one space for each five residents in accordance with the resident capacity of the home listed on the required license or permit. If employee residence facilities are provided on the premises, an additional one space shall be provided for each two employees

Theaters, auditoriums, stadiums, sports arenas, gymnasiums, and similar places of public assembly:

A minimum of one space for each four seats or one space for each 30 square feet of floor assembly area where there are no fixed seats

**E. Industrial**

Industrial uses of all types except a building or portions of a building used for warehouse purposes:

A minimum of one space for each employee on the largest shift and one space for each vehicle operated or kept in connection with the use

Public utility facilities including, but not limited to, electric, gas, water, telephone, and telegraph facilities not having business offices on the premises:

A minimum of one space for each employee and one space for each vehicle operated or kept in connection with the use. In no case shall there be less than two spaces.

Warehouses, buildings or portions of buildings used exclusively for warehouse purposes:

A minimum of one space for each 1,000 square feet of gross floor area and one space for each vehicle which is operated or kept in connection with the use

**6.2.04 Schedule of Allowances**

The following allowances may be applied to an increase in lot coverage associated with existing development, existing development choosing to landscape, new commercial or industrial development, or an intensification of use which increases parking requirements by two spaces or more for commercial or industrial activity within any business or industrial district. No more than twenty percent (20%) of the required parking for any use may be substituted by employing parking allowances below:

- a. In addition to landscaping required by the town's landscape title, required parking for new development or more intense uses may be substituted with an equivalent area of landscape improvements designed to receive storm water runoff. The Planning and Zoning Commission will review the substitution of landscaping for required parking to determine if a decrease in parking will

adversely affect traffic or pedestrian safety, and will forward a recommendation to the Town Council for final action.

- b. Existing parking required for present commercial and industrial use on developed property may be eliminated and replaced with an equivalent area of landscape improvements designed to receive storm water runoff. The Planning and Zoning Commission will review the elimination of parking and substitution of landscaping to determine if the elimination of parking will adversely affect traffic or pedestrian safety, and will forward a recommendation on to the Town Council for final action.

## **6.2.05 Parking Lot Design Standards**

### **a. Backing Maneuvers**

Parking areas designed for business, industrial, townhouse, condominium and multi-family residences (excepting single-, two-, three- and four-family dwellings placed singly on one lot) shall be designed so that vehicles are not permitted to back from the parking area directly on to any public street or right of way.

### **b. Alley Use**

When an alley provides access to any parking area, the developer or property owner shall improve the alley or portions thereof subject to increased use from development, by providing a low maintenance and dust free surface conforming to grade and material suggested by the Town Engineer and by the Planning and Zoning Commission for a recommendation to be forwarded to the Town Council for final action.

### **c. Curb Cuts for Property Access**

No curb cut shall exceed thirty feet (30') in length. No curb cuts for driveways or parking lot access shall be closer than thirty feet (30') to the curb line of an intersecting street, nor closer than ten feet (10') to a fire hydrant, storm drain or property boundary.

### **d. Stall Width**

No parking stall shall measure less than ten feet by twenty feet (10' x 20'). Solitary handicap spaces shall measure thirteen feet by feet (13' x 20'). If an access aisle measuring no less than five feet (5') is provided between two adjacent handicap spaces, each space, excluding the five foot (5') access aisle, may measure eight feet by twenty feet (8' x 20').

**e. Travel Lanes**

When a one-way traffic pattern is contemplated, the travel lane width shall be a minimum of fourteen feet (14'). The minimum two-way travel lane width shall be twenty-four feet (24').

**f. Lighting**

Parking lot lighting shall be arranged to reflect away from residential uses. Parking lot lighting structures shall not exceed twenty five feet (25') in height and shall be covered so the light shines downward.

**g. Bumper and Wheel Blocks**

Elevated curb or suitable parking material shall be permanently installed to protect any building and pedestrian walkway from vehicular encroachment and/or damage.

**h. Landscaping**

Parking lot landscaping shall be provided and maintained as specified within the town's landscaping requirements.

**6.2.06 Drainage, Surfacing and Maintenance**

Areas of land used to accommodate required parking shall be properly graded to provide on site detention of precipitation runoff, and shall be surfaced with concrete, asphalt, paving block or other hard surfacing material. The Town Engineer and the Planning and Zoning Commission will review, and a recommendation to the Town Council for final action. Precipitation runoff from impervious site surfaces shall be directed into on site retention areas or structures, landscape areas or other permeable surfaces.

Areas devoted to parking in addition to that required by the town's parking standards may have a gravel surface provided the substrate and gravel cover comply with minimum gravel surfacing requirements described within this section.

In any industrial district void of sidewalk, curb, gutter and street pavement, the Planning and Zoning Commission may forward to Town Council a recommendation to waive the hard surfacing requirement. The Town Council may take final action to allow gravel parking surface providing the surface conforms with minimum surfacing requirements, and the property owner, his heirs and assigns consent, by agreement, to form and participate in a pavement and/or improvement district at such time as the town deems necessary upon evaluating traffic, use, area development or construction of street-related infrastructure within the immediate area.

All parking related improvements including site grading, drainage, surfacing, striping, directional markings, signage bumper, curb or wheel stops, lighting and landscaping, permitted or required by the town, shall be perpetually maintained including the removal of weeds, dirt, trash and debris, to ensure the safe, proper and attractive utilization of space for parking purposes.

#### **6.2.08 Exemptions from Parking Requirements**

The following permitted uses shall be exempt from providing off street parking spaces understanding, however, that when parking is provided, it shall comply with all applicable provisions of this section:

- a. Automobile, recreational vehicle and water craft storage facilities.
- b. Cemetery.
- c. Contractor yard.
- d. Municipal parks and playgrounds.

#### **6.2.09 Restrictions On Use Of Off-Street Parking Areas**

No off street parking areas shall be used for the storage, repair or servicing of any vehicles, equipment, materials or supplies. In any zoning district, unlicensed, wrecked, partially dismantled or inoperable vehicles shall not be parked or stored unless fitted with an automobile cover, enclosed within a carport or garage, or completely screened from view from adjacent public right of way and adjoining property boundaries.

### **§ 6.3 SIGNS**

#### **§ 6.3.1 General**

The Town of Evansville shall adopt the most recent edition of the Uniform Sign Code for the purpose of prescribing regulations to safeguard life, health, property and public welfare. From time to time, portions of the Code may be amended, modified, added or deleted which the Town Council shall adopt by ordinance.

A sign permit must be obtained before any sign is erected. The base for free-standing signs must be designed by a professional engineer.

No signs or advertising devices shall be erected or maintained in any zoning district except in conformity with the requirements of this section. Signs adjacent to State or Federal highways shall conform to all State and Federal requirements in addition to the requirements of this section. In case of conflict, the more stringent requirement shall govern.

The requirements of this section shall not apply to signs restricting access to or the use of property, such as "no hunting" or "no trespassing" signs, or signs advertising property for sale or lease, not larger than two square feet in size, except that signs advertising subdivisions for sale shall conform to the provisions of this section. Traffic signs erected by the state, county or town or utility signs shall be exempt from the provisions of this section.

- a. Both sides of a sign may be used for advertising purposes without affecting the permitted maximum size limitation.
- b. No flashing, blinking or flickering signs shall be permitted in any district.
- c. Signs advertising subdivisions for sale in any zoning district shall be limited to two in number and together shall not exceed 24 square feet in size. Except for a sign mounted on a gate entrance, one free standing sign per parcel shall be permitted, not exceeding 8 feet in height measured to the top of the sign. Signs shall not be located closer than 10 feet to any road right of way or 25 feet to any public area. No illuminated signs shall be permitted.
- d. Signs relating to home occupations in any zoning district shall be permitted not in excess of three square feet in size. The signs shall be placed flat against the wall of the building. No illuminated signs shall be permitted.
- e. In Commercial and Industrial (Light and Heavy) districts, as defined by the zoning and development regulations, permitted signs may be located on a lot such that no sign shall intrude into any public right-of-way and support shall be at least ten feet from any public right-of-way.
- f. In the Commercial and Industrial districts any business use shall be permitted one wall sign for each side of a building fronting a public street. Wall signs shall project not more than one foot from the building wall and shall run parallel to the wall. Maximum area of a wall signs on a building side shall be one square foot of sign per two linear feet of street frontage to a maximum of 300 square feet per frontage.
- g. In the Commercial and Industrial districts, one freestanding business sign may be located on the property. Maximum area of any free-standing sign shall be one square foot of sign area per linear foot of respective street frontage to a maximum of 300 square feet per frontage. Maximum height may not exceed 30 feet. Any free-standing sign shall have a clearance of ten feet above the ground. Additional free standing signs, up to half the size of the allowed primary sign, may be permitted on any additional side of a lot fronting public streets, provided that no free standing sign may be erected within 150 feet of any other free standing sign on the same or adjoining property.

- h. One off-premise sign that does not exceed one hundred fifty square feet may be allowed on a parcel in lieu of, but not in addition to, a permitted free-standing business sign in Commercial and Industrial (Light and Heavy) districts.
- i. Off-premise signs/billboards greater than one hundred fifty square feet in size may only be allowed with an approved Conditional Use Permit. Plans shall be submitted for review by the Planning Commission who shall review the application and make a recommendation to be forwarded to the Town Council for final action.
- j. Reader board signs shall not be permitted.
- k. In the Mobile and Manufactured Home Park district, one or more signs shall be permitted, the total size of all signs shall not exceed 24 square feet. Illuminated signs shall be permitted. One free standing sign per parcel, not exceeding 20 feet in height, measured to the top of the sign, shall be permitted.
- l. Directional signs shall not exceed an area of eight square feet and eight feet in height, shall be permitted, providing that the sign bears no advertising message and is located only at intersections and junctions.
- m. One on site directory sign identifying a development shall be permitted. The directory sign shall not be located closer than 10 feet to any road right of way or 25 feet to other public areas and not larger than 24 square feet in area. Included in or attached to the sign may be an additional one square foot area for each name and/or address of the occupants of said development. The total size of the directory sign and attachments shall not exceed 40 square feet. One free standing sign per parcel, not exceeding eight feet in height, measured to the top of the sign, shall be permitted.
- n. Political campaign signs shall be allowed in any district. The size of the sign shall not exceed six square feet. The sign shall not be erected more than thirty days prior to the primary election and shall be removed within seven days after the general election.
- o. Vehicles used as signs shall be prohibited in all districts. This does not include customary and incidental use of signs or logos on commercial vehicles used as such in normal business operations.
- p. No sign shall be permitted in residential areas except those explicitly listed in this section.

q. Signs used for public facilities shall be permitted as follows:

	No. of Signs	Sq. Ft.	Height
Churches	1	50	8'
Schools	1	40	8'
Daycare Center	1	6	8'
Other	1	6	8'

- r. One contractor's sign, not exceeding 12 square feet in size, located entirely on the parcel to which the sign refers, shall be permitted, provided that the sign is removed within seven days after the sale, rental or lease of the property has been accomplished.
- s. No signs shall be permitted in any street or road right-of-way other than signs maintained pursuant to and in discharge of any governmental functions.
- t. The area of a sign shall be the measurement of the face of the sign that is designed to present a message or attract attention. The area of the sign face shall be the area of the smallest standard geometric shape, or the sum total of the areas of more than one standard geometric shape, that encompasses the sign face. Two-sided signs shall be permitted provided that neither side exceeds the maximum allowable area and the two faces are back to back and are at no point further than two feet from one another. Otherwise, the area of all faces shall be included in determining the area of the sign.
- u. No sign shall be permitted to obstruct vision of traffic or to create any unsafe distraction of motorists. Nor shall any sign be permitted that effectively obscures another sign or could negatively affect utilities or other necessary services.

**§ 6.4 HOME OCCUPATIONS**

A home occupation shall be allowed as a permitted accessory use provided the following conditions are met:

1. Such use must be conducted entirely within a dwelling and carried on by not more than two individuals, one of whom is the principal occupant.
2. Such use must be clearly incidental and secondary to the use of the dwelling for dwelling purposes and must not change the residential character thereof.
3. The total area used for such purposes may not exceed one half the first floor area of the user's dwelling unit.

4. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, including displays, however non-illuminated signs relating to home occupations shall be permitted if placed flat against the wall and not in excess of three square feet in size.
5. There shall be no exterior storage of materials or equipment used as part of the home occupation on the premises.
6. No equipment or process shall be used in such home occupation which creates any glare, fumes, odors, or other objectionable conditions detectable to the normal senses off the lot.
7. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.
8. Off-street parking shall be provided for all home occupations adequate to accommodate the needs of the home occupation of not less than two parking spaces plus the parking spaces required by the dwelling unit. Such parking shall be provided on the same lot as the home occupation.
9. Under no circumstances shall any of the following be considered a home occupation: barber shop, beauty parlor, wig styling, clinic, mortuary, nursing home, restaurant, veterinarian's clinic, dancing studio, or use similar to the above as determined by the Commission.
10. Any home occupation shall be operated in compliance with all applicable local, state and federal laws.
11. Home occupations shall be permitted as an accessory use subject to the above requirements. If a complaint is filed with the Planning and Zoning Commission by a property owner within a radius of 300 feet of the property, a public hearing before the Commission shall be required to determine the continuance of the home occupation with a recommendation to be forwarded to the Town Council for final action.

#### **§ 6.5 DAY CARE**

A day care or child care facility shall be allowed as a permitted accessory use in residential districts provided the following conditions are met:

1. A license must be obtained from the Town per the provisions of Chapter 10 of the Municipal Code and all provision of Chapter 10 and of this Ordinance must be met and maintained.

2. There shall be no change in the outside appearance of the building, however, a non-illuminated sign relating to the facility shall be permitted not in excess of six square feet in size.
3. Any facility shall be operated in compliance with all applicable local, state and federal laws.

## **ARTICLE 7 – NONCONFORMING USES**

### **§ 7.1 NONCONFORMING LOTS**

Any lot of record which existed prior to the effective date of this title may be used in accordance with the requirements of that district. Such lots must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot may fail to meet the requirements for lot area that are generally applicable to the district, provided that all other development requirements are met. Variance of the physical dimensional requirements shall be obtained only through the Planning and Zoning Commission and Town Council.

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

### **§ 7.2 NONCONFORMING USES OF LAND**

Where, at the time of passage of this chapter, lawful use of the land exists which would not be permitted by the regulations imposed by this chapter, the use may continue provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this title.
2. No such nonconforming use shall be moved in whole or in part, to any portion of the lot or parcel other than that occupied by such use at the effective date or adoption or amendment of this title;
3. If any such nonconforming use of land ceases for any reason for a period of more than 180 days, any subsequent use of such land shall conform to the regulations specified by this section for the district in which such land is located; and
4. No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

**§ 7.3 NONCONFORMING STRUCTURES**

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

1. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity;
2. Should such nonconforming structure or nonconforming portion of a structure be destroyed by any means to an extent of more than seventy five percent (75%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter; and
3. Should such structure be moved for any reason for any distance whatever, it shall be thereafter in conformance with the regulations for the district in which it is located after it is moved.

## **ARTICLE 8 – CONDITIONAL USE**

### **§ 8.1 GENERAL**

In certain cases, a land use may be allowed to locate in a zoning district provided that conditions are met to make sure the land use is harmonious and not injurious to surrounding properties. In order for the land use to be allowed, the applicant must first obtain a conditional use permit that has been reviewed by the town Planning and Zoning Commission and approved by the Town Council, subject to the provisions of this title.

### **§ 8.2 PURPOSE**

The purpose of a conditional use is to allow more intensive uses in zoning districts as long as surrounding properties are protected and the character of the area is preserved. Those uses that may be permitted as conditional uses are specified in Article 5 of this Title. The listed uses are illustrative of those which the Planning Commission and Council may approve temporarily, permanently or for a specific time interval. Other uses may be allowed which are not listed provided they are not contrary to the intent of the district in which they are located.

### **§ 8.3 PROCEDURE**

A request for a conditional use begins with the filing of an application and fee with the planning department or town staff. The application shall be on a form provided by the town and shall be supported by site plans and other materials. At the zoning staff's discretion, the applicant may be required to submit additional information. The Planner may also seek comments from public agencies and entities that could be impacted by the request.

The conditional use request will be scheduled for public hearing after the application has been reviewed for completeness by the planning department. Incomplete applications will not be scheduled for hearing. (Hearing held in compliance with the process outlined in Section 10.4 A-D.)

The application shall be legally noticed by the posting of a sign by a designated town official on the subject property at least fifteen days prior to the date of the hearing and one publication of a notice by the town in a newspaper of general circulation not less than fifteen days prior to the public hearing before the Commission.

Notice of the hearing shall be given to the parties involved, including the applicant, town staff, affected agencies, and property owners within 300 feet of the subject property.

All Commission meetings are open to the public. The Commission shall keep minutes of its proceedings showing the vote of each member upon each question or if the member was absent or failed to vote. The Commission shall also keep records of its examinations and other official actions. All minutes are public records and shall be filed in the Town Clerk's office.

At the conclusion of the hearing, the Commission shall forward a recommendation to approve or deny the conditional use request to the Town Council. The Planning Commission may postpone the decision, with reasonable cause, for a maximum of 35 days. (If action is not taken within 35 days, the permit shall be referred to the Town Council accordingly.)

The Council shall make the final determination to approve or deny the conditional use application at a public hearing held within 30 days of the Commission hearing. The decision shall be based on findings of fact and the grounds for the decision shall be included as part of the public record.

The Planning and Zoning Commission may recommend conditions for the approval of the request, and the Town Council may impose conditions that they believe to be necessary in order to approve the request. Such conditions may include but not be limited to items such as vehicular access and parking, landscaping, snow storage, hours of operation, control of potential nuisances, and the expiration date of any resolution approving the conditional use.

# ARTICLE 9 – VARIANCES

## § 9.1 GENERAL

The Planning and Zoning Commission and Town Council may hear variance requests from the requirements of this title, provided they are not contrary to the public interest.

## § 9.2 PURPOSE

Variations may be granted by the Town in order to vary from the strict application of any of the requirements of this title in the case of a physical condition applying to a lot or building if the strict application would deprive the owner of the reasonable use of the land or building involved. No adjustment in the strict application of any provision of an ordinance may be granted unless:

(A) There are special circumstances or conditions, fully described in the Town's findings, which are peculiar to the land or building for which the adjustment is sought and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant subsequent to the adoption of the title;

(B) For reasons fully set forth in the town's findings, the circumstances or conditions are such that the strict application of the provisions of the title would deprive the applicant of the reasonable use of the land or building, the granting of the adjustment is necessary for the reasonable use thereof and the adjustment as granted is the minimum adjustment that will accomplish this purpose; and

(C) The granting of the adjustment is in harmony with the general purposes and intent of the title and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

## § 9.3 PROCEDURE

Requests for a variance shall be filed with the planning department on a form supplied by the town staff. The complete application and the filing fee must be submitted before the request is scheduled for a public hearing. (Hearing held in compliance with the process outlined in Section 10.4 A-D.)

The application shall be legally noticed by the posting of a sign by a designated town official on the subject property at least fifteen days prior to the date of the hearing and one publication of a notice by the town in a newspaper of general circulation not less than fifteen days prior to the public hearing before the Commission.

Notice of the hearing shall be given to the parties involved, including the applicant, town staff, affected agencies, and property owners within 300 feet of the subject property.

All Commission meetings are open to the public. The Commission shall keep minutes of its proceedings showing the vote of each member upon each question or if the member was absent or failed to vote. The Commission shall also keep records of its examinations and other official actions. All minutes are public records and shall be filed in the Town Clerk's office.

The Planning and Zoning Commission is required to determine Findings of Fact and Conclusions of Law, no variances to the Ordinance shall be recommended by the Commission unless it finds that:

- a. There are exceptional or extraordinary circumstances and conditions, which are peculiar to the land or building, and which do not generally apply to land or buildings in the neighborhood, and literal application of this title to the applicant's property will result in unnecessary hardship.
- b. The hardship is due to unique circumstances and that the difficulties facing the applicant are different from those of neighboring properties.
- c. The variance will not authorize a use other than those uses specifically listed as permitted or conditional uses in the zoning district in which the variance is sought.
- d. The variance will not result in a gain in use, service or income for the applicant to a greater extent than available to other landowners in the vicinity.
- e. Granting the variance will not merely serve as a convenience for the applicant but is necessary to alleviate a proven hardship related to the property.

At the conclusion of the hearing, the Commission shall forward a recommendation to approve or deny the variance to the Town Council. The Planning Commission may postpone the decision, with reasonable cause, for a maximum of 35 days. (If action is not taken within 35 days, the permit shall be referred to the Town Council accordingly.)

The Council shall make the final determination based on Findings of Facts and Conclusions of Law to approve or deny the variance at a public hearing held within 30 days of the Commission hearing. The decision shall be based on findings of fact and the grounds for the decision shall be included as part of the public record.

## **ARTICLE 10 – AMENDMENT PROCEDURES**

### **§ 10.1 GENERAL**

The Town Council may initiate, or upon recommendation from the Planning and Zoning Commission, amend, supplement, or repeal the regulations and provisions of this Title. Where property is sought to be rezoned on proposal other than one initiated by the Town Council or Planning and Zoning Commission, the person(s) proposing the rezoning of property shall have a property interest in the total area of the property.

### **§ 10.2 ZONE CHANGES – PETITION**

A. The owner(s) of interest of property to be rezoned shall submit a petition requesting amendment of the zoning district map to the planning department. The staff shall verify that the petition contains the following information:

1. Legal description of the property to be rezoned.
2. Existing and proposed zoning districts applicable to the property.
3. Signatures of the owners of the property to be rezoned.

(Amd. 1-2009, 3/2009)

B. The planning department, after verifying completeness of the petition shall forward the petition to the Commission for review.

### **§ 10.3 HEARING**

Upon receipt of a zone change petition, the Planning Staff shall establish a date of public hearing to hear evidence and information on the proposal.

### **§ 10.4 NOTICE OF HEARING**

A. The Planning Staff shall publish notice of the date, time, place of hearing and summary of the proposed amendment in a newspaper of general circulation within the Town. Such notice shall be published at least 15 days prior to the date of such hearing.

B. A notice reciting rezoning applied for and directing further inquiry to the Planning Staff shall be posted at least fifteen days prior to the hearing on

the property proposed for rezoning along the property fronting a public street or other equally visible location.

- C. A written notice of the public hearing shall be sent by first class mail at least fifteen days prior to the date of the hearing to owners of property within the area proposed for rezoning and to either an owner or to an occupant of each separately owned property adjacent within 300 feet of the area proposed for rezoning.
- D. Such notice by posting and by mailing is for convenience of the public only, and any omission thereof or defect therein shall in no way impair the validity of the proceedings for the proposed amendment.
- E. Exception for a General Revision — When said zoning district map is in any way to be changed or amended incidental to or as a general revision of the Zoning Title, whether such revision be made by repeal of the existing Zoning Title and enactment of a new Zoning Title, or otherwise, said notice in this section by posting and mailing shall not be required.

#### **§ 10.5 PLANNING AND ZONING COMMISSION REVIEW**

Following the public hearing, the Planning and Zoning Commission shall make an advisory report to the Town Council, recommending action on the proposal. The Planning Commission may postpone the decision, with reasonable cause, for a maximum of 35 days. (If action is not taken within 35 days, the permit shall be referred to the Town Council accordingly.) Any proposed amendment or change initiated by the Council shall be referred to the Planning and Zoning Commission for review. Any amendment proposed by the Commission shall be made to the Council as a recommendation accompanied by an advisory report.

#### **§ 10.6 NATURE OF REVIEW**

The Commission reviews each proposed amendment for conformity with the Community Development Plan and the effect of the amendment on the stated intent of this Title and established district.

#### **§ 10.7 PROCEDURE BEFORE TOWN COUNCIL**

After receiving the advisory report from the Commission, the Town Council shall hold a public hearing before acting on the proposed amendment. Notice of the time, date, and place of the hearing shall be published by the staff, at least fifteen days prior to the hearing, in a newspaper of general circulation within the Town.

**§ 10.8 NOTICE RECITING ZONING**

A notice reciting rezoning applied for, and directing further inquiry to the Planning Staff, shall be posted at least fifteen days prior to the hearing on the property proposed for rezoning along the property fronting on a public street or at an equally visible location.

**§ 10.9 ACTION BY COUNCIL**

The Town Council shall, after conducting a public hearing on the zone change petition, approve or deny the zone change.

The zoning district map shall be amended to reflect the decision of the Council. If there is a protest against the change of an amendment of a zoning district boundary signed by twenty percent or more of the area of lots within a distance of 300 feet of the subject property, the amendment shall become effective only upon an affirmative vote of three-fourths of the members of the Town Council.

**§ 10.10 COSTS**

For individual applications for rezoning, the Town Council may establish a fee to be charged for advertising and processing.

**§ 10.11 ANNEXED TERRITORY**

- A. Zoning of land in the process of annexation may be done in accordance with the procedure and notice requirements of this article. The proposed Zoning Title shall become effective when the annexation ordinance is passed on final reading and published. The annexation ordinance shall zone the property. If the zoning process is commenced prior to the effective date of the annexation ordinance, the legal protest area for rezoning shall be determined solely on geographic location, irrespective of whether the land in such legal protest area is within or without or partly within and partly without the limits of the Town of Evansville.
- B. Any area annexed shall be brought under the provision of this Title and the zoning district map within ninety days from the effective date of the annexation ordinance irrespective of any legal review which may be instituted challenging the annexation. During such ninety day period, or such portion thereof as is required to zone the territory, the Town shall refuse to issue any building or occupancy permit for any portion or all of the newly annexed area.

*(This page intentionally left blank.)*

# **ARTICLE 11 – SITE PLAN APPROVAL**

## **§ 11.1 APPROVAL CRITERIA**

The Staff, Commission, and Town Council shall approve site plans that meet the standards found in this chapter and the following criteria:

- A. Is compatible with the goals and policies of the Town of Evansville Community Development plan.
- B. Promotes the efficient use of land by sound arrangement of buildings, safe and functional points of access, well planned parking circulation, and adequate sidewalks and pathways for pedestrians.
- C. Provides for usable open space within multi-family complexes, such as bicycle paths, playground areas, courtyards, areas for active recreation, swimming pools, landscaping, outdoor seating or picnic areas, and similar open space.
- D. Preserves and utilizes existing landscape features and amenities where possible, and blends such features with the new structures and other improvements.

## **§ 11.2 DEFINITION**

The site plan is a plot plan of the entire area to be developed. It shows the location and size of buildings, the area of the land under consideration, street names and widths, parking area size, and all other items required on the site plan checklist. A site plan is required for all Planned Unit Developments; new multifamily residential buildings consisting of eight or more dwelling units; new public, commercial, or industrial buildings; new churches; exterior additions to existing public, commercial, and industrial buildings; and exterior additions to existing churches. Off-street parking lots (new or being added to) also require site plan approval.

## **§ 11.3 PROCEDURE**

- A. Individuals are required to meet with the town Planning Staff or his designee at least seven days prior to submitting an application for review, in order to discuss their proposals and the site plan application. A landscaping plan must be submitted to and approved by the Town of Evansville prior to issuance of any building permits.
- B. Following the applicant-staff meeting, a complete site plan application can be submitted to the town Planning Staff. The application shall consist of:
  - 1. An original and two copies of the site plan application form;
  - 2. Ten copies of a site plan containing all information required on the checklist;

3. For sites that are 10,000 square feet or more: A drainage plan providing for surface drainage and the effect the surface drainage will have on the area under consideration and adjoining areas, and proving compliance with the town's Storm Water Management Plan.
  4. For developments generating 75 or more vehicle trips per peak hour period: A traffic study prepared by a registered professional engineer shall be provided to the Town of Evansville. Trip generation data shall be calculated using the trip generation guide (Institute of Transportation Engineers, most recent edition). If the data are not available, the town Planning Staff and the applicant shall mutually agree upon an estimated rate prior to preparation of the traffic study.
  5. Natural hazards shall be identified and what action shall be taken to alleviate the problems.
  6. Buffering measures for the areas between all multi-family, townhouse and condominium dwellings adjacent to single-family dwellings, and for all PUD, commercial, industrial, and multi-family developments.
- C. The procedure for submittal, approval or denial, and appeal for PUD site plans is set forth in this Title.
- D. Site plan applications for new buildings or exterior additions to buildings, churches, and off-street parking lots up to 20,000 square feet in building/parking lot area may be approved by the town Planning Staff or designee. The application shall be reviewed for completeness within three working days of receipt. If not complete, the town Planning Staff shall notify the applicant and list the items needed to complete the application. After the application is complete, the Town Planning Staff or designee shall approve, approve with contingencies, or deny the application within five working days and notify the applicant of the decision. If the application has been approved either with or without contingencies, the applicant shall sign the agreement and may obtain a building permit from the Town of Evansville. If the application has been denied, the applicant shall not be issued a building permit. Decisions may be appealed in writing to the Town Council within ten calendar days of the decision. Denials that are not appealed shall become final. (Amd. 1-2009, 3/2009)
- E. Site plan applications for commercial and industrial buildings of any size and for all new or exterior additions to buildings, churches, and off-street parking lots over 5,000 square feet in building/parking lot area, and multi-family developments over eight units, must be reviewed by the Planning and Zoning Commission and approved by the Town Council. Applications must be submitted to the Planning Staff by 5:00 p.m. at least 15 days before the Town Commission meeting at which the application is to be discussed.
1. The Town Planning Staff or designee shall review the application for compliance with the site plan application requirements within three working days or submittal. If not complete, the application will be returned to the applicant within three days. Written notification shall include the reasons for the determination, and shall list the items needed to complete the site plan, the

- drainage study, and/or the traffic study. If it is complete, the application shall be accepted and the date of acceptance written on all copies.
2. Incomplete applications shall not be placed on the Commission agenda until resubmitted in complete and accurate form.
  3. The Town Planning Staff shall notify the applicant in writing at least five calendar days prior to the Commission meeting at which the application will be considered. A meeting will also be scheduled between the applicant and the town Planning Staff to discuss the staff's comments to the Commission.
  4. The application will be considered by the Commission at its meeting, and the town Planning Staff will provide review comments to the Commission. The applicant will be given the opportunity to discuss the site plan. Other interested parties will also be given an opportunity to comment.
  5. The Commission shall take one of the following actions: recommend approval or approval with conditions to the Town Council, deny, or table the application. If the site plan is approved (with or without conditions), the applicant must sign a site plan agreement stating terms of approval and his/her willingness to comply with those terms. If the application is tabled, it shall be considered at the next regularly scheduled Commission meeting and a decision to recommend approval, approval with conditions, or denial shall be made.
  6. The staff shall forward the plan and commission recommendations to the Town Council.
  7. The Town Council shall consider the site plan at the next regularly scheduled Council meeting. The Council shall make a final determination to approve, table, or deny the site plan.

#### **§11.4 WAIVERS**

- A. Requests for waivers of buffering or parking requirements listed in the zoning districts of this Title, or reduction of landscaping requirements specified in Article 12 of the Title, may be considered subject to the following procedure:
1. Submission of a written request from the owner of record addressed to the Town Planning Staff stating the rationale for the request and providing any documentation, diagrams, renderings or photographs necessary to convey the intent of the waiver request.
  2. Notification of the request and the date, time and place of the Planning and Zoning Commission meeting where the waiver will be considered shall be mailed to property owners within a 300' radius of the subject property. No public hearing shall be required, however, the commission shall receive comments from meeting participants who desire to address the request.
  3. The Planning Commission shall review the waiver request and forward a recommendation to the Town Council. In rendering their decision, the Commission shall consider such factors as proximity to other development

and types of uses, man-made or natural barriers such as streets, drainages, draws, existing vegetation, slopes, etc., which achieve the intent of the buffering or landscaping requirement at a lower rate than is required by this Title. The Commission may also consider alternative solutions which achieve the intent of landscaping and/or buffering.

4. Requests for a reduction of off-street parking requirements shall be considered on the basis of use, number of employees, availability of on-street parking or shared parking with adjacent property owners.
5. The Evansville Town Council shall have the authority to approve, modify or deny all waiver requests. (Amd. 1-2009, 3/2009)

# **ARTICLE 12 – LANDSCAPING REGULATIONS**

## **§ 12.1 GENERAL**

The Town of Evansville shall require landscaping in certain instances for the following reasons:

- To encourage quality development within the town;
- To provide a smooth land use transition between adjoining properties;
- To screen service yards, parking lots, and other areas which may be a nuisance;
- To improve erosion control;
- To encourage a strong sense of commitment to the town by its residents, business owners, developers, and public agencies; and
- To provide for the health, safety and welfare of the residents of the Town of Evansville.

## **§ 12.2 DEFINITIONS**

Landscaping – The use of vegetation and inorganic durable materials such as those identified below to enhance the visual attractiveness of a site and improve erosion control.

In order to meet the requirements of the Town Subdivision and Zoning Titles, landscaping shall include, but not be limited to, the following:

1. Formal turf areas;
2. Trees, shrubs, bushes, ground cover or planting;
3. Sprinkler systems;
4. Decorative rock, natural or manmade;
5. Rooftop gardens, exposed aggregate tile or similar decorative materials used in walkways (excluding sidewalks on public property), driveway approaches, and architectural features attached to the building;

6. Decorative lighting (standard street lighting or lighting used primarily for security purposes is not considered decorative);
7. Benches, tables, fountains, planters, kiosks, bus shelters, waterfalls, and manmade streams;
8. Decorative fences and retaining walls (i.e., railroad ties, brick, flagstone);
9. Ponds, excluding storm water detention and retention ponds;
10. Berms and mounds.

### **§ 12.3 PROCEDURE**

A. The owners of all proposed/new public, commercial, or industrial buildings, or parking lots (including churches); all exterior additions to existing public, commercial, or industrial buildings, or enlargement of a parking lot (including churches); or any new residential buildings or exterior additions to existing residential buildings with the exception of single-family and two-family dwellings, must submit and obtain approval of a complete landscaping application before any building permit is issued. Landscaping applications are to be submitted to the Planning Staff. A complete landscaping application consists of:

1. A planting list;
2. A time frame for installation or planting;
3. One copy of a landscaping plan complying with the attached list of landscaping criteria; and
4. The original copy of the attached landscaping application form.

B. At the time the owner submits a landscaping application, the owner shall sign an agreement with the Town to comply with both the landscaping criteria below and an approved landscaping plan, to complete the landscaping within the time frame stated in the agreement, and to maintain the landscaping after installation. Upon approval of a landscaping plan by the Planning Staff, the signed agreement shall be filed with the Town Clerk.

C. Within three working days of receiving a landscaping application, the staff will review the application for completeness and compliance with the landscaping criteria. Applications determined to be incomplete will be returned to the owner within the three day period, along with written notification of additions and corrections necessary for compliance. If the owner does not receive written notification of non-compliance, the landscaping application is considered complete.

D. Applications for landscaping on sites 5,000 square feet or less in building/parking lot area shall be reviewed and acted upon by the Planning Staff. Upon his or her approval of the application, a building permit can issued.

E. The Planning Staff will forward landscaping applications for all commercial buildings and other applications for sites over 5,000 square feet in building/parking lot area to the Planning and Zoning Commission for their review and a recommendation to be forwarded to Town Council for final action. If approved, a building permit may then be issued.

Appeals of the decisions of the Planning Staff must be requested, in writing, to the Town Planning Commission within five working days of the date upon which the owner was notified of the decision. The Planning Commission shall make a recommendation on the appeal to be forwarded to Town Council.

The Town Council may consider the appeal at the next regularly scheduled Council meeting. Within fifteen working days of the Council meeting at which the appeal was heard, the Council shall make a final determination upon the appeal.

#### **§ 12.4 LANDSCAPING CRITERIA**

The landscaping plan must comply with the following criteria:

- A. Minimum size of plant and other materials shall comply with the criteria and specifications set forth in Building Casper's Urban Forest, A Tree and Shrub Selection and Care Guide;
- B. Inorganic ground cover should consist of rock, lava, and bark installed over a minimum six mill screen type material to prevent weed infiltration:
  - 1. Redwood bark chips – a minimum of one inch in size and a minimum of two inches in depth,
  - 2. Crushed stone – a minimum of one inch in size and a minimum of two inches in depth;
- C. Inorganic landscaping shall not be more than sixty percent of the landscaped area unless first approved by the planning department.
- D. Landscaping of off-street parking lots and loading and unloading spaces shall be located to break up the expanse of paving, and shall be of such quality as to improve and enhance the site and its surrounding areas.
  - 1. Parking lots of one or more acres in size shall have interior planting areas provided at a ratio of one planting area for every fifty parking spaces.

2. Each planter area shall be a minimum of 100 square feet, and shall contain at least two trees or one tree and two shrubs.
3. The interior planting areas shall be not less than twenty-four feet from the perimeter of the parking lot.
4. Parking lot landscape islands and perimeter buffer strips may be included in the minimum percentage of the land to be landscaped computation.
5. The total landscaping to be provided need not exceed the minimum percentage outlined in the Minimum Landscaping Percentages table within this section;

E. Landscaping shall be required along the perimeter lot line(s) of all off-street parking lots which abut any public street, residential property, or property zoned for a less intensive use.

1. Parking lots of one or more acres in size shall be buffered by a landscaping strip that is at least ten feet in width, which shall be located between the parking area and the abutting property or roadway and may encroach on the abutting street right-of-way. Landscaping encroaching into the right-of-way of any federal or state highway shall require approval from the appropriate state or federal agency.
2. The landscaping shall be of a height and density to partially screen the parking lots from adjoining properties or public streets.
3. Parking lot landscape islands and perimeter buffer strips may be included in the minimum percentage of the land to be landscaped computation.
4. The total landscaping to be provided need not exceed the minimum percentage outlined in the Minimum Landscaping Percentages Table within this section;

F. No artificial trees, bushes, hedges, flowers, or shrubs may be used in landscaping any exterior areas, unless having received prior written approval from the Planning Staff;

G. No synthetic ground cover, such as astroturf, is to be used for exterior landscaping unless warranted by soil conditions and unless prior written approval has been received from the Planning Staff;

H. All planted areas must be provided with sprinkler irrigation systems;

I. The owner or occupant, his successors and assigns, are responsible for irrigating, fertilizing, spraying, pruning, and general maintenance of all plantings and landscaped areas. After two years, the owner or occupant, his successors and assigns, may substitute alternate landscaping upon approval by the Planning Staff;

J. Upon demand of the Code Enforcement Officer or his designee, the owner shall replace and replant any plant material approved with the site plan or conditional use

permit that dies within two years of planting, or is not in conformity with the approved landscaping plan. The requirement to replace plant material shall not be assigned to the owner of a vacant property until such time as an active commercial or residential use is established on that property;

K. Landscaping shall not:

1. Interfere with the installation, maintenance, and repair of any public utilities,
2. Restrict pedestrian or vehicular access, or
3. Constitute a traffic hazard.

L. The owner shall attempt to use the list of recommended plantings when selecting landscaping materials. The plant list identifies vegetation conducive to growth in the Evansville area and is kept on file in the planning office;

M. A minimum percentage of the site shall be landscaped. The minimum percentages are:

**MINIMUM LANDSCAPING PERCENTAGES**

Size of Site	Minimum Percentage of Land to be Landscaped
<b>Residential Sites:</b>	
Multifamily sites of 9,000 square feet or more*	20%
<b>Commercial Sites:</b>	
0 to 19,999 square feet	10%
20,000 square feet to 1 acre	8%
Over 1 acre	6%
<b>Industrial Sites:</b>	
0 to 19,999 square feet	6%
20,000 square feet to 1 acre	5%
Over 1 acre	4%

\* For multifamily developments of sixteen units or over, the owner is required to expend six percent of the raw land value for landscaping purposes as well as to landscape twenty percent of the land.

N. The landscape plan should be prepared by a landscape architect, landscape contractor, or other qualified person;

O. The landscape plan must be prepared on a scale of 1" = 10' or a multiple thereof and must include:

1. North arrow, scale and date of preparation,
2. Street address and location of land under consideration,
3. Location and width of all interior and abutting roads, highways, rights-of- way, and railroad rights-of-way,
4. Easements on the land under consideration,
5. Footprint of all current and/or proposed structures.
6. Adjoining property lines,
7. The location, type, and size of all existing plant materials that are to remain on the site,
8. The location, type, size and quantity of proposed plant and other landscaping materials, and
9. All other significant features.

## APPENDIX 1 – PLANTS CONDUCTIVE TO GROWTH IN EVANSVILLE AREA

Common Name	Height at Maturity	Spacing	Exposure	Comments
1. Almond (Flowering Almond)*	3'	3'	sun, part shade	Double pink blooms, attractive foliage
2. Blue Mist (Blue Spirea)	2--3'	3'	sun	Freezes to ground in winter, blue blossoms in fall
3. Buffalo Berry*	8--12'	8'	sun	Silvery bold foliage, scarlet fruit, drought tolerant
4. Cherry (Nanking Cherry)	6--8'	4'	sun	Tall slender shrub, attractive foliage, edible fruit
5. Cherry (Purple leaf Cherry)*	5--7'	5'	sun	Colorful summer foliage, combines well with silver foliage plants
6. Cherry (Sand Cherry)*	3--4'	4'	sun	Compact plant, glossy foliage, edible fruit, many improved horticultural varieties available
7. Chokecherry	10--15'	8'	sun, part shade	Tall, tree-like shrub, edible fruit, attractive to birds
8. Coralberry	3--4'	3'	sun, shade	Good compact shrub, attractive foliage, pink fruits
9. Cotoneaster (Peking Cotoneaster)*	5--7'	4'	sun, part shade	Glossy foliage leafs early and retains foliage late, showy scarlet fruits, attracts birds
10. Cotoneaster (European Cotoneaster)*	4--5'	4'	sun, part shade	More compact than Peking Cotoneaster, good for low hedges; excellent recommended replacement for prostrate-type junipers
11. Cotoneaster (Rock Cotoneaster)*	2'	3'	sun, part shade	Spreading form of cotoneaster, good for rock gardens

12. Curl-leaf Mountain Mahogany	4--6'	5'	sun, part shade	Native, evergreen shrub, drought tolerant, one of our best native species
13. Currant (Alpine Currant)	3--4'	3'	sun, shade	Very hardy, good for altitudes, scarlet fruits
14. Dogwood (Redtwig Dogwood)	6--8'	6'	sun, shade	Native, throughout state, improved varieties have more compact growth, winter color
15. Elder (Elderberry)	6--8'	6'	sun	Showy tall shrub with edible fruits, coarse foliage, attractive to birds
16. Elder (Golden Elder)	6--8'	6'	sun	Similar to above with yellow foliage
17. Fragrant Viburnum	5--6'	5'	sun, part shade	Fragrant pink blossoms in clusters, red fruit in fall, attractive to birds
18. Honeysuckle (Bush Honeysuckle)*	--10'	8'	sun, part shade	Tall open shrub, rapid growing, fragrant blossoms, red berries in fall
19. Honeysuckle (Red Bush Honeysuckle)*	8--10'	8'	sun, part shade	Similar to above, but with red blossoms
20. Lilac (Common Lilac)*	8--10'	6'	sun, shade	Hardy, easy to grow, erect habit, sometimes leggy
21. Lilac (French Hybrid Class)*	6--8'	5'	sun, part shade	Hybrids of above, more compact, growth, many colors
22. Lilac (Persian Lilac)*	6--8'	6'	sun, part shade	Smaller leaves than common, does not sucker as readily, blossoms not as showy
23. Peashrub (Siberian Peashrub)*	8--12'	6'	sun	Tall, vigorous growth, drought tolerant, tends to become leggy
24. Peashrub (Littleleaf Peashrub)*	6--8'	4'	sun	Better species for ornamental use than above, more compact growth, good for hedges
25. Peashrub (Dwarf Peashrub)	3--4'	3'	sun	Excellent compact shrub for specimen or hedge use, thorny

26. Plum (Flowering Plum)	6--8'	6'	sun, part shade	Showy double pink blossoms before leaves
27. Potentilla (Shrubby Cinquefoil)*	2--3'	2'	sun	Excellent native shrub, yellow flowers from June to frost. Many horticultural varieties
28. Rabbitbrush	2--4'	2--3'	sun	Compact native shrub, good summer foliage, yellow blossoms, interesting winter twigs
29. Russian Sage*	2--3'	2'	sun	Blue blossoms in late summer, drought and heat tolerant, difficult to find
30. Silver Sage	3--6'	4'	sun	Attractive silver foliage, half evergreen, little used native with much ornamental value
31. Serviceberry (Juneberry)	6--8'	5'	sun	Edible bluish fruit, attractive foliage, open coarse growth
32. Snowberry	3--5'	3'	sun, shade	Compact attractive native shrub, white berries, many horticultural varieties
33. Soapweed (Adams Needle)	2'	1--2'	sun	Evergreen perennial, attractive swordlike leaves, deep rhizomatous root system
34. Spirea (Thunberg Spirea)*	3--4'	3'	sun, part shade	Chlorotic in alkaline soils, lacy foliage, white blossoms before leaves
35. Spirea (Van Houtte Spirea)*	4--5'	4'	sun, part shade	Chlorotic in alkaline soils, white blossoms in clusters after leafing, good hedging plant
36. Sumac (Rocky Mountain Sumac)*	2--3'	2'	sun, part shade	Compact growth, showy fruits, leaves scarlet in fall, good ornamental native
37. Sumac (Three-leaf Sumac)*	4--6'	5'	sun	Good summer foliage, compact growth, orange-red berries in fall, red fall foliage
38. Sumac (Staghorn Sumac)*	10--15'	8--10'	sun, part shade	Large shrub or small tree, interesting stems in winter, red fruits in cluster, red fall foliage

39. Creeping Juniper	6"	2--4"	sun, shade	Many native varieties, slow growth, good ground cover
40. Andorra Juniper	1'	3--5'	sun, part shade	Reddish to purplish cast to foliage in winter, easy to grow
41. Chinese Creeping Juniper	1'	3--5'	sun, part shade	Silver green foliage, flared needles often attacked by spider mites
42. Bush Juniper (Common Juniper)	2'	4--5'	sun, shade	Native spreading juniper with open form, shears well to compact form
43. Savin Juniper	2--3'	6'	sun, part shade	Dark green, fine foliage, tolerates more alkaline conditions than Chinese Juniper
44. Tamarix Juniper	2--3'	5'	sun, shade	One of the best varieties for Wyoming. Compact growth, feathery foliage
45. Pfitzer Juniper	3--4'	6--7'	sun, part shade	Often chlorotic in alkaline soils, hardy, easy to grow and readily available
46. Meyer Juniper	3--4'	5'	sun, part shade	Taller spreader with irregular growth, attractive and hardy, adds interest
47. Mugho Pine	6--15'	6--10'	sun, part shade	Large shrub pine, dark green, rounded form
48. Dwarf Mugho Pine	3--4'	4'	sun, part shade	Dwarf variety of above, good foundation plant, slow growing
49. Pinon Pine*	6--15'	6--8'	sun, part shade	Dwarf pine, attractive, often attacked by midges. Prefers dry sites, best of all upright evergreens for drought, however, should not be artificially irrigated

CONIFEROUS TREES  
(None on poorly drained sites)

50. Rocky Mountain Juniper	6--20'	8'	sun	Native throughout Wyoming, fine texture, tight whip-cord foliage
51. Scopulorem Junipers,	6--10'	5--6'	sun	Selected varieties of above, vary in

Medora, Moffet, Welch, Pathfinder, Cologreen, Platinum, Grey Gleem, et al.					color from dark green to silver, usually more compact and smaller than native specimens
52. Utah Juniper	6--10'	6'	sun		Compact, often shrubby tree, coarser than scopulorems, drought tolerant
53. Eastern Red Cedar	20--30'	8'	sun, part shade		Coarser foliage than scopulorems, useful at lower altitudes, vigorous growth
54. Red Cedar varieties: Canaerti, Burki, Hills, Dundee, Cupressifolia, et al.	6--10'	5--6'	sun, part shade		Selected varieties of above, of variable color and habit of growth
55. Austrian Pine	50'	20'	sun		Similar to native ponderosa pine, dark green needles, compact growth, requires wind protection
56. Limber Pine (Western White Pine)	30'	15'	sun		Open growth, gray bark, often twisted and irregular growth, very attractive, requires wind protection
57. Lodgepole Pine	40'	10'	sun, shade		Slender, erect habit, yellow-green foliage, good for mass plantings, requires wind protection
58. Ponderosa Pine (Bull Pine) Pinus Ponderosa	50'	20'	sun, part shade		Drought tolerant, long needles, good color, orange colored bark, attractive native species
59. Blue Spruce (Colorado Spruce)*	50'	20'	sun, part shade		Most used native species, color variable, selected strains of blues available, best of all upright coniferous species
60. Black Hills Spruce	40'	15'	sun, part shade		Shorter needles than above, compact growth, shears well
61. Engleman Spruce	50'	20'	sun, shade		Shorter needles and more open growth than blue spruce, graceful form

DECIDUOUS TREES

62. Ash (Green Ash)*	40'--50'	40'	sun, part shade	Glossy foliage, sturdy, few problems
63. Boxelder*	40--50'	40'	sun, part shade	Hardy native species, will grow anywhere
64. Chokecherry*	15--20'		sun, part shade	Good fruit plant, glossy foliage, attracts birds
65. Cottonless Cottonwood	50--60'	50'	sun	Most widely used species, no cotton
66. Lanceleaf Cottonwood*	40--50'	40'	sun	Native species, very hardy and drought tolerant
67. Narrowleaf Cottonwood*	50--60'	50'	sun	Native species, leaves resemble willow, compact growth
68. Plains Cottonwood*	50--60'	50'	sun	Parent species of cottonless cottonwoods, rapid growing, adaptable
69. Crabapple (Flowering Crabs)*	15--20'	15'	sun	Good ornamentals, many other species adaptable at lower altitudes, five blight resistant varieties only
70. Elm, Siberian (Chinese Elm)*	40--50'	40'	sun	Smaller leaves than American, bushy growth, subject to breakage
71. Hackberry*	30--35'	30'	sun	Hardy native species, resembles elms, ridged corky bark, excellent replacement for elms, but slow growing
72. Honeylocust*	35--40'	40'	sun	Tap rooting tree, lacy foliage, requires deep soil, most desirable of all shade deciduous trees
73. Plum (Purpleleaf Plum)*	10--15'	10'	sun	Colorful summer foliage, combines well with Russian Olive or Silver Sage
74. Balsam Poplar	50--80'	50'	sun	State tree, native to higher altitudes, good growth form, poor choice due to short life span (approximately 10 years), most

					rapid growing of all deciduous trees
75. Bolleana Poplar	40--50'	40'	sun		Columnar form of White Poplar, most rapid growing of all deciduous trees
76. Carolina Poplar	40--50'	40'	sun		Cottonless variety of poplar, sometimes winter kills at higher altitudes, most rapid growing of deciduous trees
77. White Poplar (Silver Poplar)	35--40'	40'	sun		Leaves dark green above, silver underside, rapid growing, sturdy, suckers readily from roots, most rapid growing of all deciduous trees
78. Lombardy Poplar	40--50'	6--10'	sun		Columnar form of black poplar, subject to canker disease, limited use, most rapid growing of all deciduous trees
79. Quaking Aspen	30--50'	6--20'	sun, part shade		Native, suckers from roots, good for clump or mass plantings, dry sites only, most rapid growing of all deciduous trees
80. Staghorn Sumac*	15--20'	10	sun, shade		Interesting growth form, showy red fruits, suckers from roots, most rapid growing of all deciduous trees

\* Indicates highly reliable for growth in Evansville area.

\*\* This list is not meant to be definitive or include all possible species that would grow in the Evansville area, but lists the most highly reliable species requiring a minimum amount of care.

*(This page intentionally left blank.)*

# **ARTICLE 13 – WIRELESS TELECOMMUNICATION SERVICES (WTS)**

## **§ 13.1            PURPOSE**

The purpose of this title is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this title are to:

1. Protect residential areas and land uses from potential impacts of towers and antennas;
2. Encourage the location of towers in nonresidential areas;
3. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
4. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the impact on the community is minimal.
5. This Article excludes antennas used for non-commercial, residential family use such as residential satellite dishes, TV antennas and amateur radio antennas.

## **§ 13.2            DEFINITIONS**

As used in this title, the following terms mean:

1. Accessory Use means a use dependent upon or pertaining to the principal use or main use. Such use must be incidental to the principal use or main use; and, (a) constitute a use which is secondary to significance to the principal or main use; and, (b) be reasonably related to the main use.
2. Alternative tower structure. Alternative design antenna mounting structures other than a tower or monopole, i.e. clock tower or a disguised tower or monopole, i.e. light pole or windmill.
3. Antenna means any structure or device used for the purpose of collecting or transmitting electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, paging, personal Telecommunications services (PSC), microwave, Telecommunications and services, and devices including directional antennas, such as panels, microwave and satellite dishes, and omni-directional antennas, such as whip antennas.

4. Backhaul network. The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or public switched telephone network including all ancillary equipment, structures and other improvements installed to support the communication equipment.
5. Buffering means the use of specific measures designed to separate and protect differing land uses on separate properties.
6. Co-location means the use of an existing tower or structure to support antennae for the provision of wireless services without increasing the height of the Tower or structure.
7. Commercial wireless telecommunications services means licensed commercial wireless telecommunication services including cellular, 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.
8. Height, when referring to a tower or other structure, means the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
9. Preexisting towers and preexisting antennae. Any tower or antenna for which a building permit or Wireless Telecommunications permit (WTP) was issued prior to the effective date of this title, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.
10. Structure means anything constructed or erected that requires a more or less permanent location on the ground; fences, signs, monuments, statues, flagpoles, and bridges shall be considered structures for the purpose of this ordinance.
11. Tower means any ground, roof or otherwise mounted pole, spire, structure or combination thereof that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, monopole towers and associated supporting lines, cables, wires, braces, masts or other structures. The term includes but is not limited to radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and any tower support.

### **§ 13.3 GENERAL REQUIREMENTS**

All towers, including, but not limited to, radio and television aerials or antennas, dishes capable of receiving electronic transmissions from satellites or other sources, shall require approval of a Conditional Use Permit and Site Plan by the Planning and Zoning Commission and Town Council, subject to the procedures in Articles 8 and 11 of the Zoning Ordinance, and all sections of this title.

### **§ 13.3.1 Conditional Use Permit Requirements**

Applications for the construction or installation of new Wireless Telecommunication Facilities shall require Conditional Use Permit review as set forth Article 8 of the Town of Evansville Zoning Ordinance. A completed application and payment of an application fee are required prior to review.

### **§ 13.3.2 Site Plan Requirements**

All towers that provide commercial wireless telecommunication service are required to be approved through a site plan to the town for approval. In addition to the standard site plan requirements (listed in Article 11 of this code), the following information must be supplied with the site plan and prior to issuance of a building permit:

1. Site plan drawn to a one inch equals twenty feet scale.
2. The name, address, and phone number of the all proposed users and operators of the tower.
3. The location, size and height of all structures on the property.
4. Location of the nearest residential structure and all other structures within a radius equal to twice the height of the proposed tower or antenna.
5. A description of the proposed tower and antennae, and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting.
6. The general capacity of the tower, and information necessary to assure that ANSI and all structural standards are met including loads for wind and ice.
7. The number and positioning of guy wires and antennas.
8. The actual intended transmission and the maximum effective radiated power of the antenna(s).
9. Certification that the proposed antenna(s) will not cause interference with other telecommunication devices.
10. A copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facilities.
11. The type, locations and dimensions of all proposed and existing landscaping and fencing.

12. Site plans must show the locations for at least two equipment buildings, even if the tower is proposed for a single user.
13. For towers that are one hundred feet or greater in height above the ground, a visual study depicting the zone within a three-mile radius, where any portion of the proposed tower could be seen.
14. Each applicant must provide an inventory of its existing towers and antennas within the Town and within a fifteen mile radius of the proposed facility and provide specific information verifying the need for the proposed facility.
15. The Town may, at its sole option and discretion seek the assistance of any qualified expert in determining whether to approve any application, and all costs and expenses incurred in connection with such consultation or expert opinion shall be paid by the applicant within thirty days of receiving notice of such costs by the Town. Costs and fees incurred under this provision shall remain due and owing from any applicant notwithstanding the approval or denial of such application by the Town or the withdrawal of any application by the applicant.

### **§ 13.3.3 Permit Requirements**

Applications for tower and associated equipment shall complete the following requirements:

1. All commercial towers, radio and television aerials or antennas, dishes capable of receiving electronic transmission from satellites or other sources, shall obtain a building permit from the building inspector prior to construction or erection.
2. The design of all towers, radio and television aerials or antennas, dishes capable of receiving electronic transmission from satellites or other sources, shall comply with applicable sections of the most recent edition of the International Building and Electrical Codes, as adopted by the Town.
3. Preengineered and prefabricated towers, radio and television aerials or antennas, dishes capable of receiving electronic transmission from satellites or other sources, shall not require certification of a Wyoming professional engineer, providing the structure and installation are in accordance with manufacturer's recommendations. All drawings and installation instructions are subject to the approval of the building official.
4. All nonpreengineered and nonprefabricated towers, radio and television aerials or antennas, dishes capable of receiving electronic transmission from satellites or other sources, including the substructure, shall be designed by a licensed professional engineer, registered in the State of Wyoming.

5. All towers, radio and television aerials or antennas, dishes capable of receiving electronic transmission from satellites or other sources, all backhaul equipment and accessory structures shall be installed and maintained in compliance with applicable requirements of the International Building and Electrical Codes, Evansville Ordinances and all other applicable statutes and regulations.
6. All towers, radio and television aerials or antennas, dishes capable of receiving electronic transmission from satellites or other sources, shall be supported from a fixed location and nontransportable.

#### **§ 13.3.4 Setback, Height And Approval Requirements**

All towers, radio and television aerials or antennas, dishes capable of receiving electronic transmission from satellites or other sources, shall be set back a distance equal to at least one hundred percent (100%) of the height of the tower from any adjoining lot line. Any Accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated. All towers and associated equipment:

1. Shall not interfere with normal radio, television and/or telephone reception in the vicinity. Commercial messages and advertisements shall not be displayed on any tower. Violations shall be considered nuisance violations and shall be corrected under the enforcement provisions of the Town of Evansville.
2. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the chief building official may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding property owners.
3. In order to protect the public from the unnecessary exposure to electromagnetic radiation, the tower owner shall provide documentation indicating that the power density standards levels do not exceed federally approved levels, FCCD emission regulations or American National Standards Institute (ANSI) standards, whichever provides stricter requirements.
4. Maximum tower heights shall be 70 feet in R-1, R-2, R-3, R-4, Planned Unit Development (PUD), Open Space and Public (O-P), and Commercial districts. Maximum tower height shall be limited to 100 feet in the Light Industrial (I-L) district and 200 feet in the Heavy Industrial (I-H) district. (See Table 13.3.4)
5. Towers may not be located on top of buildings or structures in any residential district. In nonresidential districts, towers are permitted on top of buildings or structures (which are not tower accessory structures). The top of such towers shall not be more than thirty percent of the building height above the building, nor shall be seventy feet above the building, whichever is less. (See Table 13.3.4)

6. The base of the tower, any guy wires, and any associated structures, walls, or fences shall be surrounded by a landscaped buffer developed in accordance with Article 12 of this title. Towers and antennas shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.

**Table 13.3.4  
TOWER REGULATIONS SUMMARY**

<b>Zone</b>	<b>Maximum Height</b>	<b>Plan Com Review</b>	<b>TC Approval</b>	<b>On Top of Buildings</b>
R1-R4	70'	CUP/Site Plan	CUP/Site Plan	NP
PUD	70'	CUP/Site Plan	CUP/Site Plan	PUD/Site Plan
O-P	70'	CUP/Site Plan	CUP/Site Plan	30 percent of building ht. (up to 70')
C1	70'	CUP/Site Plan	CUP/Site Plan	30 percent of building ht. (up to 70')
I-L	100'	CUP/Site Plan	CUP/Site Plan	30 percent of building ht. (up to 70')
I-H	200'	CUP/Site Plan	CUP/Site Plan	30 percent of building ht. (up to 70')

NP = Not permitted (prohibited)

NA = Not applicable

PUD = Planned Unit Development

MAXIMUM HEIGHT = Maximum height permitted without a Variance

PLAN COM REVIEW = Requires review by the Planning and Zoning Commission.

CC APPROVAL = Requires approval from the town council

CUP = Conditional use permit required

Site Plan = Site Plan required

**§ 13.3.5 Co-Location**

The shared use of towers is encouraged. Applications for towers which will, immediately upon completion, operate with more than one user may reduce setback requirements from adjacent nonresidential property. The setback from adjacent nonresidential property may be reduced by twenty-five percent when two users enter into a binding agreement prior to the issuance of the building permit. The setback from adjacent nonresidential property may be reduced by up to fifty percent when three or more users enter into a binding agreement prior to the issuance of the building permit. A binding agreement for the purposes of this section is one signed by all parties using the tower and by the affected landowners and which is binding for the duration of the facility's use or occupation of

such land. This signed agreement will commit the users to occupy the tower immediately upon its completion.

### **§ 13.3.6 Antennas Mounted On Utility Poles Or Light Poles**

The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

1. In residential districts, the equipment cabinet or structure may be located in a front, side or rear yard provided the facility is no greater than 20 feet in height or 350 square feet of gross floor area and the cabinet/structure is located a minimum of 25 feet from all lot lines.
2. In commercial or industrial districts the equipment cabinet or structure shall be no greater than 20 feet in height. The facility shall be screened from view of all adjacent residential properties.
3. A conditional use permit and site plan application and fee are required.

### **§ 13.3.7 State or Federal Requirements**

All towers must meet current standards and regulations of the Federal Aviation Administration (FAA), Federal Communications Commission (FCC) and any other agency of the local, state or federal government with the authority to regulate towers and antennas.

### **§ 13.3.8 Building Codes; Safety Standards**

To ensure the structural integrity of towers, the owner of a tower shall ensure that the tower is maintained in compliance with applicable state and local building code standards and the applicable standards for towers that are published by the Electronic Industries Association, as amended.

### **§ 13.4 REMOVAL OF ABANDONED ANTENNAS AND TOWERS**

1. Towers which are not used for a period of six months or more shall be removed by the owner within ninety days from date of written notification. Towers and grounds which are not maintained for a period of six months or more, as agreed to in the site plan agreement, shall be removed by the owner within ninety days from date of written notification.
2. To assure the removal of towers which have not been maintained or have been abandoned, a performance bond, cash, letter of credit, or other approved security shall be submitted for each tower. The amount of the bond, cash, letter of credit, or other approved security shall be based on an estimate provided by a contractor licensed in the state of Wyoming, who shall estimate the cost of removing the tower. All costs of preparing such estimation shall be paid by the applicant and the estimation shall be provided in writing and submitted with the application. There will be a ten percent

contingency fee added to the contractor's estimate. In the event the owner shall fail to remove any tower not maintained or abandoned, as provided in this section, the town shall have the right to enter the premises and remove such tower without further notice to owner, in which event, all removal costs shall be charged against the bond or security and the owner until satisfied.

3. All towers shall be covered by a general liability insurance policy in an amount not less than five hundred thousand dollars.
4. The town reserves the right to enter upon and disconnect, dismantle or otherwise remove any tower or telecommunications facility should same become an immediate hazard to the safety of persons or property due to emergency circumstances, as determined by the mayor or his designee, such as natural or man-made disasters or accidents, when the owner of any such facility is not available to immediately remedy the hazard. The town shall notify any such owner of any such action within twenty-four hours. The owner and/or operator shall reimburse the town for the costs incurred by the town for action taken pursuant to this section.
5. To enable the town to keep accurate, up-to-date records of the placement of telecommunication towers and facilities within city limits, at the time the work on the facility or tower is completed, and before operation begins, the owner/operator of the tower shall submit documentation to the town's building department providing:
  - a) Certification in writing that the tower is structurally sound and conforms to the requirements of the town's building code and all other construction standards set forth by the town's code, federal and state law by filing, a sworn and certified statement by an engineer to that effect. The tower owner may be required by the town to submit more frequent certifications should there be reason to believe that the structural and electrical integrity of the tower is jeopardized. The certification must be based upon on-site physical inspection by an engineer certified by the State of Wyoming;
  - b) The number of providers located on the tower, the type and use of any antenna located on the tower, and the name, address and telephone number of any owner, if there has been a change of ownership of the tower;
  - c) An initial payment of a registration fee which shall be in addition to any franchise fee paid by owner or operator of the tower or facility, for all towers or facilities located within the town, shall be required and shall be submitted to town clerk at the time of submission of the documentation, as required in subsections (5)(a) and (b) of this section;
  - d) An annual registration payment, which shall be in addition to any franchise fee paid by the owner or operator of the tower or facility, for all towers or facilities located within the town shall be required and submitted to the community development department no later than July 1st of each

year, and shall include a written certification stating that the data submitted pursuant to subsection (5)(a) of this section is current as of the date of payment, and if not current, stating any changes therein. In the event the owner does not fulfill the annual registration requirement or does not pay the annual registration fee, the owner shall remove such tower within ninety days of written notification. In the event the owner shall fail to remove such tower, as provided in this section, the city shall have the right to enter the premises and remove the tower without further notice to owner, in which event, all removal costs shall be charged against the bond or security and the owner until satisfied, as provided in 13.4 subsection 2 of this section.

- e) The town reserves the right upon reasonable notice to the owner/operator of the tower to conduct inspections for the purpose of determining whether the tower, equipment, and/or related buildings comply with all provisions of this code, the applicable building codes or all other construction standards provided by local, state or federal law.

## **§ 13.5 NONCONFORMING USES**

### **§ 13.5.1 No Expansion of Nonconforming Use**

Towers that are constructed and antennas that are installed in accordance with the provisions of this title shall not be deemed to constitute the expansion of a nonconforming use.

### **§ 13.5.2 Preexisting Towers**

New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this title.

*(This page intentionally left blank.)*