

STATE OF INDIANA
BEFORE THE BOARD OF CLARK COUNTY COMMISSIONERS

ORDINANCE NO. 37-2021

**AN ORDINANCE APPROVING A TEXT AMENDMENT TO THE 2020
UNIFIED DEVELOPMENT ORDINANCE (“UDO”) ON RECOMMENDATION
BY THE CLARK COUNTY PLAN COMMISSION**

WHEREAS, the Board of Commissioners of Clark County, Indiana (the “Board”), is the executive body of Clark County Government pursuant to the provisions of Ind. Code § 36-2-2-2; and,

WHEREAS, the Board is also the legislative body of Clark County Government pursuant to the provisions of Ind. Code 36-1-2-9; and,

WHEREAS, the Clark County Plan Commission has advisory authority regarding zoning pursuant to Ind. Code 36-7-4, *et al*; and,

WHEREAS, on the 8th day of December, 2021, the Clark County Plan Commission passed PC Resolution 11-2021, (see the said PC Resolution 11-2021 attached hereto as **Exhibit “A”**) to amend the text of the 2020 Unified Development Ordinance (“UDO”) as identified in the said Resolution.

NOW, THEREFORE, BE IT ORDAINED by the Board of Clark County Commissioners as follows:

1. That the Clark County Plan Commission Resolution 11-2021, dated December 8, 2021, as attached hereto, is hereby approved, and the text of the 2020 Unified Development Ordinance (“UDO”) is amended pursuant to the attached Resolution.

2. This Ordinance shall be in full force and effect upon its passage and promulgation as evidenced by the affirmative signatures of the undersigned as the majority of the duly elected and serving members of this Board.

So Ordained this 22 day of December, 2021.

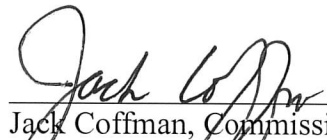
Members voting "NO":

Jack Coffman, Commissioner

Bryan Glover, Commissioner

Connie Sellers, Commissioner

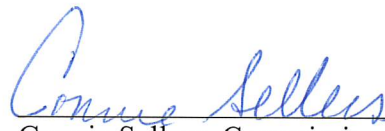
Members voting "YES":



Jack Coffman, Commissioner



Bryan Glover, Commissioner



Connie Sellers, Commissioner

Attested by:



Danny Yost, Clark County Auditor

BY THE CLARK COUNTY
PLAN COMMISSION

PC RESOLUTION 11-2021

**A RESOLUTION FOR A TEXT AMENDMENT TO THE 2020 UNIFIED DEVELOPMENT ORDINANCE (“UDO”)
TO CLARK COUNTY BOARD OF COMMISSIONERS**

WHEREAS, the Clark County Plan Commission (Plan Commission), pursuant to Ind. Code § 36-7-4-600 et seq., has identified a need to amend the text of the current Clark County Unified Development Ordinance (UDO); and,

WHEREAS, the Plan Commission, in conjunction with the Board of Commissioners of Clark County (County Commissioners), caused to amend the text of the Clark County UDO drafted for consideration in an effort to make the development laws of the county more efficient and streamlined for the general public; and,

WHEREAS, the UDO text amendments are described in Exhibit A, attached herewith and made part hereof, is now complete and has been available for inspection by the general public since the 29th day of December, 2021; and,

WHEREAS, on the 8th day of December 2021, the Plan Commission conducted a public hearing, for which the public was invited and was properly noticed pursuant to Indiana law, to consider certification of the UDO text amendment to the County Commissioners.

WHEREAS, the Plan Commission heard the presentation and relevant evidence presented by the general public and the objections, comments, remonstrations, and other relevant information presented by those in attendance at the hearing, if any, and deliberated on such evidence in a public hearing.

NOW, THEREFORE, BE IT RESOLVED by the Plan Commission a favorable recommendation and certification of the Clark County UDO text amendments, attached hereto and incorporated herein, to the County Commissioners for the amendment of the current Clark County UDO.



Dated this 8th day of December, 2021.

I hereby certify this is a true and correct copy of the Resolution passed by the Clark County Plan Commission on December 8, 2021.

"Aye"

Michael Killen, President

David Blankenkoper



Dan Callahan



Kevin Christman

Wally Estes

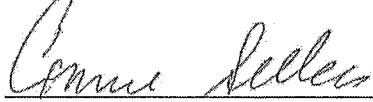


Bart Meyer



Eric Morris

Janne Newland



Connie Sellers

"Nay"

Michael Killen, President

David Blankenkoper

Dan Callahan

Kevin Christman

Wally Estes

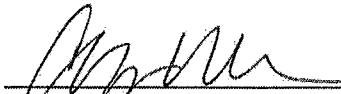
Bart Meyer

Eric Morris

Janne Newland

Connie Sellers

ATTEST:



Secretary or Executive Director

EXHIBIT A:
CLARK COUNTY UDO 12-MONTH ASSESSMENT: PROPOSED TEXT AMENDMENTS

AMENDMENT 1:
CLARIFY THE FRONT YARD SETBACK IS FROM EDGE OF PAVEMENT ONLY IF RIGHT-OF-WAY DOES NOT EXIST.

Rationale: While this is stated in specific places of the UDO, these changes clarify this throughout the sections below so that a user doesn't have to look to other sections of the UDO to determine it.

PAGE 13, CHAPTER 2.A.5.b: General Provisions, Development Standards

i. **Minimum Front Yard Setback.** The minimum front yard setback is measured from the right-of-way unless specified otherwise. In the event right-of-way is not dedicated by written, recorded document does not exist, the front yard setback is measured from the edge of pavement. Note that a corner lot will have two (2) front yard setbacks and two (2) side yard setbacks; it will not have a rear yard setback.

PAGES 28, 31, 35, & 39 CHAPTER 2: R1, R2, R3, & R4 Development Standards Tables

Minimum front yard setback	Local or minor street	30 feet or 25 feet in platted subdivisions <u>or platted towns</u>
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PAGES 45, 46, 49, 52 & 55 CHAPTER 2: B1, B2, B3, M1, & M2 Development Standards Tables

Minimum front yard setback	Local or minor street	35 feet <u>from edge of pavement</u> or 25 feet in platted subdivisions <u>or platted towns</u>
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PAGE 66, CHAPTER 3: Location of Bufferyard

- i. Bufferyards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line or edge of pavement where right-of-way is not dedicated by written, recorded document.
- ii. The Administrator has discretion to modify the width of the bufferyard and the placement of plantings to accommodate rights-of-way, drainage easements, and utility easements. While the width of the bufferyard may include all or a portion of rights-of-way, drainage easements, and utility easements, plantings may be shifted or clustered so that they are not placed in these areas.

PAGE 187, 203 & 208, CHAPTER 10: Definitions

BUILDING LINE. The line that establishes the minimum permitted distance on a parcel between the front line of a structure and the right-of-way line or edge of pavement where right-of-way is not dedicated by written, recorded document.

SETBACK. The distance between the foundation of the structure and any lot line or edge of pavement where right-of-way is not dedicated by written, recorded document.

SETBACK LINE. The line that is the required minimum distance from any lot line (or edge of pavement where right-of-way is not dedicated by written, recorded document) and that establishes the area within which a primary structure or accessory structure may be erected or placed.

YARD, FRONT. A space extending across the full width of the parcel between any structure and the front lot line (or edge of pavement where right-of-way is not dedicated by written, recorded document) measured perpendicular to the structure at the closest point to the front lot line (or edge of pavement where right-of-way is not dedicated by written, recorded document).

**AMENDMENT 2:
UPDATE GROUP HOME TO AE & R1 AS A SPECIAL EXCEPTION AND CHANGE REFERENCE IN DEFINITIONS**

Rationale: Indiana Code requires that a group home be either a permitted or special use in all residential districts. This was inadvertently left out of R1 as a special exception and adding it to AE minimizes any chance that interprets the AE as a residential district. The definition also was updated to provide clarification of what this use includes and removing the IC reference clarifies that the definition is limited to youth homes.

PAGE 24 & 27, CHAPTER 2: AE & R1 SPECIAL EXCEPTION USES

AE & R1 SPECIAL EXCEPTION USES
RESIDENTIAL USES
• group home

PAGE 192, CHAPTER 8: DEFINITIONS

GROUP HOME. A non-profit or for-profit group home regulated under IC 31-27 for the sheltered care of persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation. Examples include but are not limited to residential treatment facilities, halfway houses, intermediate care facilities, foster care facilities/youth homes, developmentally disabled care, and low-income homes or shelters. For purposes of this UDO, group homes do not include nursing home facilities. For purposes of this UDO, group homes do not include nursing home facilities.

**AMENDMENT 3:
Decrease the minimum lot width in R1**

Rationale: Many applicants are requesting a map amendment to R2 for the minimum lot width for single-family, detached residential houses in subdivisions. The R2 district currently allows two-family as a permitted use and for all of these rezoning requests since the adoption of this UDO, the Plan Commission has added a condition that two-family residential is prohibited. Reducing the minimum lot width will limit the concern from neighbors that these rezonings would allow two-family and with the reduced lot width, the minimum lot size was adjusted accordingly.

PAGE 28 CHAPTER 2: R1 LOT DEVELOPMENT STANDARDS

DEVELOPMENT STANDARDS – LOW-DENSITY RESIDENTIAL DISTRICT (R1)			
		Land Use	
		Single-family Residential	
Lot Standards			
Minimum lot width	With sewer	60 feet 50 feet	250 feet
	Without sewer	100 feet	N/A
Minimum lot area	With sewer	7,500 sq ft 6,000 sq ft	N/A

**AMENDMENT 4:
CORRECT REFERENCES TO AG DISTRICT (REFERENCED AS A INSTEAD OF AG)**

Rationale: The Agricultural District was initially abbreviated as "A" in previous drafts of the UDO and is now abbreviated as "AG"

PAGE 123, 124, 125, CHAPTER 5: SUBDIVISION TYPES

References to A will be changed to AG

**AMENDMENT 5:
CHANGE THE LOT STANDARDS FOR CONSERVATION SUBDIVISIONS**

Rationale: The intent of this subdivision type is to conserve open space or environmentally sensitive areas by allowing the developer to cluster the same number of lots that would be allowed per the subject zoning district. For example, if a parcel is 10 acres and zoned AG, 45 lots would be allowed under the AG district standards (9,600 sq ft minimum lot size). The intent was to then allow the developer to still provide the same 45 lots as long as each lot is at least 4,400 sq ft.

A conflict in the subdivision standards arises when applying the requirement that each lot must meet the lot standards of AG. This would require an 80-foot lot width, 30-foot front setback, 6-foot side setback, and 10-foot rear setback. These lot standards effectively do not allow for a lot size that would be needed to justify this subdivision type. The minimum lot size for a conservation subdivision is 4,400 sq ft but with the AG lot standards applied, the smallest lot that could likely be achieved would be 7,200 sq ft (80' x 90' lot to accommodate front/rear setback and a 50' building depth).

PAGE 125, CHAPTER 5: CONSERVATION RESIDENTIAL SUBDIVISION

<p>Minimum open space for the overall development</p>	<p>25% <u>but no more than half of the dedicated open space can include the following:</u></p> <ul style="list-style-type: none"> • <u>Drainage areas/easements</u> • <u>Bodies of water</u> • <u>Wetlands (as defined by IDEM and/or IDNR)</u> • <u>Any flora or fauna and/or their habitats that are regulated by IDNR</u> • <u>Slopes greater than 15%; and/or</u> • <u>Utility easements.</u>
<p>Development standards for individual lots</p>	<p>Unless otherwise stated, all other development standards for the subject zoning district <u>in Chapter 2: Zoning Districts</u> shall apply to each lot within the subdivision <u>except for the following:</u></p> <ul style="list-style-type: none"> • <u>Minimum lot are shall be 4,400 sq ft; and</u> • <u>Lot standards shall comply with the R3 district.</u> <p><u>See Chapter 2: Zoning Districts.</u></p>

**AMENDMENT 6:
CORRECT THE CROSS REFERENCE IN THE REQUIREMENTS FOR SECONDARY PLATS**

Rationale: The cross reference in the application requirements for secondary plats references Section C.1 (which is correct) but includes the section title "Primary Plat" instead of Secondary Plat.

PAGE 148, CHAPTER 7: COMMERCIAL, INDUSTRIAL, MAJOR RESIDENTIAL & CONSERVATION SUBDIVISIONS.

(a) Application. The subdivider shall submit an application for Secondary Plat in accordance with the application requirements adopted by the PC as part of the *PC Rules and Procedures* and prepared in accordance with the format described in *Chapter 7, Section C.1: Primary Plat* ~~Secondary Plat~~ and *Section C.3: Construction Drawings*.

**AMENDMENT 7:
CLARIFY THE SURETY TYPE FOR OPTION 2: POST PERFORMANCE SURETY THEN RECORD PLAT**

Rationale: The surety is referenced as a maintenance surety and should be a performance surety since it is guaranteeing infrastructure construction.

PAGE 157-158, CHAPTER 7: CONSTRUCTION AND DEVELOPMENT PROCESS, OPTION 2

- i. Secondary Plat Approval. Secondary plat must be approved prior to posting performance surety. The plat is not executed (signed) until the performance surety is provided.
- ii. ~~Execute and Record Plat. The plat shall be executed and recorded in accordance with *Section D.2: Recording of Secondary Plats*.~~
- vii. Execute and Record Plat. Once ~~maintenance performance~~ performance surety has been posted and accepted to the satisfaction of the County Engineer, the plat shall be executed and recorded in accordance with *Section D.2: Recording of Secondary Plats*.

**AMENDMENT 8:
REMOVE LAND ALTERATION PERMITS FROM THE COLLECTION OF FEES**

Rationale: The county does not require land alteration permits. This can be removed so an applicant doesn't think we require it.

PAGE 183, CHAPTER 7: CONSTRUCTION AND DEVELOPMENT PROCESS, OPTION 2

- a. ~~LAP. Fees will be calculated during the review process and shall be collected when the LAP is issued. LAP fees are non-refundable.~~

**AMENDMENT 9:
REMOVE AGRITOURISM AS A SPECIAL EXCEPTION (LEAVE IT LISTED AS A PERMITTED USE)**

Rationale: Agritourism is currently listed as both a permitted use and special exception use in the AG District. It is being removed as a Special Exception and will remain as a permitted use. This also clarifies that camping/overnight accommodations are not agritourism.

PAGE 21, CHAPTER 2: AG DISTRICT USES

LAND USES – GENERAL AGRICULTURE DISTRICT (AG)	
PERMITTED ACCESSORY USES	SPECIAL EXCEPTION ACCESSORY USES
<ul style="list-style-type: none"> • agritourism 	<ul style="list-style-type: none"> • Agritourism

PAGE 101, CHAPTER 4: Agritourism Standards

iii. Types of Uses Prohibited.

- (a) Motorized off-road vehicle racing or other similar motor vehicle activities.
- (b) Other uses that the Administrator and/or BZA determines would disturb the general peace and enjoyment of the rural and/or residential character of the surrounding area due to excessive traffic, noise, smoke, odors, visual clutter, or other nuisances.
- (c) Camping or any overnight accommodations.

**AMENDMENT 10:
ALLOW FOR ADDITIONAL SQ FT OF PERMANENT SIGNS IN AG DISTRICT**

Rationale: Currently the AG District is permitted the same number and square footage of signs as the residential districts. However, the UDO does permit some commercial activities in this district. This would increase the square footage of signs in AG (for reference commercial is limited to 200 sq ft).

PAGE 85, CHAPTER 3: SIGN STANDARDS

- i. **Permanent Signs in AG.** The following Permanent Signs shall be permitted, provided the respective development standards in *Chapter 2: Zoning Districts* and *Chapter 3, Section B.7.a.vi: Electronic Variable Message Signs (EVMS)* are met. An ILP is required unless otherwise specified.

PERMANENT SIGNS: AG	
Permitted Types	<ul style="list-style-type: none"> Awning Monument Mural Wall Wayfinding Window
Size	<ul style="list-style-type: none"> Maximum of sixty-four (64) sq ft cumulative area per parcel for all signs, but no single sign shall be more than thirty-two (32) sq ft
Quantity	<ul style="list-style-type: none"> Maximum of two (2) per parcel with a maximum of one (1) free-standing sign
Height	<ul style="list-style-type: none"> Maximum of six (6) feet
Placement	<ul style="list-style-type: none"> Not located within the sight triangle Minimum of ten (10) feet from any property line or the edge of roadway pavement, whichever is less, provided: <ul style="list-style-type: none"> If property is adjacent to an INDOT right-of-way, placement must also comply with all applicable INDOT regulations. If property is adjacent to a residentially zoned parcel, a minimum setback of twenty (20) feet is required from said residential property line.
Additional Standards	<ul style="list-style-type: none"> EVMS or EVMS components are not permitted Monument: Must include a minimum of at least one (1) foot of supporting base Wall: No illumination Wall: No ILP is required Window: No ILP is required if not illuminated and less than fifty percent (50%) of window area

**AMENDMENT 11:
UPDATE HOME OCCUPATIONS.**

Rationale: Update the definition of Home Occupation to reflect our current use standard, which requires any business activity to not be visible from outside the house and no visitors/employees. By defining it this way, the use is no longer needed in the tables and the use standard is not required.

PAGE 15, 21, 24, 27, 30, 34, and 38: CHAPTER 2, C, AG, AE, R1, R2, R3 and R4 USES

SPECIAL EXCEPTION ACCESSORY USES
<ul style="list-style-type: none"> *home occupation

PAGE 93: CHAPTER 4: Development Standards for Specific Uses.

B. Development Standards for Specific Uses. Development standards are included in this chapter for the following uses:

- Accessory Dwelling Standards.
- Adult Business Standards.
- Adult Day Care Facility Standards.
- Agritourism Standards.
- Campground & Recreational Vehicle Park (Private) Standards.
- Farmworker Housing Standards.
- ~~Home Occupation Standards.~~
- Manufactured Home Park Standards.
- Special Event Facility Standards.
- Wireless Communication Facility Standards.

PAGE 107: CHAPTER 4: Home Occupation Standards

HOME OCCUPATION STANDARDS.

~~Purpose. The purpose of regulating commercial activities in residential dwellings is to ensure that they are incidental, compatible uses which do not add significant traffic, noise, or other nuisances to the residential areas in which they are located.~~

~~Use and Operational Standards.~~

~~i. Location. The business activity must be conducted entirely within the primary dwelling unit or entirely within an accessory structure upon the same premises as the primary dwelling unit. Any accessory structure must be clearly incidental and secondary to the primary dwelling unit and comply all standards of this UDO.~~

~~ii. Employees. No person or persons may be employed in the home occupation at the site other than the resident (or residents) of the site. Any activity that requires the services and/or assistance of persons other than the resident(s) of the primary dwelling unit shall not qualify as a home business.~~

~~iii. No clients or business-related visitors shall be allowed on site. There shall be no evidence on the exterior of the premises or visible from the exterior of the premises that the property is used in any way other than for a residential dwelling. Parking, display/storage of products/goods, or other items necessary for the home occupation shall not be visible from the exterior of the premises.~~

~~Development Standards. Signs for home occupations are not permitted.~~

PAGE 193: CHAPTER 10, Definitions

HOME OCCUPATION. Any activity carried out for gain by a resident and conducted in the resident's dwelling unit where all business activity is conducted entirely within the primary dwelling unit and/or an accessory structure upon the same premises as the primary dwelling unit, and there is no evidence from the exterior of the premises that the property is being used in any other way than for a residential dwelling. No employees, clients, or business visitors are permitted other than the resident (or residents) of the site.

**AMENDMENT 12:
REQUIRE PRIVATE ROAD SIGNAGE FOR EMS**

Rationale: A property may be addressed from a private road but Clark County EMS needs to be able to locate the property in an emergency. EMS does not have issues with addressing from a private road but has requested that any private road install and maintain road signs that comply with the county standards.

PAGE 17: Driveway Standards

e. Road Signs. All private driveways and private roadways serving more than one dwellings shall install and maintain roadway signs in accordance with *Chapter 6.J.12: Public Road Signs, Regulatory*. The county does not maintain any roadway signs on private driveways or private roadways; maintenance shall be the responsibility of the property owner.

PAGE 138: Roads, Public Roads and Alleys

e. Private Driveways, Private Roadways. All private driveways and private roadways serving more than one dwellings shall install and maintain roadway signs in accordance with *Chapter 6.J.12: Public Road Signs, Regulatory*. The county does not maintain any roadway signs on private driveways or private roadways; maintenance shall be the responsibility of the property owner.

**AMENDMENT 13:
CLARIFY BUILDING HEIGHT DEFINITION**

Rationale: The state legislature passed a bill in the last session that does not allow local zoning regulations to limit the height of a cell tower. Our current definition exempts this but we added a clarification so that there was not a question on interpretation.

PAGE 187: Definitions

BUILDING HEIGHT. The vertical distance measured from lowest ground level adjacent to the building to the highest point of the roof or peak. Building height does not include antennas (including cellular towers), chimneys, or steeples.