

ORDINANCE NO. 2024- 4
OF THE TOWN OF WEST BADEN SPRINGS, INDIANA

**A Replacement Zoning Ordinance for
The Town of West Baden Springs**

WHEREAS, the Town Council (the “Council”) of the Town of West Baden Springs, Indiana (the “Town”) wishes to improve the health, safety, convenience, and welfare of the citizens residing in and around the Town; and

WHEREAS, the Council wishes to secure adequate light, air, convenience of access, and safety from fire, flood, and other danger; and

WHEREAS, the Council wishes to lessen or avoid congestion in public ways; and

WHEREAS, the Council wishes to develop the Town and to plan for the future growth and development of the Town so that the street and highway systems will be carefully planned, that new communities will grow only with adequate public way, utility, health, educational, and recreational facilities, that the needs of agriculture, industry, and business will be recognized in future growth, that residential areas will provide healthful surroundings for family life, and that the growth of the community will be commensurate with and promotive of the efficient and economical use of public funds; and

WHEREAS, the Council wishes to provide for future growth and development in a manner that is consistent with the overall goal of developing the Town into a world class destination resort; and

WHEREAS, the Council finds that achieving the goal of developing the Town into a world class destination resort will require the Council and the other instrumentalities of the Town to place a special emphasis on protecting the historic and architectural heritage of the community so that tourists visiting the Town will be presented with a consistent overall theme, thereby increasing the appeal of the Town to such tourists; and

WHEREAS, the Council finds that creating a world class destination resort with a consistent historic theme will have a significantly positive effect on the future development of the Town as well as on the overall local economy, and

WHEREAS, the Council finds that a failure to adequately emphasize preservation of the historic and architectural heritage of the community will cause the effort to create a world class destination resort and to improve the overall local economy to be less successful, all to the detriment of the general welfare of the community and the citizens of the Town; and

WHEREAS, the Town has the authority under I.C. § 36-1-3-6 and I.C. § 36-7-4 *et. seq.* to undertake such endeavors; and

WHEREAS, the Council has established the West Baden Springs Plan Commission (Plan Commission); and

WHEREAS, the Plan Commission adopted a Comprehensive Plan for the Town; and

WHEREAS, the Council prepared a revised Comprehensive Plan based upon the anticipated impact of a major investment in the West Baden Springs Hotel, as well as the French Lick Springs Hotel and Blue Sky Casino; and

WHEREAS, the Council wishes to implement the general concepts set forth in the Town's revised Comprehensive Plan; and

WHEREAS, the Plan Commission has undertaken the task of preparing and regularly updating a zoning ordinance for the Town in a manner that is consistent with the comprehensive plan; and

WHEREAS, the first version of the zoning ordinance was adopted by the Plan Commission and then enacted by the Council; and

WHEREAS, the Plan Commission has since determined that the zoning ordinance should be updated to be more compatible with the revised Comprehensive Plan, to better reflect current trends in form-based zoning ordinances, and to better serve the needs of the Town; and

WHEREAS, the most efficient method to implement the changes desired in the zoning ordinance is to repeal the existing ordinance and adopt a replacement zoning ordinance pursuant to I.C. § 36-7-4-602; and

WHEREAS, the Plan Commission, after considering this replacement zoning ordinance and conducting a public hearing on the proposal, has approved said replacement ordinance and certified the same for consideration by the Council; and

WHEREAS, the Council finds that the terms of this replacement zoning ordinance are consistent with and promotive of the overall objectives of the Town, as set forth and described in these findings; and

WHEREAS, the Council wishes to repeal the existing zoning code and adopt this replacement zoning ordinance so that it may more easily achieve the goals set forth in the revised Comprehensive Plan.

NOW, THEREFORE, BE IT HEREBY ORDAINED AND ENACTED BY the Town Council of the Town of West Baden Springs, Orange County, Indiana, as follows:

I. GENERAL PROVISIONS.

A. Short Title. This Ordinance shall be known as the West Baden Springs Zoning Code.

B. General Purpose. The purpose of the West Baden Springs Zoning Code is to aid in implementing the general policies and goals set forth in the Comprehensive Plan for West Baden Springs, Indiana.

C. Composition of Zoning Code. The West Baden Springs Zoning Code consists of the regulations and procedures set forth in this ordinance, as well as the Zoning Maps and any other documents that are specifically incorporated by reference throughout this ordinance. The section titles and headings are included for ease of reference only, and are not intended to affect the interpretation of the West Baden Springs Zoning Code.

D. Statutory Authority. The Town is adopting this ordinance under the authority of I.C. § 36-1-3-6 and I.C. § 36-7-4 *et. seq.*

E. Compliance with Zoning Code. Except as otherwise specified herein, all land Uses, Lots, and Structures within the jurisdiction of the West Baden Springs Plan Commission must be in compliance with the West Baden Springs Zoning Code.

F. Applicability.

1. Land. The provisions of this ordinance shall apply to all land area under the jurisdiction of the Plan Commission.

2. Streets and Rights-of-Way. Streets and other rights-of-way, such as utility easements, shall be governed by this ordinance to the extent this ordinance is not preempted by state or federal regulations.

3. Private Agreements. The provisions of this ordinance shall not affect private agreements such as easements, covenants, and restrictions. In the event that the terms of this ordinance differ from those of a private agreement, the Town shall enforce only the terms of this ordinance. Enforcement of private agreements may be done by the parties to those agreements.

4. Government Agency Exemption. Any work to be completed by a government agency on publicly owned property that lies within a street right-of-way in the territorial jurisdiction of the Plan Commission shall be exempt from any requirement to secure a Building Permit prior to beginning work. These exemptions do not waive any other requirements for compliance with this ordinance.

G. Minimum Requirements. Except as specifically set forth herein, all standards set forth in the West Baden Springs Zoning Code shall be considered minimum standards.

H. Establishment of Zoning Districts. The following zoning districts are hereby established: 1) Historic Hotel; 2) Boulevard PUD; 3) Boulevard Commercial; 4) Downtown; 5) Low Density Residential; 6) High Density Residential One; 7) High Density Residential Two; and 8) Park and Recreation.

I. Rules for Interpretation. The West Baden Springs Zoning Code shall be interpreted according to the following general principals; however, nothing in this section shall be construed as limiting the power of the Plan Commission, the Zoning Administrator, and

the West Baden Springs Board of Zoning Appeals to interpret the West Baden Springs Zoning Code:

1. Interpretation of Zoning Map. The boundaries of each zoning district are shown on the Zoning Map. zoning districts may only be changed by amending this ordinance. When the exact boundaries of a zoning district are uncertain, they shall be determined by use of the Zoning Map. If the Zoning Map includes versions with lower and higher resolutions, then any perceived discrepancy between versions of the Zoning Map shall be resolved in favor of the version of the Zoning Map with the highest resolution.

2. Interpretation of Uses. All residential land Uses are defined in the Definitions section of this ordinance. Unless otherwise specified, all non-residential land Uses are defined by referring to the descriptions set forth in the North American Industry Classification System, 2022. Certain non-residential land Uses (i.e. Sexually Oriented Business) may also be defined in this ordinance under Special Definition Uses. For purposes of interpretation, if a Use defined in the North American Industry Classification System also falls within a definition found under Special Definition Uses, then that use shall be considered a Special Definition Use for purposes of this ordinance, and any regulations that apply to the Special Definition Use will control.

Example: If a Use falls under the North American Industry Classification System definition of “Snack and Nonalcoholic Beverage Bars”, then the regulations found in this ordinance applying to that Use will govern. However, if the Snack and Nonalcoholic Beverage Bar features nude employees, then it will also fall under the Special Definition Use of “Sexually Oriented Business”. In that case, if there is a conflict between the regulations applying to Snack and Nonalcoholic Beverage Bars and those applying to Sexually Oriented Businesses, the regulations applying to Sexually Oriented Businesses will control and the Use will be considered a Sexually Oriented Business for purposes of this ordinance.

3. Interpretation of Use Table. The Use Table consists of a vertical column that lists all of the Uses defined under the West Baden Springs Zoning Code and a horizontal row that lists all of the zoning districts. Appropriate Uses for each zoning district may be determined by finding the relevant zoning district column on the Use Table and reading down the column. Appropriate zoning districts for each Use may be determined by finding the relevant Use on the Use Table and reading across the row. Uses that are designated with the letter “P” under a zoning district’s column on the Use Table are permitted in that zoning district. Uses that are not designated with a letter under a zoning district’s column on the Use Table (blank boxes) are not permitted in that zoning district. Uses designated with the letter “S” under a zoning district’s column on the Use Table require a Special Exception issued by order of the Board of Zoning Appeals prior to locating in that zoning district. Uses requiring a Special Exception may or may not be allowed by the Board of Zoning Appeals; and, when allowed, may be subject to special developmental and operational requirements to be determined by the Board of Zoning Appeals.

4. Interpretation of Procedures. Procedures for permit applications, variances, appeals, Special Exceptions, etc. will be governed by the rules adopted by the Plan

Commission or the Board of Zoning Appeals. If there is a conflict between the rules of those bodies and the West Baden Springs Zoning Code, then the terms of the West Baden Springs Zoning Code will control.

5. Interpretation of Split Parcels. If a zoning district divides Lot frontage on a street from the remainder of a Lot, the regulations that apply to the front of the Lot shall apply to the entire Lot. Otherwise, Lots that fall on the boundary between two zoning districts will be considered to fall under highest numbered district of the following: 1) Historic Hotel; 2) Boulevard PUD; 3) Boulevard Commercial; 4) Downtown; 5) Low Density Residential; 6) Park and Recreation; 7) High Density Residential Two; and 8) High Density Residential One.

Example: If the boundary line between the Downtown district and the High Density Residential Two district divides a Lot into right and left sides, the entire Lot would be considered High Density Residential Two because High Density Residential Two is numbered 7 and Downtown is numbered 4. However, if the boundary line divides a Lot into front and back portions, the entire Lot would be considered to be in whichever district the front of the Lot falls under, regardless of the district number.

When a right-of-way is vacated, the districts adjoining each side are respectively extended to the center of the area so vacated.

6. Interpretation of Language.

a. Construction of Headings. The section headings appearing in this ordinance have been provided for convenience and reference and do not purport and shall not be deemed to define, limit or extend the scope or intent of the section to which they pertain.

b. Word Usage. All words in the present tense shall also include the future tense, all references to the masculine shall include the feminine, feminine shall include the masculine, all singular numbers also include plural, and plural shall include singular.

c. Definitions. Except as otherwise stated herein, terms shall have the meanings set forth in the Definitions section of this ordinance. If a term is not defined in this ordinance, then the term shall be defined by referring to definitions found in widely circulated dictionaries.

J. Roles and Authority. The Plan Commission shall be responsible for the creation, amendment and enforcement of the West Baden Springs Zoning Code. In addition, the Plan Commission shall be responsible for the interpretation of the West Baden Springs Zoning Code and the issuance of all permits in the following districts: 1) Historic Hotel; 2) Boulevard PUD; 3) Boulevard Commercial; 4) Park and Recreation; and 5) Downtown. In so doing, the Plan Commission may consider the recommendations of the Zoning Administrator, Plan Commission staff and consultants, the Town Council, or any other person or entity. The Zoning Administrator shall be responsible for the interpretation of the West Baden Springs Zoning Code and the issuance of all permits within the following zoning districts: 1) Low

Density Residential, 2) High Density Residential One; and 3) High Density Residential Two. In so doing, the Zoning Administrator may consider the recommendations of the Plan Commission, Plan Commission staff and consultants, the Town Council, or any other person or entity. The Board of Zoning Appeals shall hear all applications for variances, Special Exceptions, conditional uses and contingent uses.

K. Conflict with Other Regulations.

1. General. In general, the terms of this ordinance should be read in a manner that minimizes conflicts between this ordinance and any other applicable local, state or federal laws, rules, ordinances or regulations. However, if such a construction is impossible, then the terms of the applicable state or federal law, rule or regulation shall control. If the terms of this ordinance conflict with another local ordinance, rule or regulation, then the more restrictive ordinance, rule or regulation shall apply.

2. Overlay Districts. In the event a Lot falls within an overlay district, then the regulations of the overlay district apply in addition to those in the applicable zoning district. If there is a conflict between the regulations of an overlay district and a zoning district, then the more restrictive shall apply.

L. Severability. If any part of this ordinance is held to be held invalid by a court of competent jurisdiction, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

M. Zoning of Annexed Land. In the event that the jurisdiction of the Plan Commission is enlarged through annexation of territory, then the annexed territory shall be in the zoning district with which the annexed territory has the greatest percentage of contiguity. However, if the annexation ordinance provides that the annexed territory be included in a different zoning district, then the annexation ordinance shall control.

N. Duration and Effective Date. The provisions of in this ordinance shall become and remain in full force and effect and until its repeal by ordinance on the date of its passage and adoption upon its signature in the manner prescribed by I.C. § 36-5-2-10(a) and by I.C. 36-7-4.

II. DEFINITIONS.

A. ACCESSORY BUILDING: Shall mean a Building that is detached from the principal Building on a Lot and houses an Accessory Use to that found in the principal Building on the Lot.

B. ACCESSORY STRUCTURE: Shall mean a Structure that is detached from the principal Building on a Lot and is associated with an Accessory Use.

Example: In a residential context, this term includes Structures that would commonly be called out buildings, tool sheds, garages, carports, canopies, porte-cocheres, patios, outdoor fireplaces, swimming pools, bath houses, cabanas, doghouses, mailboxes, birdbaths, flower boxes, decorative or privacy fences, retaining walls, children's play equipment, greenhouses, gardens, radio and television antennae, driveways, off-street parking areas, animal pens, and similar Structures.

C. ACCESSORY USE: Shall mean a Use that is incidental and subordinate to the principal Use of the Lot, and is commonly associated with an Accessory Structure.

D. BOARD OF ZONING APPEALS: Shall mean the West Baden Springs Board of Zoning Appeals

E. BUILDING: Shall mean a roofed structure for the shelter, support, enclosure or protection of persons, animals or property. The term shall include mobile homes, modular dwellings, and manufactured homes (as those terms are defined in the town's Zoning Ordinance) but shall not include recreational vehicles.

F. BUILDING PERMIT: Shall mean a permit issued by the Plan Commission stating that a requested Improvement is permissible under the terms of the West Baden Springs Zoning Ordinance and that allows the requested Improvement to be legally undertaken.

G. BUILD-TO LINE: Shall mean a line equidistant to and parallel to the relevant lot line (front, side, rear) upon which the corresponding side of a Building must be built. As opposed to a Setback Line, which establishes the minimum distance that a Building must be located from a Lot line, a Build-to Line establishes a line to which all Buildings must be built and is neither a minimum or maximum requirement.

H. CEASE AND DESIST ORDER: Shall mean an order given by the Zoning Administrator or official who has the duty to enforce this ordinance that requires the recipient to stop an action that is in violation of this ordinance.

I. COMPREHENSIVE PLAN: Shall mean the Comprehensive Plan for West Baden Springs, Indiana.

J. CURB CUT: Shall mean a segment of curbing that has been removed or lowered so as to allow vehicular traffic to pass across the curb and/or sidewalk.

K. DESIGN GUIDELINES: Shall mean a set of architectural and site development standards adopted by rule of the Plan Commission that are intended to guide prospective developers and the Plan Commission in determining whether a prospective development is consistent with the property development regulations and overall purpose of a given zoning district.

L. DEVELOPMENT PLAN: Shall mean a plan as defined and described in the 1400 Series of I.C. § 36-7-4.

M. DUPLEX: Shall mean a Building that is used primarily as a Dwelling and includes two Dwelling Units.

N. DWELLING: Shall mean a Building comprising one or more Dwelling Units that is used as a residence for the occupants of the Dwelling Units.

O. DWELLING UNIT: Shall mean a Building or part of a Building that is designed for residential habitation for the members of one household, regardless of whether the members of that household are related by blood or marriage.

P. ENLARGEMENT, OR TO ENLARGE: Shall mean an addition to the floor area of an existing Building, an increase in the size of any Structure, and an increase in that portion of a Lot occupied by an existing Use.

Q. EXTERIOR PERMIT: Shall mean a permit issued by the Plan Commission declaring that an exterior building covering in the High Density Residential One District, the High Density Residential Two District or the Low Density Residential District is acceptable under the terms of this ordinance.

R. HOME BUSINESS: Shall mean a commercial activity conducted within a Dwelling or an Accessory Building associated with a Dwelling by a resident of that Dwelling.

S. HOUSE: Shall mean a Building that is used primarily as a Dwelling and includes not more than one Dwelling Unit.

T. IMPROVEMENT: Shall mean any change, alteration, addition, or repair to a Building or Structure, including the new construction or total or partial demolition of a Building or Structure.

U. LOT: Shall mean a parcel or tract of land that is defined by a metes and bounds description in a recorded deed or by boundary lines in a recorded plat.

V. MANUFACTURED HOME: A manufactured home shall mean a Dwelling that is: (1) transportable in one or more sections; (2) built on a permanent chassis; (3) designed for use with or without a permanent foundation when attached to the required utilities; and (4) designed and built primarily in a factory; (5) has a seal certifying that the manufactured home was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law of 1974; (6) has the required State of Indiana and/or U.S. Department of Housing and Urban Development seals certifying the structure for residential use in the State of Indiana; (7) is no more than fifteen (15) years of age; and (8) exceeds 975 square feet of occupied space.

A manufactured home does not include a "recreational vehicle." A recreational vehicle shall mean a vehicle which is (1) built on a single chassis; (2) occupies 500 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for

use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

W. MOBILE HOME: Shall mean a Dwelling, including the equipment sold as a part of the dwelling, that: 1) is factory assembled; 2) is transportable; 3) is intended for year-round occupancy; 4) is designed for transportation on its own chassis; 5) was manufactured before the effective date of the federal Manufactured Housing Construction and Safety Standards Law of 1974; is no more than fifteen (15) years of age and exceeds 975 square feet of occupied space.

X. MANUFACTURED HOME AND MOBILE HOME COMMUNITY: Shall mean land with accommodations for the placement of Manufactured Homes and Mobile Homes and any related Accessory Structures, as specifically defined in I.C. § 16-41-27-5; and which is licensed and regulated by the Indiana Department of Health pursuant to I.C. § 16-41-27, *et. seq.*

Y. MULTI-FAMILY RESIDENCE: Shall mean a Building or group of Buildings used primarily as a place of abode and that includes more than two Dwelling Units.

Z. NONCONFORMING LOT: Shall mean a Lot where a Nonconforming Structure is located or where a Nonconforming Use is taking place.

AA. NONCONFORMING STRUCTURE: Shall mean a Structure that does not meet the Use and/or property development regulations set forth under this ordinance for the relevant zoning district, but that existed in its current condition prior to the effective date of this ordinance.

BB. NONCONFORMING USE: Shall mean a Use that does not meet the use classifications set forth under the Use Table of this ordinance for the relevant zoning district, but that existed prior to the effective date of this ordinance.

CC. OFF-STREET PARKING: Shall mean a parking site that allows the parked vehicles to be parked sufficiently off of the street so as not to obstruct either the street or any sidewalk that may be adjacent the street, regardless of the location of the public right of way.

Example: If a public right of way is fifty feet wide, but the improved portion of the right of way, including both street and sidewalk, is only thirty feet wide a parking site is considered Off-Street Parking if the required number of parked vehicles can be positioned so as not to encroach upon the sidewalk. The vehicles do not need to be entirely outside of the public right of way.

DD. PARKING LOT: Shall mean a Lot or portion of a Lot that is to be used for the temporary parking of vehicles, exclusive of any part of a street or alley. The term does not include a driveway or carport used to provide Off-Street Parking for a Dwelling.

EE. PLAN COMMISSION: Shall mean the West Baden Springs Advisory Plan Commission.

FF. PLANNED UNIT DEVELOPMENT (PUD): Shall mean a development within a zoning district that is governed by I.C. 36-7-4-1500 *et seq.*

GG. PUD DISTRICT ORDINANCE: Shall mean an ordinance submitted for approval by the owner of property within a zoning district where Planned Unit Developments are permitted under the West Baden Springs Zoning Code.

HH. SETBACK LINE: Shall mean a line equidistant to and parallel to the relevant Lot line (front, side, or rear) and which establishes a yard. Setback Lines shall generally be measured from the Lot line; however, where a public right-of-way encroaches into a Lot, the Setback Line shall be measured from the average edge of the public improvements and not from the Lot line.

II. SEXUALLY RELATED MATERIAL: Shall mean any of the following: 1) "nudity" as defined in I.C. § 35-49-1-5; 2) "sado-masochistic abuse" as defined in I.C. § 35-49-1-8; 3) "sexual conduct" as defined in I.C. § 35-49-1-9; 4) or "sexual excitement" as defined in I.C. § 35-49-1-10.

JJ. SIGN: Shall mean an identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a Building, Structure, or Lot and which directs attention to a concept, product, place, activity, service, person, institution, or business. The term "Sign" excludes those located inside a Building that are not visible to persons located outside the Building.

KK. SPECIAL DEFINITION USE: Shall mean any of the following Uses:

1. **Pawn Shop:** Shall mean a primarily retail or wholesale establishment that accepts merchandise on deposit in exchange for cash, goods, or as security for a loan, including terms for possible future redemption.

2. **Sexually Oriented Business.** Shall include any of the following Uses:

a. **Adult Bookstore:** An establishment having as a preponderance of its stock in trade or its dollar volume in trade, books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, disks, slides, tapes, records or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to Sexually Related Material.

b. **Adult Cabaret:** A nightclub, bar theater, restaurant or similar establishment which frequently features live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on Sexually Related Material or which regularly feature films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified anatomical areas of observation by patrons.

c. Adult Drive-In Theatre: An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions, and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats in which a preponderance of the total presentation time is devoted to the showing of materials distinguished or characterized by an emphasis on matter depicting, describing or relating to Sexually Related Material for observation by patrons.

d. Adult Live Entertainment Arcade: Any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee to view from an enclosed or screened area or booth a series of live dance routines, strip performances or other choreography which performances are distinguished or characterized by an emphasis on Sexually Related Material.

e. Adult Mini Motion Picture Theater: An enclosed building with a capacity of more than five (5) but less than fifty (50) persons, used for presenting films, motion pictures, video cassettes, slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to the showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to Sexually Related Material of observation by patrons therein.

f. Adult Motel: A hotel, motel or similar establishment offering public accommodations for any form of consideration which primarily provides patrons, upon request, with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of Sexually Related Material.

g. Adult Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Sexually Related Material.

h. Adult Motion Picture Theater: An enclosed building with a capacity of fifty (50) or more persons used for presenting films, motion pictures, video cassettes, slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing or relating to Sexually Related Material for observation by patrons therein.

i. Adult Service Establishment: Any building, premises, structure or other facility, or any part thereof, under common ownership or control, which provides a preponderance of services involving Sexually Related Material.

3. Tattoo Parlor: Shall mean an establishment engaged in the business of applying tattoos to customers; however, this term shall not include establishments engaged in applying permanent makeup to the exclusion of other types of tattoos.

LL. SPECIAL EXCEPTION: Shall mean an order to issue a Building Permit issued by the Board of Zoning Appeals, which may contain conditions and special requirements relating to the design of a Structure or the operation of a Use. Nothing in

this definition is intended to restrict or alter the power of the Board of Zoning Appeals to issue a special exception under I.C. § 36-7-4, *et. seq.*, and the specific provisions of this ordinance.

MM. STRUCTURE: Shall mean anything constructed or erected that requires location on or in the ground, or attachment to something having a location on or in the ground, which for purposes of this ordinance shall include all signs. The term shall not include things that are buried underground and do not protrude above ground level.

NN. USE: Shall mean the activity that takes place on a Lot or in a Building.

OO. USE TABLE: Shall mean that part of the West Baden Springs Zoning Ordinance that summarizes the Uses that may take place on Lots and in Buildings within each zoning district.

PP. VIOLATION: Shall mean any violation of the West Baden Springs Zoning Code; which shall, by definition, also constitute maintaining a common nuisance.

QQ. ZONING ADMINISTRATOR (Administrator): Shall mean the person(s) appointed by the West Baden Springs Town Council to administer the day to day activities relating to enforcement and administration the West Baden Springs Zoning Code, as well as to perform any other function prescribed by this ordinance.

RR. ZONING MAP: Shall mean a map initially designated as "Zoning Map for the Town of West Baden Springs", located and on display in the office of the Plan Commission, including any amendments thereto, showing the districts within the jurisdiction of the ordinance. The term Zoning Map shall include any descriptive text included with the map.

SS. MODULAR DWELLING: A factory fabricated transportable home consisting of units designed to be incorporated at a building site on a foundation and used for residential purposes. A modular home must have a seal of compliance according to the regulations of the Federal Modular Home Construction and Safety Standards.

III. GENERAL DEVELOPMENT REGULATIONS. Unless specified otherwise, the general development regulations set forth in this section shall apply to all zoning districts and shall apply in addition to any other specific regulations that are set forth throughout this ordinance:

A. Manufactured Home and Mobile Home Community. The following regulations shall apply to Manufactured Home and Mobile Home Communities:

1. A Manufactured Home or Mobile Home may be located in a Manufactured Home and Mobile Home Community. A Manufactured Home or Mobile Home must be no more than fifteen (15) years of age when initially placed on the lot inside the Manufactured Home and Mobile Home Community.

2. A Manufactured Home and Mobile Home Community may be located in those zoning districts identified on the Use Table.

B. Curb Cuts. Except as set forth elsewhere in this ordinance, there shall be a maximum of one Curb Cut per Lot and the width of such curb cuts shall be only so wide as necessary to allow safe and adequate access to the Building(s) on the Lot in light of the Use(s) taking place on said Lot.

C. Number of Buildings per Lot. No Lot shall contain more than one principal Building; however, Accessory Buildings may be allowed as specified elsewhere in this ordinance. The exception to this regulation is for Mobile Home Communities, which may include as many Mobile Homes as permitted by Indiana Department of Health regulations.

D. Minimum Building Dimensions and Foundations. The following general requirements shall apply:

1. Houses and Duplexes, which shall include Manufactured Homes, shall have dimensions of at least twenty feet (20 ft.) on each side (front, rear, and sides). This regulation shall also apply to any Building that contains a Use other than a Dwelling (i.e. a Building that contains a business).

2. Houses and Duplexes, including Manufactured Homes, shall have a solid poured concrete or concrete block foundation that is contiguous around the entire perimeter of the House or Duplex and have 975 square feet or more of occupied space. This regulation shall also apply to any Building that contains a Use other than a Dwelling (i.e. a Building that contains a business).

E. Automotive Repair Establishments. Any Use that includes body or mechanical repairs; towing; or storage of wrecked, damaged or inoperative vehicles must undertake such activities either inside an enclosed Building or behind an opaque fence or other opaque screen, so that those activities are not visible to persons located off the premises.

F. Parking Lots. The surface of Parking Lots shall be either concrete or asphalt and shall be bordered by a six-inch high concrete curb that is similar to those found on the edge of public streets. Dirt or gravel Parking Lots are not permitted. This regulation shall not apply to Off-Street Parking facilities located in the High Density Residential One District, the High Density Residential Two District, or the Low Density Residential District; in those instances concrete or asphalt surfaces are encouraged but not required.

G. Special Definition Uses. All Special Definition Use activity conducted on a premises shall be conducted within a Building and not be visible from any location outside the Building. In addition, no part of a building that houses a Special Definition Use may be located within three hundred (300) feet of State Road 56.

H. Property Maintenance Standards

These standards shall apply to all structures in the Town, including Dwellings:

1. Exterior of Structure. All portions of a structure's exterior and its accessory structures, and all areas under roof but not enclosed, shall be maintained in a structurally sound manner, be in good repair and be maintained as follows:

a. All private sidewalks, stairs, driveways, private streets, parking spaces, and other exterior areas shall be maintained in and in a proper state of repair;

b. All fences, gates, and walls must be safe, structurally sound, and uniform in color, and any repair of an existing fence or wall must be made with the same or similar materials and be completed in a timely manner;

c. A structure's roof and flashing shall be sound, tight and not have defects that admit rain;

d. Temporary roof coverings, such as tarps, shall be deemed inadequate protection and shall be replaced and repaired;

e. Exterior wood surfaces on structures, other than decay-resistance woods, shall be protected from the elements and decay by painting or applying other protective covering or treatment;

f. Exterior metal surfaces subject to rust or corrosion shall be coated to inhibit such corrosion and all exterior surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion;

g. Exterior painted surfaces that are peeling, flaking, or chipping shall be restored to an approved state of maintenance and repair;

h. The exterior of a structure shall be maintained free of mold and leaks;

i. Exterior surfaces damaged, mutilated, or defaced by marking, carving or graffiti shall be restored to an approved state of maintenance and repair;

j. Porches, decks, railings, stairs, and other attachments shall be securely attached to the structure;

k. Windows, skylights, and frames shall be kept in sound condition and in good repair;

l. Exterior areas shall be free from:

i. the accumulation of garbage, debris, or blight, including graffiti, tires, junk, scrap metal, building materials, machinery, dead trees and other types of dead vegetation, broken glass, or anything posing a hazard to public health;

ii. tarps, plastic sheeting, or similar materials used as screening, fencing, wall coverings, or roof patching;

iii. abandoned vehicles or inoperable vehicle parts, visible from a right-of-way, except a single inoperable vehicle undergoing minor repair work, not to exceed 72 hours, or lawful commercial activities involving vehicles as allowed by this chapter;

iv. appliances, machinery, freezers, refrigerators, or other household items;

v. any object or landscaping that interferes with the use of any sidewalk, street, alley, highway, or visibility of traffic light or sign in the town;

- vi. landscaping visible from public property that is substantially dead, damaged, or characterized by uncontrolled growth;
 - vii. anything posing an imminent hazard to public health and safety;
 - viii. upholstered furniture that is not generally intended for outdoor use;
 - ix. any wall or fence missing blocks, boards, or other material, or is otherwise deteriorated to constitute a hazard to people or property; and
 - x. graffiti visible from a public area or right-of-way.
- m. The standards in this section exclude:
- i. items kept in covered bins or receptacles;
 - ii. a lawfully established junkyard;
 - iii. any neatly stored materials used in the development of property;
 - iv. items stored or kept in enclosed trailers or vehicles;
 - v. the orderly storage of materials in side and rear yards, provided (a) the storage does not exceed 10% of the area of the yard; and (b) the storage does not exceed the height of any fence or wall enclosing the storage area.

2. **Rodents and Pests.** All premises must be kept free from rodent infestation and other noxious pests. All structures in which pests are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

3. **Stagnant Water.** All premises must prevent the accumulation of stagnant water.

4. **Garbage.** Occupied buildings and structures must have an adequate number of garbage receptacles maintained in clean, leak-free, condition and good repair. The owner or occupant must arrange for the removal of garbage from the premises.

5. **Septic Tanks.** Septic tanks, cesspools, and similar conditions must be fully restored to a safe, serviceable condition, or filled with clean fill. Excavations must be maintained in a secure manner to prevent a hazard to public health and safety.

6. **Vegetation and Trees.** Vegetation and trees shall be maintained so as not pose danger to persons or property.

I. **Unsafe Premises.** Buildings or structures determined to be unsafe or dangerous as defined in Chapter 3.13 of the West Baden Springs Code of Ordinances must be abated in accordance with the provisions of that code.

J. **Vacant and Abandoned Structures and Premises.** Vacant and abandoned structures and premises must be maintained in a clean, safe, secure, healthful and sanitary condition as provided herein so as not to cause blight or adversely affect public health and safety. Owners of vacant and abandoned structures and premises are responsible for the:

- a. Maintenance of the exterior of the building and landscaping with regular removal of all exterior trash, debris, and graffiti;
- b. Prevention of reoccurring criminal activity on the premises;
- c. Securing of vacant lots or land to prevent dumping; and

- d. Securing unsecured buildings and structures in the following manner:
 - i. Unsecured doorways and windows must be boarded up using five-eighths inch or thicker exterior grade plywood, fastened by tamper-proof screws or one-way bolts;
 - ii. All boarding must be painted to match the dominant exterior color of the exterior structure; and
 - iii. For commercial buildings, opaque window coverings may be allowed by the Administrator in lieu of boarding provided all windows are maintained and if broken or cracked, are replaced within 48 hours. The Administrator may revoke the use of this alternative when the owner or responsible party fails to maintain within the specified period.

If, after five business days from when notice provided, the owner fails to comply, the Administrator is authorized to secure the site as specified in this chapter. All costs associated with this work will be recovered from the property owner.

BUILDING STANDARDS

Q. Every building erected must be located on a lot and in accordance with this chapter.

R. A lot used for single-family purposes may have more than one principal building devoted to residential use.

S. A lot used for multi-family purposes may have more than one principal building devoted to residential use.

T. A lot in a nonresidential district may have more than one principal building devoted to non-residential uses.

U. The use of any basement for dwelling purposes is prohibited in any zoning district unless the basement meets the most recent and adopted version of the Indiana Residential Code.

V. Buildings erected as garages or accessory buildings cannot be occupied for dwelling purposes unless they conform with the requirements of the zoning code.

W. Any new single-family dwelling unit must comply with the requirements below. Dwelling units within a Manufactured Home and Mobile Home Community are exempt from these requirements.

- 1. If the dwelling unit is a new manufactured home, it must be new by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development, as amended. If the dwelling unit is a used manufactured home, it must be found to be in excellent condition and safe for residential occupancy and provide a letter of label verification from the U.S. Department of Housing and Urban Development Office of Manufactured Housing Programs. The dwelling

unit must be installed with the wheels removed. All new and used manufactured homes must bear a valid manufactured home certification label (HUD tag).

2. The dwelling unit must comply with all applicable building, electrical, plumbing, fire, energy, and other similar codes adopted by the Town of West Baden Springs. Walls and roofs must be structurally sound and uniform in color, structure, and design.

3. The dwelling unit must be firmly attached to a permanent continuous foundation constructed on the building site. The foundation wall must have the same perimeter dimensions as the dwelling unit and be constructed as required by the building code for on-site constructed single-family dwellings. If the dwelling unit is a manufactured home, its foundation must fully enclose the chassis, undercarriage, and towing mechanism.

4. If the dwelling unit is a manufactured home, it must be installed per the manufacturer's instructions and be secured to the building site by an anchoring system complying with applicable regulations of the State of Indiana.

5. The front entry to the dwelling must be located on the ground floor. Permanently attached steps at least three feet in width must be provided where there is an elevation difference greater than eight inches between the first-floor entry of the dwelling unit and the adjacent grade.

6. The exterior finish of the dwelling unit must meet the applicable building design and material requirements of the Uniform Housing Code Chapter 3.08 of the West Baden Springs Code of Ordinances, and Design Guidelines of the town. Exterior improvements once begun, must be completed within 270 days.

7. The dwelling unit must have at least two exterior doors, with one in either the rear or the side of the dwelling unit.

8. *Temporary dwellings.* A cabin, garage, basement, tent, recreational vehicle, or other temporary structure cannot be used for dwelling purposes in any district. A manufactured home may be used as a temporary dwelling for a period not to exceed six months upon approval of the Administrator who determines the following conditions are met:

a. The lot contains the permanent dwelling of the applicant which has become uninhabitable due to damage caused by fire, wind or other natural calamity or emergency.

b. The applicant is unable to obtain another dwelling unit as a temporary residence while repairing the damaged dwelling.

c. The temporary dwelling is constructed to meet the minimum requirements for the health, safety and welfare of the occupants and the surrounding neighborhoods.

d. The temporary dwelling is served by sanitary sewer and potable water, approved by the town;

e. The temporary dwelling will be removed within 30 days of the issuance of a certificate of occupancy for the new dwelling.

IV. SPECIFIC ZONING DISTRICT REGULATIONS.

The Zoning Map previously defined is, pursuant to I.C. § 36-7-4-610(c), incorporated herein by reference and declared to be a part of this ordinance. The Zoning Map shows the boundaries of and area incorporated within the following zoning districts:

A. Historic Hotel District.

1. **Purpose.** The Historic Hotel District is intended to create an environment that is conducive to the preservation and further development of the historic hotel located within the district. Historic Hotel District. All Structures in the Historic Hotel District should emphasize building materials, architectural elements, and design features that are compatible with the historic hotel, be consistent with applicable Design Guidelines adopted by rule of the Plan Commission, and should otherwise compliment the historic character of the district.

2. **Use Classifications.** The Uses permitted in the Historic Hotel District are set forth in the Use Table. Additionally, Special Definition Uses are permitted in the Historic Hotel District.

3. Property Development Regulations.

a. Applications for Building Permits in the Historic Hotel District will require a Development Plan prior to issuance of a permit.

b. The exterior design of all Structures within the Historic Hotel District should complement the historic character of the hotel and the downtown. Improvements should emphasize building materials, architectural elements, and design features that are consistent with the time period of the historic hotel and the historic downtown Buildings and be consistent with applicable Design Guidelines adopted by rule of the Plan Commission. A property owner seeking guidance or approval of specific designs may make an inquiry with the Plan Commission, who may refer the owner to the persons and firms retained by the Plan Commission to assist with the Development Plan review process.

c. Trash containers maintained by users of a Building shall be placed in a location that conceals the container from persons traveling on the public streets and sidewalks. All trash containers that are visible from any public place shall have a lid and be surrounded by an opaque fence, wall, or other enclosure that will further conceal the container, as well as any debris that may be around the container.

B. Boulevard PUD District.

1. **Purpose.** The Boulevard PUD District is intended to establish an area where heightened regulatory flexibility will allow future development to proceed in a manner that most benefits the Town. The base zoning classification is designed to allow both Houses and Multi-Family Residences to be developed in a manner that is consistent with the Comprehensive Plan. In addition, the Boulevard PUD District provides for the submission of a PUD District Ordinance by the property owner in order to expand the range of potential Uses and Building designs. The goal is to allow either high density residential development within the district, a purely commercial development that would include one or more trip-generating tourist attractions, or for a mixed Use development that will combine the two approaches. Owner-requested commercial Uses in the Boulevard PUD District should include either tourism related Uses that are too large or intense to be appropriate for the downtown areas (i.e. a large department store) or non-tourism related Uses that support the needs of tourists and residents of the town (i.e. grocery stores, apartments). Building designs should be high quality, conform to modern building codes and construction practices, be consistent with applicable Design Guidelines adopted by rule of the Plan Commission, and include a high grade of exterior finish. The exterior design of Buildings and other Structures need not conform to any particular time period, although historically-themed designs are encouraged.

2. **Use Classifications.** The Uses permitted in the Boulevard PUD District are set forth in the Use Table; and Accessory Uses related to the principal Use are also permitted.

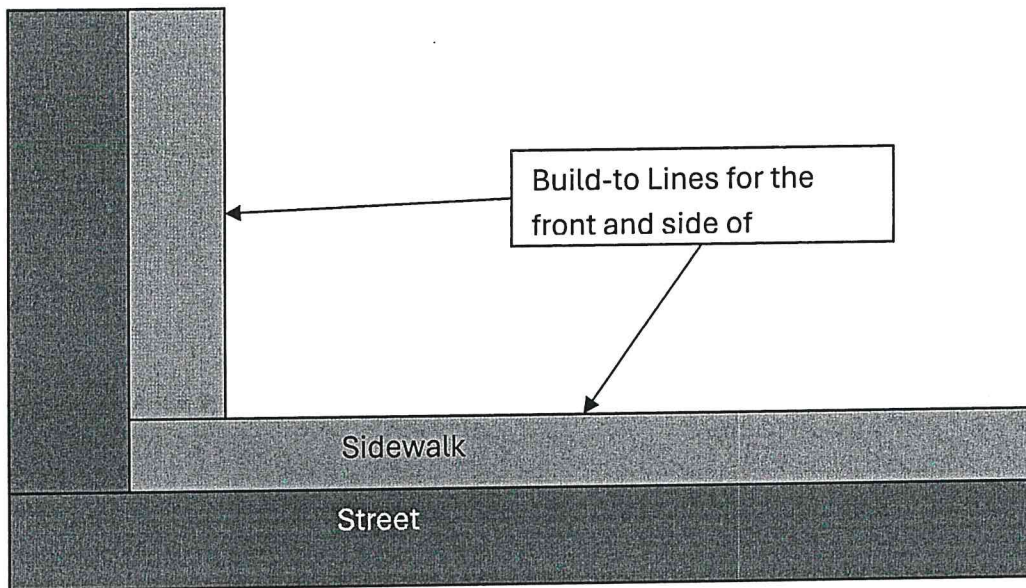
3. **Property Development Regulations.** The following property development regulations shall apply within the Boulevard PUD District unless alternate regulations have been adopted through the PUD District Ordinance approval process, in which case the approved PUD District Ordinance shall control:

a. Applications for Building Permits in the Boulevard PUD District will require a Development Plan prior to issuance of a permit. In addition, if a property owner chooses to submit a request for approval of a PUD District Ordinance, all requirements for submission and review of the PUD District Ordinance must be met prior to issuance of a Building Permit within the Boulevard PUD District.

b. The design of all Structures within the Boulevard PUD District should be high quality and include a high grade of exterior finish and be consistent with applicable Design Guidelines adopted by rule of the Plan Commission. The exterior design of Buildings and other Structures need not conform to any particular time period, although historically-themed designs are encouraged. A property owner seeking guidance or approval as to specific designs may make an inquiry with the Plan Commission, who may refer the owner to the persons and firms retained by the Plan Commission to assist with the design review process.

c. Setback Lines for Houses shall be as follows: 1) fifteen feet at the front, side, or rear of each Lot. No Building or other Structure may be erected between the Lot line and the Setback Line; and no hedge, planting or obstruction of any kind more than forty (40) inches above the height of the adjacent street may be placed or located between the Lot line and the Setback Line.

d. Setback lines for Multi-Family Residences shall be as follows: the front of all new Multi-Family Residences in the Boulevard PUD District, as well as the side of Multi-Family Residences located on a street corner, shall be constructed on a Build-to Line that is defined as the average edge of the public improvements on the block the Multi-Family Residence is to be constructed. In the event such public improvements have not been previously been constructed, the Build-to Line shall be to the edge of either the proposed edge of future public improvements or the proposed edge of a privately owned street and sidewalk. The Build-to Line is depicted below:



Except for those Multi-Family Residences to be located on street corners, the sides of all new Multi-Family Residences in the Boulevard PUD District shall be constructed on the Lot line, so as to abut neighboring Buildings of conforming design.

e. Trash containers maintained by owners of a Multi-Family Residence shall be located in the rear of a Building in a location that conceals the container from persons traveling on the public streets and sidewalks. All trash containers that are visible from any public place shall have a lid and be surrounded by an opaque fence, wall, or other enclosure that will further conceal the container, as well as any debris that may be around the container.

C. Boulevard Commercial District.

1. **Purpose.** The Boulevard Commercial District is intended to establish an area where commercial Uses and commercial Buildings may be located that relate to and support the creation of a destination resort; but, due to their particular characteristics, are not suitable for the Downtown District. Uses in the Boulevard Commercial District should include either tourism related Uses that are too large or intense to be appropriate for the

downtown areas (i.e. a large department store) or non-tourism related Uses that support the needs of tourists and residents of the town (i.e. grocery stores and gas stations). Building designs should be high quality, conform to modern building codes and construction practices, be consistent with applicable Design Guidelines adopted by rule of the Plan Commission, and include a high grade of exterior finish. The exterior design of Buildings and other Structures need not conform to any particular time period, although historically-themed designs are encouraged.

2. Use Classifications. The Uses permitted in the Boulevard Commercial District are set forth in the Use Table; and Accessory Uses related to the principal Use are also permitted. In addition, residential use, as part of a business, is allowed as a special use on any floor in the Boulevard Commercial District, for so long as the use is designed for the owner and his/her family.

3. Property Development Regulations.

a. Applications for Building Permits in the Boulevard Commercial District will require a Development Plan prior to issuance of a permit.

b. The design of all Structures within the Boulevard Commercial District should be high quality and include a high grade of exterior finish and be consistent with applicable Design Guidelines adopted by rule of the Plan Commission. The exterior design of Buildings and other Structures need not conform to any particular time period, although historically-themed designs are encouraged. A property owner seeking guidance or approval as to specific designs may make an inquiry with the Plan Commission, who may refer the owner to the persons and firms retained by the Plan Commission to assist with the design review process.

c. Setback Lines shall be as follows: 1) fifteen feet at the front, side, or rear of each Lot. No Building or other Structure may be erected between the Lot line and the Setback Line; and no hedge, planting or obstruction of any kind more than forty (40) inches above the height of the adjacent street may be placed or located between the Lot line and the Setback Line.

d. Accessory Buildings may not be constructed in the Boulevard Commercial District, as such Buildings will detract from the principal Building on the Lot, as well as detract from neighboring Buildings.

e. Trash containers maintained by users of a Building shall be located in the rear of a Building in a location that conceals the container from persons traveling on the public streets and sidewalks. All trash containers that are visible from any public place shall have a lid and be surrounded by an opaque fence, wall, or other enclosure that will further conceal the container, as well as any debris that may be around the container.

D. Downtown District.

1. Purpose. The Downtown District is intended to create a historic downtown to complement the historic hotel located in the area. The Downtown District

should include Uses that attract tourists and provide additional entertainment for visitors to the historic hotel and the casino. In addition, the Downtown District may include other Uses that will attract a volume of pedestrian traffic and improve the economics of the downtown. New Structures, as well as improvements to existing Structures, should complement the historic character of the downtown, emphasize building materials, architectural elements, and design features that are consistent with the time period of the existing downtown Buildings and the historic hotel, and be consistent with applicable Design Guidelines adopted by rule of the Plan Commission.

2. Use Classifications. The Uses permitted on the ground floors of Buildings in the Downtown District are set forth in the Use Table; and Accessory Uses related to the principal Use are also permitted. The upper floors of Buildings in the district may be used in any manner allowable on the ground floor. In addition, the upper floors of Buildings in the Downtown District may be used for one or more Dwelling Units.

3. Property Development Regulations.

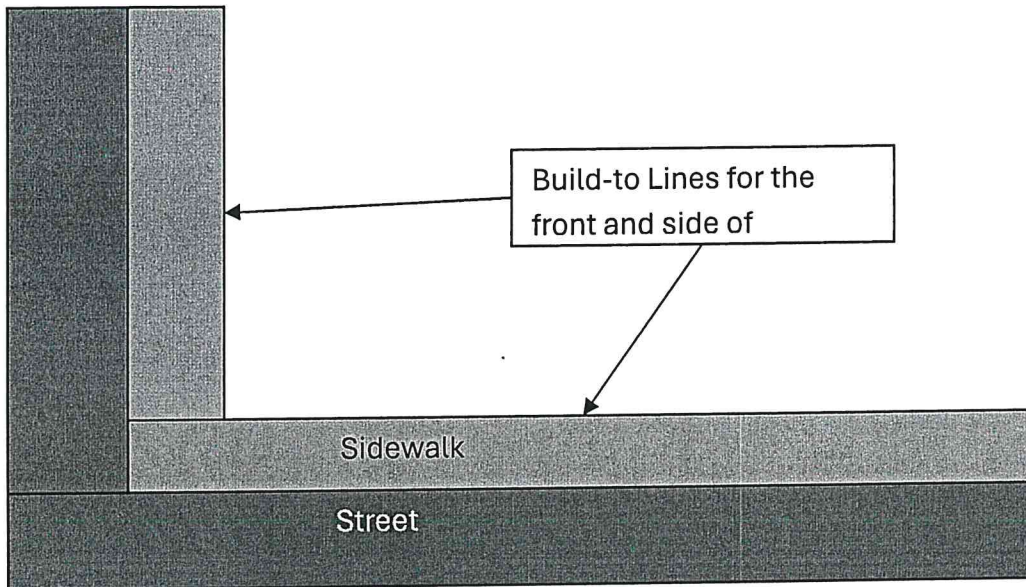
a. Applications for Building Permits in the Downtown District will require a Development Plan prior to issuance of a permit.

b. New Buildings to be constructed within the Downtown District shall be two to four stories in height and have a brick exterior. Higher structures must be specifically approved by the Plan Commission. The exterior design of all Structures within the district should complement the historic character of the downtown; emphasize building materials, architectural elements, and design features that are consistent with the time period of the principal Building on the Lot, the time period of historic downtown Buildings, and the time period of the historic hotel; and be consistent with applicable Design Guidelines adopted by rule of the Plan Commission. A property owner seeking guidance or approval as to specific designs may make an inquiry with the Plan Commission, who may refer the owner to the persons and firms retained by the Plan Commission to assist with the design review process.

c. Accessory Buildings may not be constructed in the Downtown District, as such Buildings will detract from the principal Building on the Lot and from neighboring Buildings.

d. Trash containers maintained by users of a Building shall be located in the rear of a Building in a location that conceals the container from persons traveling on the public streets and sidewalks. All trash containers that are visible from any public place shall have a lid and be surrounded by an opaque fence, wall, or other enclosure that will further conceal the container, as well as any debris that may be around the container.

e. The front of all new Buildings in the Downtown District, as well as the side of Buildings located on a street corner, shall be constructed on a Build-to Line that is defined as the average edge of the public improvements on the block the Building is to be constructed. The Build-to Line is depicted below:



Except for those Buildings to be located on street corners, the sides of all new Buildings in the Downtown District shall be constructed on the Lot line, so as to abut neighboring Buildings of conforming design.

E. Low Density Residential.

1. Purpose. The Low Density Residential District is intended to protect residents from undesirable development without burdening them with unnecessary regulation. Commercial and other incompatible Uses should not be allowed to encroach upon residential areas; however, Home Businesses that do not create traffic, parking, noise, and appearance problems for their neighbors are permitted. The Low Density Residential District typically consists of Lots that are larger and flatter than those in the High Density Residential One and Two Districts and are located on wider streets. The regulations for the Low Density Residential District attempt to preserve the existing character of the district.

2. Use Classifications. The Uses permitted in the Low Density Residential District are Houses, as well as Accessory Uses to Houses. Home Businesses will also be allowed in the Low Density Residential District.

3. Property Development Regulations.

a. No Development Plan will be required for Building Permits issued in the Low Density Residential District.

b. The exterior of all Houses shall be clad in a finish grade material that has been manufactured for use on residential structures.

Example: Materials such as vinyl or aluminum siding with horizontal seams, brick, wood siding, and stucco are permitted. It is not permissible to cover Houses with sheet plastic, scrap wood, scrap metal or other scrap materials that are not intended to be used on the exterior of a finished residential building.

Once remodeling or repair of Houses is begun, it must be completed within 365 days.

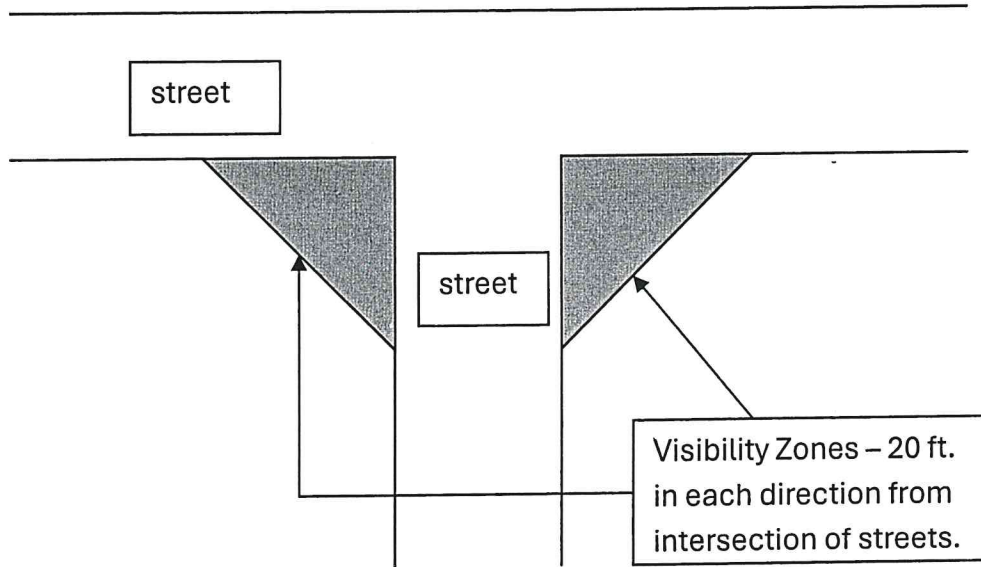
c. Accessory Buildings must be located to the side or rear of the principal Dwelling on the Lot. The exterior of all Accessory Buildings shall be clad in a finish grade material that is either similar to that found on the principal Dwelling on the Lot or is similar to exterior coverings commonly found on storage buildings purchased at retail establishments.

Example: It is not permissible to cover Accessory Buildings with sheet plastic, scrap wood, scrap metal or other scrap materials that are not intended to be used on the exterior of a finished Building.

d. If a property owner wishes to obtain pre-approval of an exterior covering material prior to applying the material, that property owner may obtain an Exterior Permit. Property owners that obtain an Exterior Permit prior to applying an exterior finish will be immune from any enforcement action relating to that exterior covering material. Property owners are encouraged, but not required, to obtain an Exterior Permit if they are in doubt whether their choice of exterior covering material is permitted under the West Baden Springs Zoning Code.

e. Setback Lines shall be as follows: 1) fifteen feet at the front, side, and rear of each lot. No House or Accessory Building may be erected between the Lot line and the Setback Line.

f. In addition to the Setback Line, Lots that are located at the intersection of two public streets shall have a Visibility Zone defined as a triangle formed by the intersecting street edges and a straight line joining said street edges at points that are twenty feet distant from the point of intersection, measured along the street edges. The Visibility Zone is depicted below:



No Structure (including a House or Accessory Building), hedge or planting more than forty (40) inches above the height of the intersecting streets may be placed or located in a Visibility Zone.

g. All newly constructed Houses in the Low Density Residential District shall have Off-Street Parking for a minimum of two automobiles per Dwelling Unit.

h. A Building Permit will be required for construction of a new House or Accessory Building and for any Enlargements of an existing House or Accessory Building. A Building Permit will not be required for Improvements to an existing House or Accessory Building that do not result in an Enlargement of that House or Accessory Building. Further, a Building Permit will not be required for Accessory Buildings that are 120 square feet or smaller after completion of the proposed Improvement.

F. High Density Residential One and Two.

1. Purpose. The High Density Residential One District and the High Density Residential Two District are intended to protect residents from undesirable commercial and residential development without burdening them with unnecessary regulation. Commercial and other incompatible Uses should not be allowed to encroach upon residential areas; however, Home Businesses that do not create traffic, parking, noise, and appearance problems for their neighbors are permitted. The High Density Residential One and Two Districts typically consists of small lots that are located on hilly terrain and adjacent to narrow streets. As a result, development in the High Density Residential One and Two Districts create parking and traffic problems along those narrow streets. The regulations for the High Density Residential One and Two Districts attempt to address the problems created by the terrain and the narrow streets.

2. Use Classifications. The Uses permitted in the High Density Residential One and Two Districts are Houses and Duplexes, as well as Accessory Uses to Houses and Duplexes. Home Businesses will also be allowed in the High Density Residential One and Two Districts. Furthermore, Mobile Home Communities may be located in the High Density Residential Two District, but not in the High Density Residential One District

3. Property Development Regulations.

a. No Development Plan will be required for Building Permits issued in the High Density Residential One and Two Districts.

b. The exterior of all Houses and Duplexes shall be clad in a finish grade material that has been manufactured for use on residential structures.

Example: Materials such as vinyl or aluminum siding with horizontal seams, brick, wood siding, and stucco are permitted. It is not permissible to cover Houses and Duplexes with sheet plastic, scrap wood, scrap metal or other scrap materials that are not intended to be used on the exterior of a finished residential building.

Once remodeling or repair of Houses and Duplexes is begun, it must be completed within 365 days.

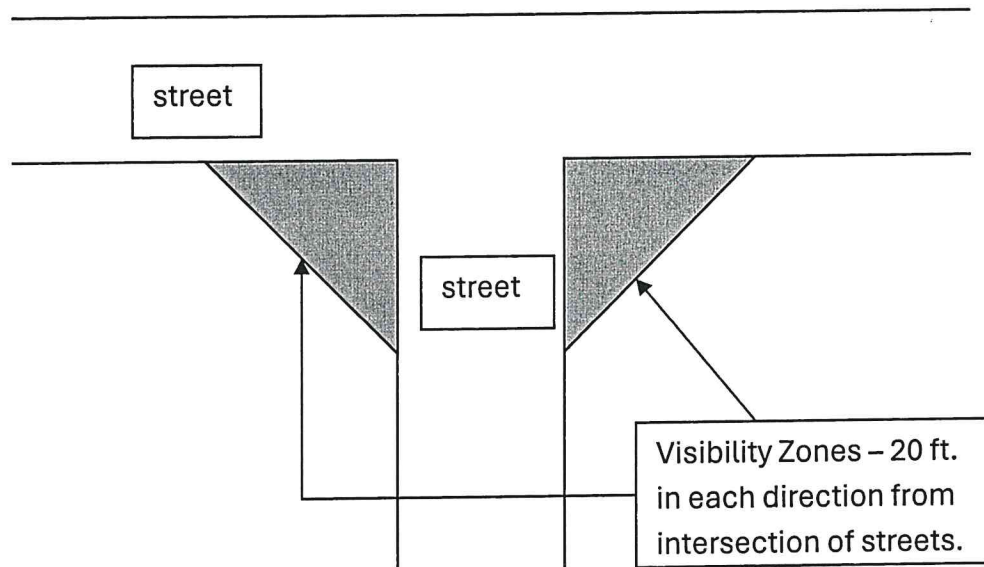
c. Accessory Buildings must be located to the side or rear of the principal Dwelling on the Lot. The exterior of all Accessory Buildings shall be clad in a finish grade material that is either similar to that found on the principal Dwelling on the Lot, or is similar to exterior coverings commonly found on storage buildings purchased at retail establishments.

Example: It is not permissible to cover Accessory Buildings with sheet plastic, scrap wood, scrap metal or other scrap materials that are not intended to be used on the exterior of a finished Building.

d. If a property owner wishes to obtain pre-approval of an exterior covering material prior to applying the material, that property owner may obtain an Exterior Permit. Property owners that obtain an Exterior Permit prior to applying an exterior finish will be immune from any enforcement action relating to that exterior covering material. Property owners are encouraged, but not required, to obtain an Exterior Permit if they are in doubt whether their choice of exterior covering material is permitted under the West Baden Springs Zoning Code.

e. Setback Lines shall be as follows: 1) fifteen feet at the front of each Lot, 2) five feet on the side of each Lot, and 3) five feet at the rear of each Lot. No House, Duplex, or Accessory Building may be erected between the Lot Line and the Setback Line.

f. In addition to the Setback Line, Lots that are located at the intersection of two public streets shall have a Visibility Zone defined as a triangle formed by the intersecting street edges and a straight line joining said street edges at points that are twenty feet distant from the point of intersection, measured along the street edges. The Visibility Zone is as depicted below:



No Structure (including a House, Duplex, Accessory Building, or Accessory Structure), hedge or planting more than forty (40) inches above the height of the intersecting streets may be placed or located in a Visibility Zone.

g. All newly constructed Houses and Duplexes in the High Density Residential One and Two Districts shall have Off-Street Parking for a minimum of two automobiles per Dwelling Unit.

h. A Building Permit will be required for construction of a new House, Duplex or Accessory Building and for any Enlargements of an existing House, Duplex or Accessory Building. A Building Permit will not be required for Improvements to an existing House, Duplex or Accessory Building that do not result in an Enlargement of that House, Duplex or Accessory Building. Further, no Building Permit will be required for an Accessory Buildings that are 120 square feet or smaller after completion of the proposed Improvement.

i. Mobile Homes, Houses, and Manufactured Homes that do not meet the development requirements prescribed under Section III, D of the West Baden Springs Zoning Code (Minimum Building Dimensions and Foundations) may be placed in the High Density Residential Two District.

G. Park and Recreation District.

1. **Purpose.** The Park and Recreation District is intended to establish an area where the Town can establish a high quality, municipally owned, park system for use and benefit of the public. Uses in the Park and Recreation District should include those geared primarily toward recreational activities, with some provision for Accessory Uses to recreational activities. The design of Buildings and other Structures should be high quality, conform to modern building codes and construction practices, be consistent with applicable Design Guidelines adopted by rule of the Plan Commission, and include a high grade of exterior finish. The exterior design of Buildings and other Structures need not conform to any particular time period, although historically-themed designs are encouraged.

2. **Use Classifications.** The Uses permitted in the Park and Recreation District are set forth in the Use Table; and Accessory Uses related to the principal Use are also permitted.

3. **Property Development Regulations.**

a. No Development Plan will be required for Building Permits issued in the Park and Recreation District.

b. The design of all Structures within the Park and Recreation District should be high quality and include a high grade of exterior finish and be consistent with applicable Design Guidelines adopted by rule of the Plan Commission. The exterior design of Buildings and other Structures need not conform to any particular time period, although historically-themed designs are encouraged. A Building Permit applicant seeking guidance or approval as to specific designs may make an inquiry with the Plan Commission, who may refer the owner to the persons and firms retained by the Plan Commission to assist with the design review process.

c. Setback Lines shall be fifteen feet from the edge of all public streets. No Building or other Structure may be erected between the Lot line and the Setback Line; and no hedge, planting or obstruction of any kind more than forty (40) inches above the height of the adjacent street may be placed or located between the Lot line and the Setback Line.

V. **OVERLAY DISTRICT REGULATIONS.**

A. **Flood Plain.**

The requirements of the State of Indiana with respect to construction in a flood plain must be followed in the Town of West Baden Springs.

VI. **SPECIAL DEVELOPMENT STANDARDS.**

A. **Signs.**

1. **Purpose.** The Sign regulations contained in this ordinance are intended to regulate the size and appearance of signage in the Town, so as to compliment the historic character of the area.

2. **Sign-specific Definitions.** In addition to the general definition of Sign that is set forth in Section II of this ordinance, the following Sign-specific definitions shall apply:

a. **AWNING SIGN:** Shall mean a Sign that is printed directly on or sewn to an awning or canopy.

b. **BANNER SIGN:** Shall mean a Sign made of fabric that hangs perpendicular from metal brackets mounted directly to a Building

c. **FLUSH-MOUNTED WALL SIGN:** Shall mean a Sign attached directly to the face of an exterior wall of a Building and that is positioned parallel to the Building.

d. **FREE-STANDING GROUND SIGN:** Shall mean a Sign that is not attached to a Building and that has its supports located on or in the ground. This term includes Signs that sit on the ground or are mounted on one or more poles or posts.

e. **HANGING SIGN:** Shall mean a painted sign board that hangs from a metal bracket that projects from a Building wall.

f. **OUTDOOR ADVERTISING SIGN:** Shall mean a structural poster panel, painted sign or other billboard, either freestanding or attached to a Building or other Structure, for the purpose of conveying information, knowledge, or ideas to the public about a subject unrelated to the activities on the premises upon which it stands. This term includes what are commonly known as “billboards”.

g. **PAINTED GLASS SIGN:** Shall mean a Sign painted directly onto glass storefront display windows or glass doors.

h. **PAINTED WALL SIGN:** Shall mean a Sign painted on the side walls of a Building.

i. **SPECIAL PURPOSE SIGN:** Shall mean a Sign that serves a purpose other than identifying a Use located in the Building or identifying goods or services that are available on the premises.

Examples: Political signs, entrance and exit signs, and real estate signs.

j. **TRANSOM SIGN:** Shall mean a Sign that is built into or painted on the transom above a storefront display window or door.

k. **WINDOW SIGN:** Shall mean a Sign that is placed or otherwise affixed in or on a storefront window.

3. **General Sign Regulations.** Except as may be specified elsewhere in this ordinance, the following Sign regulations shall apply to all zoning districts:

a. **Relation to Buildings.** All Signs should be visually integrated into the storefront to produce a consistent and unified statement about the business located in the Building. The architecture of the Building should dictate the Sign placement, i.e. if a sign band exists such as a recess in the brick, it should be used. Signs should not crowd, obscure or alter the appearance of windows, doors or the architectural features of the Building and should relate to a Building's façade in shape, scale, and location. Signs should reflect the era of the Building to which they will be affixed and be consistent with the architectural distinctiveness of the Building, as well as the overall visual quality of the zoning district.

b. **Installation Techniques.** Sign installation should not damage or require removal of historical building materials and should be done in a manner that allows the Sign to be removed without harming masonry or architectural details. On masonry Buildings, signs should be anchored in mortar joints rather than directly through the brick.

c. **Multiple Tenants.** Signs for Buildings that include multiple tenants should be consistent with one another, and the total area encompassed by such signs must be within the maximum allowable.

d. **Prohibited Signs.** Roof top Signs or Signs projecting above the cornice of the Building are not permitted. No Sign may

include spinning or moving parts. Temporary banners made of plastic or other materials are not permitted.

e. Illumination. Signs may be illuminated from the outside only using a low intensity light directed at the Sign. Lighting fixtures should be shielded to prevent glare on the street and sidewalk. Lighting fixtures on the ground should be screened by landscaping. Except as permitted in Section VI. A.3.Q. hereafter, flashing lights, revolving lights, light patterns or bubbles that give the appearance of movement, neon lighting, and colored illumination is not permissible.

f. Hanging Signs. Hanging Signs should be mounted with the lowest point at least eight feet above the sidewalk and may not project more than four feet over the sidewalk. Hanging Signs may be of any shape, but must fill an area no larger than six square feet, excluding mounting hardware.

g. Outdoor Advertising Signs. Outdoor Advertising Signs are prohibited in every zoning district. Outdoor Advertising Signs shall include papers, signs, handbills, and similar documents that are affixed to utility poles and other public property within the Town.

h. Free-standing Ground Signs. Free-standing Ground Signs may be of any shape, but must fill an area no larger than eight feet (8 ft.) wide and five feet (5 ft.) tall, including the area for the Sign and any base or mounting hardware. Free-standing Ground Signs must have a solid, enclosed base made of stone, brick or other finish grade material that compliments the exterior of the Building the Sign is associated with and that includes landscaping elements that compliment the surrounding area.

i. Flush-mounted Wall Signs. Flush-Mounted Wall Signs should be located on the Building facade above storefront display windows, but below the sills of second story windows. A Wall Sign should be no more than thirty (30) inches high and should not extend across more than three quarters (3/4) of the Building.

j. Window Signs. Window Signs shall be limited only to the ground floor of Buildings. A Window Sign should not obscure the display area and should occupy no more than twenty five percent (25%) of the glass area.

k. Special Purpose Signs. Political signs for a political candidate or issue may be displayed. Real estate signs informing the public that the Building or land is for sale may be displayed, but must be removed within thirty days after the sale has closed. Directional signs, such as those marking exits or entrances are permitted. On-site construction signs giving information about the construction or renovation of a

Building on the same site are permitted, but must be removed at the completion of the project. Special purpose Signs do not need to comply with the design regulations that apply to other Signs.

l. Holiday Signs. Signs that do not conform to the Sign regulations in this ordinance but are associated with a National Holiday are permitted.

m. Sandwich Board Signs: Signs shall be no greater than 24" x 36" in size, of quality construction and tastefully prepared. Signs shall be placed in front of the business or within close proximity on the premises, placed so not to obstruct pedestrian or vehicular traffic. Signs shall be for display during business hours only and shall be limited to one (1) double-faced sign or two (2) single-faced signs per business.

n. Vinyl "Window Cling" Signs: Signs shall be professionally prepared, tastefully presented, and well maintained for temporary advertisement only. Signs may be presented for up to 30-days within a 30-day window.

o. "Sail" or "Flyer Flag" Signs: Signs shall be professionally prepared and tastefully presented for temporary advertisement only. Signs shall be no greater than 12-ft in height. Signs may be displayed for up to 30-days within a 60-day window and are limited to two (2) per business.

p. Special and Community Event Signage. Signs shall be no greater than 4' x 8' in size, of quality construction and professionally prepared. Signs may be double-faced, free-standing, or vinyl "window cling." Signs may be displayed for up to 30-days prior to the event, with "high profile" events displayed for up to 60-days. All signs for the events must be removed within two (2) days after the event. Signs must be tastefully placed on private or public property with prior approval of the property owner(s).

q. Open and Business Hours Signs. Open signs shall be no greater than 18" x 24" in size, and limited to one (1) per road frontage with a maximum of two (2) per business. Business Hours may also be displayed on a sign that shall be no greater than 18" x 24" in size, and is limited to one (1) per business. Open and Business Hour Signage may also be consolidated into one sign not to exceed 24" x 24" in size. Signs may be internally illuminated by LED, neon, or incandescent lighting. Flashing of lighting is prohibited from 6:00 p.m. local time until 7:30 a.m. local time.

r. Signage Sizes: Signage size limitations, as listed in the ordinance, may be used to calculate the maximum area of coverage for the types of signs listed, and not restrict businesses to adapt the shape of such signage to conform to the dimensions listed. Proposed signage that exceeds the

maximum area calculated will continue to require a variance from the Board of Zoning Appeals. All other requirements remain as adopted in the Ordinance.

s. **Public Service Announcement:** Sign shall be no greater than 12 square feet in area, professionally prepared, and tastefully presented. Sign may be single or double-faced and is limited to one (1) per business. Sign may be presented as a single-event announcement for up to 30-days.

4. **Sign Regulations for Specific Zoning Districts.** The following additional Sign regulations for specific zoning districts shall apply:

a. **Downtown District.** Free-standing Ground Signs may not be placed in the Downtown District.

b. **Residential Districts.** Free-standing Ground Signs in the High Density Residential District and the Low Density Residential District may be no larger than three feet high and three feet wide. The total Sign area, excluding support structure, shall be no larger than six (6) square feet.

C. **Nonconforming Uses and Structures.**

1. **Purpose.** The Plan Commission intends for legal, Nonconforming Uses to continue in the Town. However, the overall goal is to gradually, over a period of years, allow nonconforming Uses and Structures to phase out through normal attrition and be replaced with conforming Uses and Structures.

2. **Continuance of Nonconforming Rights.** Nonconforming Uses may be continued after the passage of the West Baden Springs Zoning Code. The continued occupation and use of Nonconforming Structures shall not be considered a Violation of the West Baden Springs Zoning Code.

3. **Use of Nonconforming Lots.** All Lots must be used in a manner that conforms with the West Baden Springs Zoning Code, unless rights to a Nonconforming Use or Nonconforming Structure have vested prior to the passage of this ordinance. If the dimensions of a Lot prohibit a property owner from using that Lot in a manner that conforms to the West Baden Springs Zoning Code, then that owner may combine the Nonconforming Lot with one or more adjacent Lots, so that the combined Lots will conform.

4. **Effect of Nonconforming Status on Additional Structures or Uses.** If any Use or Structure on a Lot is Nonconforming; then the entire Lot, as well as all Structures on that Lot, shall be deemed Nonconforming.

5. **Changes in Use.** Nonconforming Uses may be changed to conforming Uses. Nonconforming Uses may not be changed to other Nonconforming Uses, regardless of the similarity between the existing Nonconforming Use and the proposed Nonconforming Use.

6. **Illegal Uses or Structures.** Illegal Uses or Structures are those that do not comply with the provisions of the West Baden Springs Zoning Code and did not exist in their current state at the time the ordinance was passed (i.e. are not legal Nonconforming Uses or Nonconforming Structures). Illegal Uses or Structures are Violations and are subject to an enforcement action under the West Baden Springs Zoning Code.

7. **Multi-tenant Buildings.** If a Building contains more than one tenant, and those tenants are engaged in different Uses, then that Building will not be considered a conforming Building unless all uses within that Building are conforming Uses.

8. **Abandonment of Nonconforming Rights.** In the event that a Nonconforming Use is abandoned, then all rights to continue the Nonconforming Use will terminate. For purposes of this provision, a Nonconforming Use will be deemed abandoned at the earlier of the following times: 1) cessation of the Nonconforming Use along with the owner's intent to abandon the Nonconforming Use, or 2) six months after cessation of the Nonconforming Use, regardless of the intent of the owner.

9. **Improvements and Restoration.** Any Improvements to a Nonconforming Structure must be in a manner that conforms to the requirements of the West Baden Springs Zoning Code. Thus, if a Nonconforming Structure is destroyed or removed from a Lot, then only conforming Structures may thereafter be constructed on said Lot. Furthermore, Enlargement of Nonconforming Buildings or Nonconforming Uses shall not be permitted.

10. **Maintenance.** Routine maintenance of Nonconforming Structures shall be permitted, so long as such maintenance does not otherwise constitute an Expansion of a Nonconforming Structure or a Nonconforming Use.

D. Home Businesses. The following regulations apply to Home Businesses:

1. In addition to the resident of the Dwelling, a Home Business may employ a maximum of two employees.

2. A Home Business must have sufficient off-street parking to accommodate all of the parking needs of the business.

3. A Home Business must be conducted entirely within a Building and material or equipment related to the Home Business may not be stored outside.

4. A Home Business may not emit any noxious or annoying smells or noises, particularly during evening hours.

VII. ADMINISTRATION AND ENFORCEMENT.

A. Development Plans. For zoning districts that require the Plan Commission to approve a Development Plan prior to issuing a Building Permit, the following requirements shall apply:

1. Required Information. In addition to any information required on an application for a Building Permit, the following documentation and supporting information must be supplied to the Plan Commission before the Plan Commission may approve a Development Plan:

a) the location and character of existing and proposed principal Structures and accessory Structures, utilities, Signs, and landscaping;

b) the nature and intensity of Uses in the proposed development;

c) the condition and size of public thoroughfares and parking, vehicle, and pedestrian facilities in the proposed development;

d) the location and capacity of drainage facilities and sewer systems serving the proposed development; and

e) any other information required by the Plan Commission to evaluate the Development Plan.

2. Development Plan Approval. Before the Plan Commission may approve a Development Plan, the following requirements must be satisfied:

a. The Plan Commission must determine that the proposed Use is compatible with surrounding land Uses and will not impose unreasonable burdens on surrounding Uses or have a significantly adverse impact on surrounding land values. Uses that are designated as “permitted” on the Use Table are presumed to be compatible with surrounding Uses, unless the Plan Commission finds that some particular aspect of the proposed development causes it to be incompatible with surrounding Uses in a way that most Uses of that particular type would not.

b. The Plan Commission must determine that water, sanitary sewers, storm water drainage, and other utilities are available at the development site and have sufficient capacity to adequately serve the development for the foreseeable future.

c. The Plan Commission must determine that the proposed development provides for adequate on-site management of storm water, noise, lighting, and erosion.

d. The Plan Commission must determine that the proposed Development Plan makes adequate provisions for buffering the development from any surrounding Uses, so as to minimize any adverse impact on surrounding property owners.

e. The Plan Commission must determine that the proposed Development Plan manages traffic in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community. In so doing, the Plan Commission must make the following specific determinations:

(1) That the design and location of proposed street and highway access points minimize safety hazards and congestion.

(2) That the capacity of adjacent streets and highways is sufficient to safely and efficiently accept traffic that will be generated by the new development.

(3) That the entrances, streets, and internal traffic circulation facilities in the Development Plan are adequate and compatible with existing and planned streets and adjacent developments.

f. The Plan Commission must determine that the proposed development satisfies any specific property development regulations set forth in this ordinance for the relevant zoning district with regard to the following: 1) Setback or Build-to Lines; 2) Building coverage; 3) Building separation; 4) vehicle and pedestrian circulation; 5) parking; 6) landscaping; 7) height, scale, materials, and style of improvements; 8) signage; 9) recreation space; 10) outdoor lighting; 11) any other development regulations required by this ordinance.

g. The Plan Commission must find that the proposed development is consistent with the overall purpose of the relevant zoning district and otherwise advances the goals of this ordinance and the Comprehensive Plan.

3. Waiver of Requirements. The Plan Commission may waive or modify any requirements for approval of a Development Plan if the Plan Commission determines that such waiver or modification is necessary to approve a given Development Plan, is consistent with the overall purpose of the relevant zoning district, and otherwise advances the goals of this ordinance and the Comprehensive Plan.

4. Additional Conditions. The Plan Commission may impose such additional conditions on the approval of a Development Plan as are reasonably necessary to satisfy the development requirements specified in this ordinance for approval of the Development Plan and to insure that the proposed development advances the purpose of the relevant zoning district and the Comprehensive Plan. The Plan Commission may also provide that approval of a Development Plan is conditioned on the furnishing to the Plan Commission of a bond or written assurance that guarantees the timely completion of a proposed public improvement in the proposed development and is in a form and amount that is satisfactory to the Plan Commission. The Plan Commission may further permit or require the owner of real property to make a written commitment concerning any requirements imposed by the Plan Commission with regard to approval of a Development Plan.

5. Development Plan Procedures. Procedures for submission and review of a Development Plan, including the nature or type of application, fees, notice, hearing, amendment, and other matters relevant to review shall be determined by rule of the Plan Commission.

6. Recommendations. In reviewing a Development Plan, the Plan Commission may consider or rely upon the recommendations of any professional staff employed by the Plan Commission, any Design Guidelines adopted by rule of the Plan Commission, or upon information from any other source the Plan Commission considers useful and appropriate.

B. Planned Unit Developments. For zoning districts that allow for Planned Unit Developments, the following provisions shall apply:

1. General Regulations. The permitted Uses and the property development regulations in a PUD District Ordinance are subject to the discretion and approval of the Plan Commission and the Council. The permitted Uses and the property development regulations shall be determined in consideration of the Comprehensive Plan, the existing property development regulations of the zoning district that is being rezoned to a Planned Unit Development, the Uses contiguous to the area being rezoned to a Planned Unit Development, and the Design Guidelines adopted by rule of the Plan Commission.

2. Qualifying Standards. The area designated in the PUD map must be located entirely within the Boulevard PUD District. Additionally, the tract of land must be under single ownership or control. Single control of property under multiple ownership may be accomplished through the use of enforceable covenants or commitments that run to the benefit of the zoning jurisdiction. The minimum gross area required for a Planned Unit Development is ten (10) acres. The minimum gross area may be waived by the Plan Commission if it is demonstrated that granting such waiver is consistent with the purpose of the Boulevard PUD District.

3. General Standards. A qualifying tract of land may be rezoned to a Planned Unit Development zoning district after compliance with this Section VII (B), Plan Commission review, and Council approval. Upon approval, the basic property development regulations of the Boulevard PUD District shall apply to Planned Unit Developments within that district, unless alternate standards are approved by the Plan Commission and Council during the PUD Ordinance approval process. Any lessening of the property development regulations of the Boulevard PUD District must be directly linked to the purpose of the Boulevard PUD District, as determined by the Plan Commission and Council. A PUD District Ordinance submitted by a property owner shall indicate the proposed land uses, property development regulations, and other applicable specifications that shall govern the Planned Unit Development. The property development regulations that apply to the Boulevard PUD District shall apply to the Planned Unit Development, unless the PUD District Ordinance specifies an alternate standard. If the PUD District Ordinance is silent on a particular land use, development requirement, or other specification, the property development regulations of the Boulevard PUD District shall apply. The preliminary plan shall show the conceptual location of all proposed improvements.

4. Origination of Proposals. Any property owner may propose a Planned Unit Development in accordance with these procedures. A tract of land proposed for a Planned Unit Development is not required to be under single ownership. However, for

those tracts that are not under single ownership, the multiple owners must all consent to the development of their individual properties consistent with the requirements of the proposed PUD District Ordinance. Any transfer of land within the proposed Planned Unit Development after an application has been filed shall not alter the applicability of the regulations contained in this Section. A preliminary plan approved hereunder shall be binding upon the petitioner(s), and their successors and assigns and shall limit and control the issuance and validity of all Building Permits.

5. Limitation of Revisions. Changes to the West Baden Springs Zoning Code that directly affect public health and safety shall apply to any Planned Unit Development even if such changes are adopted during the Planned Unit Development build-out. In addition, changes to the West Baden Springs Zoning Code that alter any property development regulations for which the PUD District Ordinance is silent shall be enforced upon the Planned Unit Development. If a Planned Unit Development is no longer proceeding in accordance with its PUD District Ordinance, commitments, or time requirements imposed herein or by agreement, amendments to the West Baden Springs Zoning Code may be applied to the extent permitted by the terms of the West Baden Springs Zoning Code and Indiana law.

All Planned Unit Developments, once at least ninety-five percent (95%) built-out, may be subject to being rezoned into an appropriate standard zoning district if the Council deems it necessary.

6. Preliminary Plan Procedure. The following requirements and procedures shall apply to the submission, review, and preliminary approval of a PUD District Ordinance:

a. Applicability. This Subsection VII(B)(7) is applicable to new Planned Unit Development proposals and to any proposed amendment to an existing Planned Unit Development that would affect either the text of the PUD District Ordinance or the general layout of any element of the preliminary plan.

b. Purpose and Intent. The purpose of a PUD District Ordinance is to: a) designate a tract of real property as a Planned Unit Development; b) specify uses or a range of Uses permitted in the Planned Unit Development; c) specify property development regulations in the Planned Unit Development; d) specify the plan documentation and supporting documentation that may be required; e) specify any limitations applicable to the Planned Unit Development; and f) meet the requirements of IC 36-7-4-1500 *et seq.* The purpose of a preliminary plan is to delineate the location of basic elements such as land uses, vehicular and pedestrian traffic routes, drainage, perimeter buffer yards, and other site planning elements.

c. Prerequisites for Review. Prior to submitting a Planned Unit Development application, the petitioner shall meet with the Zoning Administrator to review the zoning classification of the site, review the regulatory ordinances and materials, review the procedures and examine the proposed development of the property. The Zoning Administrator shall aid and advise the petitioner in preparing the application and supportive documents as necessary. After the required pre-submittal meeting, and after the Zoning Administrator determines that it has received a submittal that is sufficiently complete for Plan

Commission review, the Zoning Administrator may place the item on the Plan Commission agenda and inform the petitioner of the time, date, and place of the meeting.

d. Application Materials. An application for a Planned Unit Development shall not be considered complete until all information and documentation required by this Subsection has been submitted and all meetings required by Subsection (c) have been completed. Applications shall include, but not be limited to, the following documents:

(1) Application Form. An application shall be submitted on a form prescribed by rule of the Plan Commission.

(2) PUD District Ordinance. A narrative document shall be submitted that provides a list of proposed Uses in each land use component and a list of proposed property development regulations and other design standards in each land use component.

(3) Preliminary Plan. A drawing of the Planned Unit Development shall be prepared and shall show enough details to indicate the character of the proposed development. The submission shall include: A) a map including the name of development, north point, scale and date of preparation; B) existing conditions on adjoining land: land use, topography, use and location of buildings and utilities; C) existing streets on and adjacent to the tract, including street name, right-of-way width, pavement width, and pedestrian facilities; D) any land on the tract within the regulated floodplain, including a delineation of floodway and floodway fringe; E) boundary lines and acreage of each proposed land use component; F) conceptual location of roads, buildings, structures, and parking areas; G) location, acreage, use and description of open space areas; and H) other conditions on the tract, including water courses, wetlands, rock outcrops, wooded areas, isolated trees, existing structures and other significant features.

(4) Supportive Information. In addition to the aforementioned information, the following shall be included: A) preliminary concepts and feasibility reports for roads, utilities, storm water management and pedestrian ways; B) if requested by the Plan Commission, a study of the impact caused by the Planned Unit Development and any measures proposed to accommodate that impact; C) a written description explaining the character of the Planned Unit Development, which shall include a specific explanation of how the proposed Planned Unit Development meets the objectives of all adopted land use policies of the Town; D) a statement of present and proposed ownership of all land within the project including ownership of any open space; E) a development schedule indicating the stages in which the project will be built, including the area, density, use, public facilities, and open space to be developed with each stage. Each stage shall be described and mapped; F) documentation necessary to demonstrate compliance with applicable federal, state and local environmental regulations; G) narrative, renderings, representative photographs, or other materials that illustrate the proposed architectural character of development within the Planned Unit Development, which materials shall clearly depict the massing, scale and architectural detail of the proposed development; and H) such other additional information as may be required by the Plan Commission to evaluate the

application. The Plan Commission shall inform the applicant of any additional documents or data requirements after the pre-submittal meeting.

e. Duties of the Zoning Administrator. The Zoning Administrator shall review the PUD District Ordinance and preliminary plan and forward the application and the results of the review to the Plan Commission for its consideration, public hearing and recommendations together with the Zoning Administrator's report and such other documents as may be pertinent to the Planned Unit Development.

f. Duties of the Plan Commission. The Plan Commission shall: A) review the PUD District Ordinance and the preliminary plan and forward the petition to the Council with either a favorable recommendation; a favorable recommendation and conditions, commitments, and/or changes to the PUD District Ordinance or to the preliminary plan; a negative recommendation; no recommendation; or B) continue the petition to a definite future meeting date. In conducting its review, the Plan Commission may vote to favorably recommend a proposal with changes to the PUD District Ordinance or to the preliminary plan if the petitioner agrees in writing to the changes. If the petitioner is unable to respond to the proposed changes prior to the vote, then such motion and vote shall be in the alternative: either for favorable recommendation, with the changes, contingent upon the petitioner's acceptance of the changes in writing within ten (10) days of the Plan Commission's approval, or, in the alternative, if the petitioner fails to accept the changes in writing within said specified time, the Plan Commission's motion and vote shall be to continue the application to the next Plan Commission meeting. The Plan Commission shall permit the petitioner to comment upon changes to the PUD District Ordinance or to the preliminary plan made by the Plan Commission after a motion to approve with changes is made but prior to the vote, and the Plan Commission may amend its motion accordingly. Following Plan Commission approval, the petitioner shall submit revised copies of the PUD District Ordinance and preliminary plan that address the comments, concerns, and conditions of approval of the Plan Commission.

g. Duties of the Council. Within ninety (90) days after receiving a certified proposal from the Plan Commission, the Council shall vote on the proposal. The Council may adopt or reject the proposal and may also exercise any and all powers set forth under IC 36-7-4-1500 *et seq.* If the Plan Commission has given the proposal a favorable recommendation and the Council fails to act on the proposal within ninety (90) days, the PUD District Ordinance takes effect as if it had been adopted (as certified) ninety (90) days after certification. If the Plan Commission has failed to make a recommendation or has given the proposal an unfavorable recommendation and the Council fails to act on the proposal within ninety (90) days, the proposal is defeated. When a PUD District Ordinance and preliminary plan for a Planned Unit Development have been approved by the Council, the PUD District Ordinance and preliminary plan shall become effective and its location shall be shown on the Zoning Map. The Zoning Map shall be amended to designate the site as a Planned Unit Development zoning district. Upon such amendment of the Zoning Map, the Uses and further development of the tract shall be governed by the PUD District Ordinance and preliminary plan, subject to concurrence of the final plan. No Building Permit of any kind shall be issued until the final plan has been approved.

h. Review Considerations. In their consideration of a PUD District Ordinance and preliminary plan, the Plan Commission and Council shall consider as many of the following as may be relevant to the specific proposal. The following list shall not be construed as providing a prioritization of the items on the list. Each item shall be considered individually as it applies to the specific Planned Unit Development proposal: 1) the extent to which the proposed preliminary plan meets the requirements, standards, and stated purpose of this Subsection and the Boulevard PUD District; 2) the extent to which the proposed preliminary plan departs from the provisions of the West Baden Springs Zoning Code otherwise applicable to the subject property, including but not limited to, the density, dimension, bulk, use, required improvements, and construction and design standards and the reasons why such departures are or are not deemed to be in the public interest; 3) the extent to which the Planned Unit Development meets the purposes of the Comprehensive Plan and any other adopted planning objectives of the Town; 4) the physical design of the Planned Unit Development and the extent to which it makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated common open space, and furthers the amenities of light and air, recreation and visual enjoyment; 5) the relationship and compatibility of the proposed preliminary plan to the adjacent properties and neighborhood, and whether the proposed preliminary plan would substantially interfere with the use or diminish the value of adjacent properties and neighborhoods; 6) the desirability of the proposed preliminary plan to the Town's physical development, tax base and economic well-being; 7) the proposal will not cause undue traffic congestion, and can be adequately served by existing or programmed public facilities and services; 8) the proposal preserves significant ecological, natural, historical and architectural resources; 9) the proposal will not be injurious to the public health, safety, and general welfare; 10) the proposal is an effective and unified treatment of the development possibilities on the PUD site.

i. Duration of Preliminary Plan. The preliminary plan shall be considered abandoned if, two (2) years after the approval of the preliminary plan by the Council, no final plan approval has been granted for any section of the Planned Unit Development. In such cases, the Plan Commission shall determine if the preliminary plan should be extended for a period up to a maximum of one hundred eighty (180) days. If no extension is sought for the Planned Unit Development, and the two (2) year period since Council approval has elapsed, the Plan Commission may initiate a proposal to rezone the area designated as a Planned Unit Development to an appropriate zoning district. Any such rezoning must follow the process as amending the Zoning Map. The owner or owners of any property proposed to be rezoned by the Plan Commission under the provisions of this Subsection shall be notified in advance of the Plan Commission's public hearing on the proposed rezoning in accordance with the West Baden Springs Zoning Code, the Plan Commission rules, and I.C. 36-7-4 *et seq.* If, five (5) years after the approval of the preliminary plan by the Council, final plan approval has been granted for one or more sections of the Planned Unit Development, but sections of the Planned Unit Development remain without approved final plans, the Plan Commission may, on its own initiative, make a recommendation to the Council to rezone those portions of the Planned Unit Development that do not have approved final plans to an appropriate zoning district.

j. Amendments to the PUD. Amendments to the PUD District Ordinance shall follow the procedure for creating a new PUD District Ordinance.

k. Amendments to a Preliminary Plan. To the extent that a preliminary plan is a conceptual and general rendering of a proposed development conforming to the PUD District Ordinance, a final plan may deviate from the approved preliminary plan in some respects without necessitating an amendment to the preliminary plan. However, any deviation from an approved preliminary plan that alters the concept or intent of the Planned Unit Development shall be subject to the procedure for approval of a new preliminary plan. The Plan Commission may require that an application for a preliminary plan amendment encompass the entire Planned Unit Development. Deviations that require a preliminary plan amendment include, but are not limited to, the following: a) changes in the location, proportion or allocation of uses, or changes to the types of uses allowed; b) increases in residential density; c) change to the proportion of housing types; d) substantial increase in the size of a building; e) reduction of proposed open space; f) changes in functional uses of open space, where such change constitutes an intensification of open space usage; g) substantial change in the ratio of off-street parking spaces to Use; h) substantial changes in standards, continuity, or general location of roads, utilities, or storm water management features; or i) substantive changes in the Covenants, Conditions and Restrictions or other governing agreements that affect any matter regulated by the West Baden Springs Zoning Code.

7. Final Approval Procedure. The following requirements and procedures shall apply to the final review and approval of a PUD District Ordinance:

a. Purpose and Intent. The purpose of the final plan approval is to designate with particularity the controls for development of the Planned Unit Development. The final plan shall show the exact location of each Building and Improvement to be constructed and a designation of the specific internal Use or range of Uses to which each Building shall be put.

b. Prerequisites for Final Plan Approval. The final plan shall conform to the PUD District Ordinance as well as the preliminary plan, as approved.

c. Effect of Approval of Final Plan. No Building Permit of any kind shall be issued for any purpose within a Planned Unit Development zoning district except in accordance with the approved final plan.

d. Final Plan Application Materials. An application for approval of a final plan for a Planned Unit Development shall not be considered complete until all information and documentation required by this Subsection has been submitted. Applications for final plan approval shall include, but not be limited to, the following: a) an accurate map exhibit of the entire phase for which final plan approval is being requested; b) such additional information as may have been required by the preliminary plan approval; c) an accurate map exhibit of each separate un-subdivided Use area, including open space; d) if land to be subdivided is included in the Planned Unit Development, a preliminary plat and the PUD District Ordinance shall be submitted; e) precise location of all Buildings to be constructed, and a designation of the specific Use or range of Uses for each Building. Single-family residential development on individual Lots need not show precise location of Buildings on each Lot, but plans shall show setback and other bulk constraints; f) design and precise location of all streets, drives and parking areas, including construction details, center line

elevations, pavement type, curbs, gutters, and culverts; g) location of all utility lines and easements; h) a final, detailed landscape plan, including size and species, installation specifications, identification of vegetation to be preserved and the measures to accomplish preservation, and conservation easements where required; i) Projected construction schedule; j) agreements and covenants which govern the Use, maintenance, and continued protection of the Planned Unit Development and its common spaces, shared facilities, and private roads; k) additional Information: Such other additional information as may be required by the Plan Commission to evaluate the application.

e. Duties of the Plan Commission. At its regularly scheduled public meeting, the Plan Commission shall review: a) the written statement and supportive material submitted by the petitioner; b) the PUD District Ordinance; c) the preliminary plan; d) the final plan; e) Any commitments or conditions of approval attendant to prior approvals; f) Any applicable section of the West Baden Springs Zoning Code; g) Additional information as may be required by the Plan Commission to evaluate the application. Following Plan Commission approval, the petitioner shall submit revised copies of the final plan that address the comments and concerns of the Plan Commission. All development shall be in conformity with the approved final plan. Any material deviation from the final plan is subject to appropriate enforcement action.

f. Duration of Final Plan. The final plan shall be considered abandoned if no Building Permits have been obtained for the area contained in the final plan within three (3) years after final plan approval has been granted, or if such permits have been obtained but are no longer valid per the terms of West Baden Springs Zoning Code. An extension, not to exceed twelve (12) months, may be granted by the Plan Commission for good cause shown. The Plan Commission may grant one (1), twelve-month extension.

C. Building Permits.

1. Except as otherwise provided by this ordinance, no Building or other Structure shall be erected, moved, added to, or altered unless the Plan Commission or the Zoning Administrator has issued a Building Permit. However, no Building Permit is required for Improvements to the interior of a Building or Structure that are not visible to persons located outside that Building or Structure. A Building Permit shall be issued only upon finding that the proposed Improvement complies with the requirements of this Ordinance or upon written order from the Board of Zoning Appeals granting a variance, appeal, or Special Exception.

2. Prior to issuing a Building Permit for a new Building, the Plan Commission or the Zoning Administrator shall insure that a sewer permit has also been issued.

3. The application for a Building Permit shall be submitted to the Plan Commission Office and signed by the owner or applicant attesting to the accuracy of all information. Each application shall clearly state that the permit shall expire and be revoked if work has not begun within ninety (90) days or been substantially completed within one (1) year after the date the Building Permit was issued, unless an extension has been granted by the Plan Commission or the Zoning Administrator.

4. An applicant applying for a Building Permit shall furnish any information required by rule of the Plan Commission.

5. No Building Permit shall be issued for any commercial use unless the State Administrative Building Council has approved all plans.

6. As a condition of issuing a Building Permit, the Plan Commission or Zoning Administrator may require the relocation or redesign of any Structure or entrance or exit if necessary in the interest of safety or public welfare of the community.

7. Any person requesting a Building Permit shall be required to disclose the identity of his contractor.

8. All plans filed with the Plan Commission Office shall be public records and shall be maintained by the Plan Commission Office as permanent records.

D. Special Permits.

1. **Variances.** After an application for a Building Permit has been denied, the Board of Zoning Appeals may issue a variance of Use pursuant to I.C. § 36-7-4-918.4 or from development standards pursuant to I.C. § 36-7-4-918.5. All variance proceedings shall follow the procedures set by rule of the Board of Zoning Appeals. In addition to any documents or applications required by the Board of Zoning Appeals, Variance applications must include any information required by the Plan Commission for issuance of a Building Permit, including a Development Plan, if required for a particular zoning district.

2. Special Exceptions.

a. The Board of Zoning Appeals may permit a Special Exception only for Uses designated as Special Exception Uses in the Use Table. A Special Exception may be granted only after a public hearing held in accordance with the rules of the Board of Zoning Appeals.

b. Along with any information that the Board of Zoning Appeals may require by rule, an application for a Special Exception must provide any information that would be required on an application for a Building Permit in the relevant zoning district, which shall include a Development Plan, if otherwise required in that zoning district.

c. The Board of Zoning Appeals may approve a Special Exception only upon making the following findings: 1) that all persons who own or have a controlling interest in the property in question have joined the in application; 2) that the approval will not be injurious to the health, safety, morals, and general welfare of the community; 3) that the Use and value of the area adjacent to the property included in the request will not be affected in a substantially adverse manner; 4) that the approval is in substantial compliance with the Comprehensive Plan; 5) that the approval is not based primarily upon financial hardship or mere convenience; 6) that the approval conforms with zoning, subdivision and all other applicable ordinances of the Town; 7) that the

proposed Use will comply with any general or zoning district-specific property development regulations; 8) that the applicant has made a good faith attempt to locate the proposed Use in a zoning district where it would be permitted without a special exception but has been unsuccessful.

d. In the exercise of approving a Special Exception for a given Use, the Board of Zoning Appeals may impose, such additional conditions regarding the location, character, operation, and other features of the proposed Building, Structure or Use as it may deem advisable in the furtherance of the purpose of this Ordinance. The Board of Zoning appeals may also require, as a condition of issuing the Special Exception, that the applicant to enter into a written commitment regarding such additional conditions regarding the location, character, operation, and other features of the proposed Building, Structure or Use.

e. Upon a finding by the Board of Zoning Appeals that the Special Exception will be issued, the Board of Zoning Appeals shall order the Plan Commission to issue a Building Permit, subject to any additional conditions or commitments that the Board of Zoning Appeals required when issuing the Special Exception.

f. Upon receipt of an order from the Board of Zoning Appeals approving a Special Exception, the Plan Commission shall issue a Building Permit according to the order.

g. The Board of Zoning Appeals may table the application for a Special Exception and refer it to the Plan Commission with a request for further information, review, and recommendations to the Board of Zoning Appeals.

3. **Exterior Permit.** An Exterior Permit may be issued by the Plan Commission upon receipt of an application required by rule of the Plan Commission and in accordance with procedures set by the Plan Commission.

E. Zoning Code Amendments. Amendments to the West Baden Springs Zoning Code shall be made in a manner prescribed by I.C. § 36-7-4 *et. seq.* If the Indiana Code provisions are silent with regard to any procedure for amending the West Baden Springs Zoning Code, the rules of the Plan Commission shall govern.

F. Appeals. Appeals to interpretations of the West Baden Springs Zoning Code made by an administrative official, administrative board, hearing officer, staff member, or other body except the Plan Commission shall be to the Board of Zoning Appeals in accordance with the rules of the Board of Zoning Appeals. Appeals to interpretations of the Plan Commission or the Board of Zoning Appeals may be made to the Orange Circuit Court or the Orange Superior Court in accordance with the requirements of Indiana law.

G. Enforcement Procedures.

1. The Plan Commission may issue a Cease and Desist Order to any person, firm, or property that is in violation of the West Baden Springs Zoning Code. Issuance of

a Cease and Desist Order shall mean any or all work that is in progress at the designated location must cease immediately and shall not continue until released by the Zoning Administrator or other official who has the duty to enforce this ordinance, the Plan Commission or the Board of Zoning Appeals. Any person or firm affected by such order may appeal the decision in a manner provided for in this ordinance or by Indiana law. However, the work stay shall remain until the Cease and Desist Order has been released by the reviewing authority.

2. It is the intent of this ordinance that enforcement of the West Baden Springs Zoning Code shall be the responsibility of the Plan Commission or any officer or other person designated by the Plan Commission. However, the Board of Zoning Appeals shall enforce orders and written commitments issued by that body.

H. Violations.

1. Whenever the Plan Commission determines that any person, which includes but is not limited to individuals, firms or corporations, is Violating or believed to have Violated the West Baden Springs Zoning Code, a Cease and Desist Order shall be served, either personally or by certified mail, a notice of said Nuisance, containing:

- a. The location of the Violation;
- b. The description of what constitutes the Violation;
- c. A statement of acts necessary to abate the Violation.

Law enforcement officers within the Town shall assist the Plan Commission in serving said notices, as needed.

2. Within ten (10) days from receipt of notice, such offender shall correct said Violation or show what steps have been or will be taken to correct said Violation.

3. All Violations of this ordinance shall be punishable by fines of up to twenty-five hundred dollars (\$2,500.00) for a first violation and up to seventy-five hundred dollars (\$7,500.00) for a second or subsequent violation of the ordinance.

4. The erection, construction, enlargement, conversion, moving, alteration or maintenance of any Building and the continuance, operation, or maintenance of any Use contrary to any of the provisions of this ordinance, is hereby declared to be in Violation of this ordinance and unlawful. The Plan Commission may institute a suit for injunction to restrain any person from Violating the provisions of this ordinance. The Plan Commission may also institute a suit for mandatory injunction directing any person to remove a structure erected or located in Violation of the provision of this ordinance. In addition, the Plan Commission may seek any fines or other penalties provided for in this ordinance.

5. Whenever a person is in violation of any part of the West Baden Springs Zoning Code and court action is required and the Plan Commission is successful in its suit, the respondent shall pay the cost of such action, including reasonable attorney fees as allowed by the court.

6. Any person starting construction or change of use without a Building Permit may be charged a late filing fee to be established by rule of the Plan Commission, plus permit fees. However, the late fee shall not apply in the event that such construction was made necessary due to storm or other damage to a Building or Structure and the circumstances made it impractical to obtain a Building Permit prior to the commencement of repairs.

7. The remedies provided for herein shall be cumulative and not exclusive, shall be in addition to any other remedies provided by law, and are not intended to limit the Plan Commission's or the Board of Zoning Appeal's authority to exercise any remedy allowable under Indiana law.

8. The Town Attorney is authorized to represent the Plan Commission concerning all violations.

VIII. ZONING MAP. The Zoning Map, designated as the "Zoning Map for the Town of West Baden Springs", is hereby incorporated by reference.

IX. REPEAL OF PRIOR ZONING ORDINANCE.


The prior version of the West Baden Springs Zoning Code, specifically, Ordinance 2008-5 of the town of West Baden Springs is hereby repealed.

X. ENACTMENT.

Introduced and Filed on the 6th day of May 2024. Consideration on the First Reading Sustained a vote of 3 in favor and 0 opposed, pursuant to I.C. § 36-5-2-9.8.

Duly enacted this 6th day of May 2024, by the Town Council of the Town of West Baden Springs, Orange County, Indiana, having passed by a vote of 3 in favor and 0 opposed.


**Town of West Baden Springs
By its Town Council:**



Billy Shipman
Town Council President

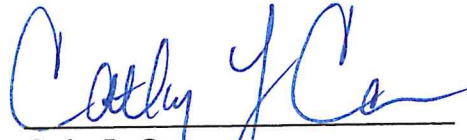


John Carnes, Member



Adam Carnes, Member

Attest:



Cathy L. Carnes
Clerk-Treasurer