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**PART A. APPLICATIONS AND HEARINGS**

**Section 1. Applications**

Applications submitted pursuant to this Ordinance shall be handled in accordance with the procedures set forth below:

**A. Place of Filing**

Applications shall be filed with the Director of Planning and Development or with such other City official or body as the Director of Planning and Development may designate.

**B. Form, Number, and Scale**

Applications shall be on forms supplied by the {Department of Planning and Development, and/or the {Department of Engineering and shall be filed in such number of duplicate copies as required. All plans filed as part of any application shall be at a scale sufficient to permit a clear and precise understanding of the contents of said plans and of the proposal being made and submitted on the required paper size and scale size as per the specific instruction sheets attached to said applications.

**C. Minimum Requirements**

Every application submitted pursuant to this Ordinance shall contain such minimum data and information as listed on the application or as may be required by the Director of Planning and Development, City Engineer, or their designees. In addition, the applicant shall provide all the required submittals in a Portable Document Format (PDF), version 7 or later submitted on a CD, DVD or other similar media. } ORD. #10-03-13

**D. Filing Deadlines**

1. An application requiring a public hearing or meeting will not be scheduled for such hearing or meeting unless filed, in proper form and number and containing all required information, according to the following schedule:

<i>Hearing/Meeting Body</i>	<i>Number of <b>Minimum</b> Days Prior to Hearing/Meeting by Which Application Must be Filed</i>
<b>Plan Commission</b>	Forty-nine (49)
<b>Board of Zoning Appeals</b>	Twenty-eight (28)
<b>Technical Advisory Committee</b>	Seventeen (17)
<b>Architectural Review Board</b>	Seventeen (17)

ORD. #36-08-02, ORD. #33-6-04, ORD. #56-11-07, ORD. #10-03-13

An application so filed will be scheduled for hearing or meeting on the requested hearing or meeting date, or on the first available date thereafter open on the relevant hearing or meeting agenda, on a first-filed-first-scheduled basis. All public hearings and meetings to consider applications filed pursuant to this Ordinance shall, unless otherwise provided by order of the relevant body, be scheduled at the same time as the regular meetings of such body.

2. An application that does not require a public hearing shall be filed, in proper form and number and containing all required information. An application so filed will be processed on a first-filed-first-processed basis.

**E. Fees**

Every application filed pursuant to the provisions of this Ordinance shall be subject to an application and filing fee as established, from time to time, by the Common Council. The owner of the property subject of the application and, if different, the applicant shall be jointly and severally liable for the payment of the fee. The failure to fully pay any such fee or required deposit when due shall be grounds for refusing to process an application and for denying or revoking any permit or approval sought or issued with respect to the land or development to which the unpaid fee or required deposit relates. A current fee schedule may be found in Appendix A of this Ordinance.

**F. Special Requests**

In addition to the minimum data and information required pursuant to Section 1(C) above, every applicant shall submit such other and additional data, information, or documentation as the Director of Planning and Development or his/her designee or any board or commission before which its application is pending may deem necessary or appropriate to achieve a full and proper consideration and disposition of the particular application.

**{G Dedication of Right-of-Way**

All applications receiving final approval from the Board of Zoning Appeals, Plan Commission, and/or City Council shall be required to dedicate all right-of-way for any and all streets as depicted on the Noblesville Thoroughfare Plan, as amended or the Hamilton County Thoroughfare Plan, as amended. The dedication may appear on a plat prepared by a licensed land surveyor or by a metes and bounds description and drawing prepared by a licensed engineer/surveyor and shall be recorded within thirty (30) days of the application approval and/or adoption. A recorded copy of said dedication shall be submitted to the Noblesville Planning Department. Failure to dedicate the required right-of-way within the time period shall result in said application being null and void.} **ORD. #10-03-13** (relocated)

**H. Waiver of Application Requirements**

Notwithstanding any other provision of this Section 1, the Director of Planning and Development shall have the authority to waive any requirement set forth in Sections 1(A), 1(B), or 1(C) of this Part A when, in his judgment, such waiver is appropriate in light of the nature and extent of the relief being sought or in light of special circumstances making compliance with those provisions either unnecessary or unduly burdensome; provided, however, that any board or commission before which such application may come shall continue to have the right to request additional information pursuant to Section 1(C) and to delay processing of such application until such information is provided and available in accordance with the deadlines established in Section 1(D).

**Section 2. Successive Applications****A. Second Applications Without New Grounds Barred**

Whenever any application filed pursuant to this Ordinance has been finally denied on its merits, a second application seeking essentially the same relief, whether or not in the same form or on the same theory shall not be {returned to the Board of Zoning Appeals or the Plan Commission before one year as lapsed from the date of denial} unless in the opinion of the official, Board of Zoning Appeals, or Plan Commission before which it is brought, there is substantial new evidence available or an {error or fact that significantly affected the prior denial is discovered.} **ORD. #56-11-07**

**B. New Grounds to Be Stated**

Any such second application shall include a detailed statement of the grounds justifying consideration of such application.

**C. Summary Denial With or Without Hearing**

Any such second application may be denied by the Director of Planning and Development summarily, and without hearing, on a finding that no grounds appear that warrants a new hearing. In any case, where such application is set for hearing, the applicant shall be required to establish grounds warranting reconsideration of the merits of its application prior to being allowed to offer any evidence on the merits. Unless such grounds are established, the application may be summarily dismissed for such failure.

**D. Exception**

Whether or not new grounds are stated, any such second application filed more than one (1) year after the final denial of a prior application shall be heard {by the Board of Zoning Appeals or the Plan Commission} The applicant shall be required to place in the record all evidence available concerning changes of conditions or new facts that have developed since the denial of the first application. In the absence of such evidence, it shall be presumed that no new facts exist to support the new petition that did not exist at the time of the denial of the first application. **ORD. #10-03-13**

**Section 3. Public Hearings and Meetings**

**A. Setting Hearing or Meeting**

When the provisions of this Ordinance require a public hearing or public meeting in connection with any application filed pursuant to this Ordinance, the official or body charged with conducting the hearing or meeting shall, upon receipt of a properly completed application, fix a reasonable time and place for such hearing or meeting.

**1. Hearings for {All Applications} ORD. #36-08-02**

The exact time for hearings or meetings held before the Board of Zoning Appeals {or Plan Commission} **ORD. 36-08-02** shall be determined by the official filing deadline timetable adopted yearly. However, no public hearing shall be held within {seventeen (17) days, not including the day of the meeting, or more than forty-nine (49) days} **ORD. 36-08-02, Amended by ORD. #33-6-04** of receipt by the Board of Zoning Appeals {or Plan Commission on any} **ORD. 36-08-02** application.

**B. Notice**

**1. Hearings on All Applications Pending Before the Board of Zoning Appeals or Plan Commission**

**a. Notice to Parties of Interest**

At the time an application is filed, the applicant shall furnish the Director of Planning and Development or his/her designee with a complete list of names and last known addresses of the owners of property {adjacent to the subject property to a depth of two properties or 660-FT whichever is less} **ORD. #04-01-03** of the subject tract(s). The owners shall be identified as recorded in the office of the Hamilton County Recorder, or as it appears from the authentic tax records of this county. The applicant shall give due notice to these owners as identified herein, concerning the place, date, and time for the first public hearing of the petition utilizing the notification letter prepared by the Department of Planning and Development, mailed as a certified letter return receipt requested not less than seventeen (17) days prior to the public hearing. Return receipts of said notification letters shall be submitted to the Director of Planning and Development or his/her designee prior to the public hearing. The notification letter shall also state the name and address of the applicant, and name and address of the property.

**b. Notice of Public Hearing in Newspaper**

**The Department of Planning** shall arrange for the publication of a public notice to be placed in a newspaper of general circulation in the Noblesville jurisdictional area. Said notice {is also prepared by the Department of Planning and Development and} **ORD. 36-08-02** shall include the same information as described in the notice to adjoining property owners above. The notice shall run in the paper not less than seventeen (17) days before noted public hearing. The notice shall run at least one (1) time. **{The applicant shall be responsible for the cost of publishing the notice and will be billed according to the policies of the applicable newspaper.}** The applicant shall also file with the Director of Planning and Development or his/her designee a copy of the proof of publication prior to the public hearing. **ORD. #10-03-13**

**C. Content of Notice**

All notices shall include the date, time and place of such hearing or meeting, description of the matter to be heard or considered, the address or particular location of the subject property, and a legal description of the subject property.

**D. Referral of Applications**

The Director of Planning and Development or his/her designee shall refer every application or petition for which this Ordinance requires a hearing before the Plan Commission, the Board Zoning of Appeals or the Common Council to all appropriate City commissions and departments. Each commission and department to which an application is referred shall review such application and submit its comments thereon to the Director of Planning and Development or his/her designee for transmittal to the specific body hearing the application. Such comments shall, whenever possible, be submitted at least {fourteen (14)} **ORD. 36-08-02** business days prior to the date set for the hearing and shall be made available to any person on request prior to the hearing.

**E. Conduct of Hearings**

All other matters pertaining to the conduct of hearings shall be governed by the provisions of this Ordinance pertaining to, and the rules promulgated by, the official or body conducting the hearing.

**F. Examination and Copying of Application and Other Documents**

At any time following the giving of notice as required in this Section 3, and upon reasonable request, any person may examine the application and, subject to the exceptions set forth in the Indiana Freedom of Information Act, all other documents on file pertaining to the application. In addition, any person shall be entitled to copies of such application and documents upon reasonable request and payment of a fee as established from time to time by the Council to cover the cost of such copies.

**{G. Vested Rights**

1. If a person files a complete application for a permit with the Noblesville Planning Department as required by the effective ordinances or rules of the City of Noblesville, the granting of the permit, and the granting of any secondary, additional, or related permits or approvals required from the Noblesville Planning Department with respect to the general subject matter of the application for the first permit, are governed for at least three (3) years after the person applies for the permit by the Indiana statutes and the City of Noblesville's ordinances, rules, development standards, and regulations in effect and applicable to the property when the application is filed, even if before the issuance of the permit or while the permit approval process is pending, or before the issuance of any secondary, additional, or related permits or approvals or while the secondary, additional, or related permit or approval process is pending, the Indiana statutes or City of Noblesville ordinances, rules, development standards, or regulations governing the granting of the permit or approval are changed by the Indiana General Assembly, the Noblesville Common Council or the Noblesville Planning Department. However, this subsection does not apply if the development or other activity to which the permit relates is not completed within seven (7) years after the development or activity is commenced.
2. Subsection (6) below applies if:
  - (a) either:
    - (1) the Noblesville Planning Department issues to a person a permit or grants a person approval for the construction of a development, a building, or another structure; or
    - (2) a permit or approval is not required from the Noblesville Planning Department for the construction of the development, building, or structure;

(b) before beginning the construction of the development, building, or structure, the person must obtain a permit or approval for the construction of the development, building, or structure from a state governmental agency; and

(c) the person has applied for the permit or requested the approval for the construction of the development, building, or structure from the state governmental agency within ninety (90) days of issuance of the permit by the Noblesville Planning Department.

3. Subject to subsection (7) below, if the conditions of subsection (5) above are satisfied:

(a) a permit or approval issued or granted to a person by the Noblesville Planning Department for the construction of the development, building, or structure; or

(b) the person's right to construct the development, building, or structure without a permit or approval from the Noblesville Planning Department;

is governed for at least three (3) years after the person applies for the permit by the Indiana statutes and City of Noblesville ordinances, rules, development standards, regulations, and approvals in effect and applicable to the property when the person applies for the permit or requests approval from the state governmental agency for the construction of the development, building, or structure, even if before the commencement of the construction or while the permit application or approval request is pending with the state governmental agency the statutes governing the granting of the permit or approval from the Noblesville Planning Department are changed by the Indiana General Assembly or the ordinances, development standards, or regulations of the Noblesville Planning Department are changed by the Noblesville Common Council or Noblesville Planning Department. However, this subsection does not apply if the development or other activity to which the permit or approval request relates is not completed within seven (7) years after the development or activity is commenced.

4. Subsection (5) above does not apply to property when it is demonstrated by the Noblesville Planning Department or a state governmental agency that the construction of the development, building, or structure would cause imminent peril to life or property.

5. This section does not apply to building codes under IC22-13.} ORD. #10-03-13

**PART B. SITE PLAN REVIEW**

**Section 1. Purpose**

The purpose of these regulations is to promote orderly growth and development in the City of Noblesville and to insure that such development is done in a manner harmonious with surrounding properties and consistent with the general public welfare and with the policies in the Comprehensive Plan.

**Section 2. Authority**

The Technical Advisory Committee may, in accordance with the procedures and standards set forth in this Part B and other regulations applicable to the district in which the subject property is located, review, and make written recommendations with regard to any application requiring a site plan.

**Section 3. Site Plan Approval Required**

Site plan review by the Technical Advisory Committee in accordance with this Part B shall be required in the following situations:

- A. In connection with any development or redevelopment for which this Ordinance requires a Conditional Use Permit, Variance, Improvement Location Permit, Subdivision Approval, and any Planned Development Approval.
- B. In connection with any redevelopment or minor modification consisting of thirty-five percent (35%) of the market value of a premise, except for the initial construction of a single- or two-family detached dwelling unit, or any structure accessory thereto.
- C. In connection with any development, redevelopment, or minor modification in a Historic Preservation Overlay District.

**Section 4. Procedure for Review and Recommendation****A. Pre-application Conference (Optional)**

- 1. In any case, where a site plan review is required, the applicant may request of the Director of Planning and Development a conference with the Technical Advisory Committee prior to filing his or her application. Such request shall include a brief and general description of the nature, location, and extent of the proposed project and a list of any professional consultants advising the prospective applicant with respect to the proposed project.
- 2. Upon receipt of such request, the Director of Planning and Development shall promptly schedule such conference and notify the applicant and appropriate staff members of the time and place of such conference and of the names and affiliations of other persons who have been invited to attend. The Director of Planning and Development or his or her designee shall conduct such conference, and its purpose shall be to broadly acquaint all other parties with the proposals, views, and concerns of all other parties at a time when positions are still flexible and adjustment is still possible.

**B. Technical Advisory Committee Review****1. Application**

Applications for a site plan review shall be filed in accordance with the requirements of Part A of this Article 4.

**2. Action by Department of Planning and Development**

Within seven (7) days after receipt by the Department of a properly completed application, the Director of Planning and Development or his/her designee shall forthwith transmit such application to the Technical Advisory Committee for hearing and review.

**3. Public Meeting**

The Technical Advisory Committee shall hold a public meeting on the application in accordance with the requirements of Part A of this Article 4. The site plan shall be reviewed for conformity with this Ordinance and all other applicable regulations.

**4. Action by Technical Advisory Committee**

{Each member of the} **ORD. 36-08-02** Technical Advisory Committee shall provide a written report and recommendation either (i) endorsing the site plan as submitted; or (ii) endorsing it subject to specific modifications; or (iii) not endorsing the site plan. The endorsement of the Technical Advisory Committee shall then be forwarded to the appropriate administrative body for final determination.

**Section 5. Standards for Site Plan Review**

The goals and objectives of the Comprehensive Plan or other applicable Noblesville planning documents shall be utilized in the review of site plan applications. In addition, the Technical Advisory

Committee shall only recommend approval of the site plan submitted pursuant to this Section 2 based on specific written findings directed to one or more of the following standards:

- A. The arrangement of the structures on the site allow for the effective use of the proposed development. Furthermore, such arrangement is compatible with development on adjacent property and shall minimize potential impact on the provision of municipal services and utilities.
- B. The arrangement of open space and landscape improvements on the site create a desirable and functional environment for patrons, pedestrians, and occupants. The arrangement preserves unique natural resources where possible and respects desirable natural resources on adjacent sites.
- C. All circulation systems provide adequate and safe access to the site and are compatible with public circulation systems minimizing potentially dangerous traffic movements. Pedestrian and auto circulation are separated insofar as practical. Site curb cuts have been minimized.
- D. Proposed parking areas or lots are designed, located, and screened to minimize adverse visual impacts on adjacent properties. Parking lot drainage does not adversely affect neighboring properties. Perimeter parking lot screening and internal landscaped islands have been utilized where feasible.
- E. Landscaping design shall create a logical transition to adjoining lots and developments, screen incompatible uses, and minimize the visual impact of parking lots on adjacent sites and roadways. Plant materials selected can withstand the micro-climate of the City of Noblesville.
- F. Site illumination has been designed, located, and installed to minimize adverse impacts to adjacent properties.
- G. Reasonable drainage or erosion solutions have been created which properly integrates the site fully and satisfactorily into the overall existing and planned drainage system serving the City.

#### **Section 6. Additional Standards for Non-Residential Uses, Except in I-2 and I-3**

In addition to the Standards for Site Plan Review in Section 5, above, non-residential use which are located in any district except for I-2 and I-3, shall also be subject to the following additional standards for Site Plan Review. **ORD. #56-11-07**

{The City of Noblesville requires design review of all non-residential building construction including new structures, additions to, alterations of, or modifications of any existing structure or building, which is located within a non-residential zoning district. The purpose of these design principles is to outline for the benefit of applicant the expectations of the City of Noblesville regarding design and style of development in all non-residential districts.

These principles are intended to provide a general understanding of the criteria applied to the design review process. Each structure is considered unique and will be judged on the following design principles.

##### **A. Purpose**

The architecture shall be of high quality, enduring, and promoting a sense of character for the building street wall. Building walls shall reflect high-quality architecture and complement the surrounding development(s). Building walls shall not be too simple or too ornate and shall

- Provide those qualities in the environment which bring value to the City of Noblesville
- Foster an attractiveness and functional utility of the City of Noblesville as a place to live and work
- Preserve the character and quality of our heritage by maintaining the integrity of those areas which have a discernible character
- Protect certain public investments in the local area
- Encourage a mix of uses and design
- Promote pedestrian accessibility and safety
- Minimize visual clutter and blight



All new structures shall relate to the community's history, culture, and/or geography. Time, place, and culture, work to create endless variations on the themes of the City of Noblesville. Shape and form of a structure is accomplished through architectural design. The following massing requirements shall be incorporated in any proposed structure:

1. *Building Silhouette*. Shall have similar pitch and scale to the roofline of adjacent structures.
2. *Spacing between the buildings*. Shall include setbacks or notches between the primary facades that frame the structure.
3. *Setback from property line*. Shall include setback area of adjacent structures.
4. *Proportion of windows and bays, doorways*. Shall include vertical and horizontal elements tied together in bands across the façade.
5. *Proportion of façade*. Shall be similar in area and height to width ratios.
6. *Location and treatment of entryway*. Shall create a visual commonality between structures.
7. *Exterior materials*. Shall include similar materials and treatment of adjacent structures.
8. *Building Scale*. Shall include height and configuration compatible with adjacent structures.
9. *Landscaping*. Shall tie the structure to the site and define spaces.
10. *Shadow patterns that form decorative features*. Shall include the light and dark surfaces from materials used and the projections from windows, bays, etc., and recesses, and setbacks that create visual breaks.
11. *360° architecture* (refer to definition)

#### **B. Design Principles**

The design of the building should be kept simple and materials and details should be consistent. Avoid gaudy design.

1. Avoid long, straight building shapes that are uninviting and do not contribute positively to the streetscape.
2. Detail shall be an integral part of the building design and use consistently throughout.
3. The exterior building design shall be coordinated on all elevations with regard to color, materials, architectural form, and detailing to achieve design harmony and continuity.
4. Shadow patterns created by architectural elements such as overhangs, projections, reveals, and awnings are strongly encouraged.
5. Buildings shall be broken into a series of volumes that lessen the volume and mass of the building by stepping back upper levels or integrating projections and recesses into the design.
6. Structures located toward the front of the property serve to visually narrow wide streets. unifying the area with site amenities can lessen the impact of the automobile and encourage pedestrian use.
7. Protection of adjacent neighborhoods in particular the location of parking, driveways, outdoor lighting, trash bins, landscaping, signage, development bulk standards, fencing, and the general character of the surrounding development shall be considered when incorporating the architectural design and materials.

#### **C. Relationships (architectural)**

1. New buildings shall respond to the existing streetscape. The relative proportion of the building to its neighboring existing buildings and pedestrians shall be maintained or enhanced when new buildings are built or existing buildings are remodeled or altered.
2. Buildings shall be designed to create interesting outdoor spatial relationship.
3. Production design common to restaurants, hotels/motels, convenience markets, banks, etc. are strongly discouraged.

4. The standard national franchise design is unacceptable and shall be retrofitted to compliment the local character and surrounding community. Architectural transplants from other communities are neither appropriate nor desirable.
5. Building heights, configurations, color, texture, and materials shall be consistent among all buildings in a specific development and/or area.
6. Building entries shall be accentuated with strong definition.
7. Upgraded rear and sides elevations, those exposed to public view, shall have a level of quality and detail consistent with the front elevation of the building.
8. An identical design of at least one publicly exposed elevation of the building cannot be repeated within a series of three buildings on either side of the street. An identical building is one that (1) an ordinary observer would find the differences between the two elevations to be imperceptible when viewing the elevations as a whole or (2) unless instructed to detect the differences, an ordinary observer would conclude that the two elevations are the same.
9. Building facades that are blank or windowless shall be prohibited.
10. Rooflines of existing structures or adjacent properties shall be considered in the design to void clashes of materials and styles. The visual continuity of roofs and their contributing elements such as parapet walls, coping, cornices, etc., shall be maintained in the building development or redevelopment.
11. The roofline shall be designed in conjunction with the mass and façade so that the building and its roof form a consistent composition.
12. Roof penetrations shall be minimized by grouping plumbing vents and ducts together.
13. Sloped roof shall be a minimum of 6/12 pitch.

#### **D. Relationships (site)**

1. Building design shall be fitted to the natural contours of the site. Natural features of the site, such as natural drainage ways, wooded or forested areas, rock formations, etc. shall be preserved.
2. On wooded sites, buildings shall be carefully situated to take advantage of the shade and energy conservation provided by the trees.
3. The impression of the buildings tucked into, rather than superimposed on, the natural landscape shall be created.
4. The view of the building from the street and surrounding areas shall be as important as the view available to the building occupants.
5. Buildings shall be located according to the natural characteristics of the site to avoid destroying sensitive natural areas.
6. Buildings shall be designed to harmonize with the existing topography, thereby minimizing land disruption.
7. Grading shall be held to a minimum and should complement natural landforms.

#### **E. Materials and Colors**

1. Building colors should be compatible with the adjacent buildings and neighborhood and shall reinforce the visual character of the area. The color scheme shall be coordinated with the neighboring buildings and the City as a whole. The intent is to unify the look of the buildings and/or area without resorting to a “rubber stamp” type of approach.
2. The color of the building shall not be such that the building is competing for attention. Building colors shall be subdued and not “garish” and shall not in any way become a “signing” of the building or site.

3. Integral coloring of the building materials is encouraged. Differentiation of the color shall relate to the materials and/or the plane.
4. The number of materials on the exterior building shall be limited to prevent visual overload.
5. Use of warm, muted, earth tones shall be used on the body of the building. More intense hues may be used as accent colors and for the highlighting of architectural elements.
6. Relate the paint colors to the natural material, colors found on the building, such as brick, terra cotta, stone, tile, wood, or cast iron. Brick and stone shall be left natural in all zoning districts except those buildings located in the “DT” Downtown Zoning District that may be painted with approval from the Director of Planning or his/her designee.
7. Colors for building walls and storefronts shall be compatible for the shops that occupy a multiple-storefront building. The use of different colors to identify individual shops within a single structure is prohibited, as it is visually disruptive and obscures the overall composition of the façade.
8. Material samples and color samples for the buildings shall be required to be submitted with the building permit application.
9. Maximum number of colors on a single building is three (3).
10. No blank walls are permitted for all building elevations. All building elevations not facing a public right of way shall have a minimum of 20% of the walls having glazed areas or a glazed appearance.
11. Storefronts shall consist of a maximum of 75% of the primary façade.

**Table 4.B.6.F.1 Building Materials**

<i>Permitted BUILDING MATERIALS</i>	<i>Prohibited BUILDING MATERIALS</i>
Hand-laid clay brick	Concrete
Tile or masonry	Faux wood grain, vinyl and aluminum siding
Native Stone	
Integral Color CMU - 50% Maximum	
Gypsum reinforced fiber concrete PERMITTED for trim elements only	
Wood-lap siding (horizontal configuration) smooth or rough-sawn finish (Maximum 30%)	
Stucco/EIFS 50% Maximum	
Split-faced block (Maximum 20%) Decorative split-faced block (Maximum 40%)	
Metal for beams, lintels, trim elements and ornamentation only	

ORD. #56-11-07, ORD. #64-11-08

**F. Exterior Walls (architecture)**

1. Exterior walls greater than 40-FT in length shall break any flat, monolithic façade with discernible architectural elements such as recessed windows and entrances, projections, arcades, balconies, cornices, bases, pilasters, columns or other architectural details or articulation combined with changes in materials to provide visual interest and pedestrian scale. Building designs, rooflines, or façade treatments that are monotonous shall be prohibited.
2. Exterior wall materials shall be consistent horizontally.
3. Exterior wall materials/architectural changes shall be provided with constructional logic.
5. All materials shall specify the pattern, color, type, and finish of materials to be used.
6. The ratio between the width of the street corridor or internal drives, as measured between the opposing building facades, and the height of the walls of that corridor, measured as the foundation

to eaves dimension, plays in important role in the human scale in the streetscape. The ratio shall generally be a width that is two to three times the height of the defining walls or edges.

7. Building sites shall accommodate pedestrians and shall be centered on pedestrian traffic as opposed to vehicular traffic.
8. Pedestrian walkways at intersections shall be clearly defined with contrasting surfaces.
9. Major commercial developments shall include a system for internal pedestrian movement as well as being linked to citywide systems.
10. If concrete is used for the pedestrian areas, it shall be textured or patterned.
11. For major developments, the building materials including color of the initial building shall continue the theme among the other buildings. Colors may change in hue only.

**G. Roofs**

1. Roofs shall be compatible with the building’s architecture including roof shape, color, and texture.
2. Gable or hip roofs.
3. Any pitched roof shall be a minimum of 6/12 slope.
  - a. Large overhangs shall be a minimum of 12 inches.
  - b. Large roof areas shall have more than one plane.
  - c. Roof pitches for overall porches shall be in keeping with the principal building having a minimum slope of 3/12.
  - d. Wood shakes, slate, concrete tiles, fiberglass shingles, asphalt composition shingles (artificial shingles)
  - e. Earth toned colors, dark hues (browns, blacks and maybe reds or grays)
4. Parapet roofs shall be permitted only to conceal roof top mechanical equipment and shall be extended a minimum of one foot beyond the height of the rooftop mechanical equipment. All rooftop mechanical equipment is to be hidden from public view.
5. Gutters and downspouts should be internal. However, if exposed shall be painted to match the adjacent wall or roof materials.

**Table No. 4.B.6.H.5. Window and Door Materials**

<i>Permitted Materials for WINDOWS AND DOORS (entrances)</i>
Anodized aluminum, wood, clad wood, vinyl, or steel
Glass at the ground story shall be clear or lightly tinted with at least 90% light transmission. Specialty windows may utilize stained, opalescent, or glass block Translucent glass - 30% maximum. <span style="float: right;"><b>ORD. #56-11-07</b></span>
Screen frames shall match window frames
Doors shall be steel, wood, or wood clad

**H. Windows (all)**

1. Windows shall not span vertically more than one story and shall not span across building structural elements such as walls and mechanical spaces between the floors.
2. Windows shall be separated by mullions, columns, piers, or wall sections that are a minimum of seven inches wide.
3. Windows shall not be closer than three feet to a building corner.

**I. Doors (all)**

1. Primary entrances shall be delineated having major architectural features so that they are clearly identified as entry points, fronting the primary access street, and are pedestrian accessible. A portico, arcade, awning, projection, recess, or similar architectural features shall be provided to shelter the primary entrance.
2. Primary building entrances shall connect to a sidewalk with a pedestrian walkway.
3. Doors shall not be recessed more than three feet behind the shop front windows and shall have a clear view and path to a 45-degree angle past the perpendicular from each side of the door.
4. Roll-down security gates, door, and windows shall be prohibited within view of the public.

**J. Lighting**

1. Design and intensity of lighting shall be architecturally integrated with the building style, material, and color.
2. All parking lot and internal street lighting shall provide shield covers to direct the light in a downward manner.
3. See **Article 10. Off Street Parking and Loading and Article 13. Environmental Performance Standards** for additional requirements.

**K. Fencing**

1. Fencing shall consist of wrought iron or brick or stone and be complemented with appropriate landscaping to break up the length and solidity of the fencing. This does not include fencing of outdoor storage areas in an I1 zoning district as regulated by Article 8 - Zoning Districts.
2. The maximum height of the fencing shall be as provided in the Unified Development Ordinance for said district in which the fence is constructed. **ORD. #89-10-06**

**Section 7. Effect of Positive Recommendation**

- A. The recommendation of approval, or approval with modification of a site plan shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits or approvals that may be required by the Ordinances of the City of Noblesville.
- B. A copy of every approved site plan shall be filed with the Department of Planning and Development and the development of the site shall be in substantial conformity with such approved and filed plan.

**Section 8. Limitations on Site Plan Approval**

{Subject to an extension of time granted by the Director of Planning and Development, no recommendation of approval, or approval with modification of a site plan shall be valid for a period longer than one (1) year unless a Building Permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion or unless a Certificate of Occupancy is issued and a use commenced within that period. The Director of Planning may grant a maximum of two (2) one-year extensions of time for said building permit. Any subsequent requests for extensions of time shall be considered by the Board of Zoning Appeals.} **ORD. #64-11-08**

**Section 9. Adjustments to Site Plan During Development****A. Minimum Necessary Adjustment**

Any adjustment approved pursuant to this Section 2, Part B shall be consistent with the intent and purpose of this Ordinance, and the site plan as approved, shall be the minimum necessary to overcome the particular difficulty, and shall not be approved if they would result in a violation of any standard or requirement of this Ordinance.

**B. Minor Adjustments**

During the development of the site, the Director of Planning and Development, with the aid of the Technical Advisory Committee, may authorize adjustments to a site plan when such adjustments appear necessary in light of technical or engineering considerations first discovered during actual development. Such minor adjustments shall be limited to the following:

1. Altering the location of any one structure or group of structures by not more than ten (10) feet or one-fourth (1/4) of the distance shown on the approved site plan between such structure or structures and any other structure or any vehicular circulation element or any boundary of the site plan, whichever is less.
2. Altering the location of any circulation element by not more than ten (10) feet or one-fourth (1/4) of the distance shown on the approved site plan between such circulation element and any structure, whichever is less.
3. Altering the location of any open space by not more than twenty (20) feet.
4. Altering any final grade by not more than twenty percent (20%) of the originally planned grade.
5. Altering the location, by not more than twenty (20) feet, or type, without reduction of total number, of landscaping elements.

**C. Major Adjustments**

Any adjustment to a site plan not authorized by Section 8(B), above, shall be considered to be a major adjustment and shall be granted only upon formal application for site plan review.

**PART C. CONDITIONAL USE PERMITS****Section 1. Purpose**

Conditional uses are those uses that, because of their potential adverse impact upon the immediate neighborhood and the City, as a whole, require a greater degree of scrutiny and review of site characteristics and impacts to determine their suitability in a given location. As such, the determination of conditional uses as appropriate shall be contingent upon their meeting a set of specific standards and the weighing, in each case, of the public need and benefit against the local impact, giving effect to the proposals of the applicant for ameliorating adverse impacts through special site planning and development techniques and contributions to the provisions of public improvements, sites, right-of-way and services.

**Section 2. Authority**

The Board of Zoning Appeals may, in accordance with the procedures and standards set forth in this Section 1, Part B, and other regulations applicable to the district in which the subject property is located, approve by ordinance, uses listed as conditional uses within each zoning district.

**Section 3. Parties Entitled to Seek Conditional Use**

An application for a Conditional Use Permit may be filed with the Director of Planning and Development or his/her designee by the owner or lessee of the subject property or other person having a legal or equitable interest in the subject property.

**Section 4. Procedure for Review and Decision****A. Application**

Applications for a Conditional Use Permit shall be filed in accordance with the requirements of Part A of this Article 4.

**B. Action by Director of Planning and Development**

1. Upon receipt of a properly completed application for a Conditional Use Permit, the Director of Planning and Development or his/her designee shall forthwith transmit to the Technical Advisory Committee for its review subject to Part B of this Article 4.
2. The report and recommendations of the Technical Advisory Committee shall be submitted in writing from the Director to the Board of Zoning Appeals for its review.

**C. Public Hearing and Notice**

The Board of Zoning Appeals shall hold a public hearing on the application in accordance with the requirements of Part A of this Article 4. Notice for the public hearing shall be performed in the manner prescribed by Part A of this Article 4.

**D. Action by Board of Zoning Appeals**

Within forty-five (45) days after the close of the public meeting, the Board of Zoning Appeals shall in writing approve, approve with supplementary conditions, or disapprove the application. If the application is approved or approved with modifications, the Board of Zoning Appeals shall instruct the Director of Planning and Development in writing to issue a Conditional Use Permit listing the specific conditions specified by the Board of Zoning Appeals for approval. If the application is disapproved by the Board of Zoning Appeals, it shall notify the applicant in writing.

**E. Review by Certiorari**

Every decision by the Board of Zoning Appeals shall be subject to review by certiorari. Any person aggrieved by a decision of the Board of Zoning Appeals may present to the Circuit Court of Hamilton County a petition duly verified setting forth that such decision is illegal in whole or in part and specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the entry of the decision or order of the Board of Zoning Appeals.

**Section 5. Standards for Conditional Uses**

The Board of Zoning Appeals shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

- A. Is in fact a conditional use established within the specific zoning district involved;
- B. Will be harmonious with and in accordance with the general objectives or with any specific objective of the City's Comprehensive Plan and the Unified Development Ordinance;
- C. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the same area;
- D. Will not be hazardous or disturbing to existing neighboring uses;
- E. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
- F. Will not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community;

- G. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;
- H. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares; and
- I. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

#### **Section 6. Supplementary Conditions And Safeguards**

In granting any Conditional Use Permit, the Board of Zoning Appeals may prescribe conditions and limitations concerning use, construction, character, location, landscaping, screening, parking and other matters relating to the purposes and objectives of this Ordinance upon the premises benefited by a conditional use as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services. However, such conditions shall not be used as a device to authorize as a conditional use that which is intended to be temporary in nature. Such conditions shall be expressly set forth in the ordinance granting the Conditional Use Permit. Any conditions prescribed by the Board of Zoning Appeals must be recorded by the applicant as a supplement to the deed for the property, in the Hamilton County Recorder's office. Violation of any such condition or limitation shall be a violation of this Ordinance and shall constitute grounds for revocation of the conditional use permit pursuant to Article 15, Enforcement.

#### **Section 7. No Presumption of Approval**

The listing of a conditional use within each zoning district does not constitute an assurance or presumption that such conditional use will be approved. Rather, each proposed conditional use shall be evaluated on an individual basis, in relation to its compliance with the standards and conditions set forth in this Section 1, Part B, and with the standards for the district in which it is located, in order to determine whether approval of the conditional use is appropriate at the particular location and in the particular manner proposed.

#### **Section 8. Limitations on Conditional Uses**

- A. Subject to an extension of time granted by the Director of Planning and Development, no Conditional Use Permit shall be valid for a period longer than one (1) year unless a building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion, or unless a certificate of occupancy is issued and a use commenced within that period or unless a longer time is requested and granted by the Common Council.
- B. The approval of a proposed Conditional Use Permit by the Board of Zoning Appeals shall be deemed to authorize only that particular use at that particular location for which the conditional use was issued.
- C. Except when otherwise provided in the ordinance for approving a conditional use, a conditional use shall be deemed to relate to, and be for the benefit of, the use and lot in question, rather than the owner or operator of such use or lot.

#### **Section 9. Effect of Approval**

The approval of a proposed Conditional Use Permit by the Board of Zoning Appeals shall not authorize the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for such permits or approvals as may be required by the regulations of the City, including but not limited to a building permit and a certificate of occupancy.



**Section 10. Amendment to Approved Conditional Use Development Plans**

The holder of an Improvement Location Permit for a conditional use may apply to the Board of Zoning Appeals at any time for an alteration, change, amendment, or extension of the Conditional Use of Development Plan upon which such permit was based.

- A. Upon receipt of such application, the Board of Zoning Appeals shall proceed as in the case of original applications for an Improvement Location Permit for a conditional use.
- B. In the event the Board of Zoning Appeals shall approve and order such applications or Development Plan changed, altered, amended, or extended, it shall notify the Director of Planning and Development who shall issue an amended Improvement Location Permit accordingly.
- C. Any alteration, change or amendment to a site plan (previously approved by the Board of Zoning Appeals through the conditional use process) and involving a new structure, combination of structures, or addition to an existing structure, may be approved by the Director of Planning and Development, who may issue an Improvement Location Permit without the requirement of a public hearing or Board of Zoning Appeals approval provided that:
  1. The net increase in floor area is less than ten thousand (10,000) square feet but not to exceed fifty percent (50%) of the gross floor area of structures on the parcel;
  2. That the plans for the proposed use be submitted to and reviewed by the Technical Advisory Committee according to the schedule of filing deadlines established by the Director of Planning and Development;
  3. That the plans be revised to incorporate any recommendations of the Technical Advisory Committee that the Director of Planning and Development deems appropriate; and
  4. That the property of the proposed use does not fall within one hundred (100) feet of the property line of an existing residential land use or platted residential subdivision.

**Section 11. Temporary Zoning Certificates for Staged Development**

Whenever a Conditional Use Permit has been approved and is of such a nature that the applicant desires to complete the structures and improvements shown in the Conditional Use Development Plan by stages, the applicant may make application for a Temporary Certificate of Occupancy for any portion of the Plan that has been completed.

**PART D. INTERPRETATIONS, APPEALS, AND VARIANCES****Section 1. Interpretations****A. Purpose**

The interpretation authority established by this Section 1, Part D is intended to recognize that the provisions of this Ordinance, though detailed and extensive, cannot, as a practical matter, address every specific situation to which they may have to be applied. Many such situations can be readily addressed by an interpretation of the specific provisions of this Ordinance in light of the general and specific purposes for which those provisions have been enacted. Because the interpretation authority established is an administrative rather than a legislative authority, it is not intended to add to or change the essential content of this Ordinance but is intended only to allow authoritative application of that content to specific cases.

**B. Authority**

The Director of Planning and Development, subject to the procedures, standards, and limitations of this Section 1, Part D may, by written order, render interpretations of the provisions of this Ordinance and of any rule or regulation issued pursuant to it.

**C. Parties Entitled to Seek Interpretations**

Applications for interpretations may be filed by any person having a legal or equitable interest in property that gives rise to the need for an interpretation; provided that interpretations shall not be sought by any person based solely on hypothetical circumstances or where the interpretation would have no effect other than as an advisory opinion.

**D. Procedure for Review and Decision****1. Application**

Applications for interpretations of this ordinance shall be filed in accordance with the requirements of Part A of this Article 4.

**2. Action on Application**

Within ten (10) working days following the receipt of a properly completed application for interpretation, the Director of Planning and Development shall inform the applicant in writing of his interpretation, stating the specific precedent, reasons, and analysis upon which the determination is based. The failure of the Director of Planning and Development to act within ten (10) working days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the application rendered on the day following such ten (10) day period.

**3. Records**

A record of all applications for interpretations shall be kept on file in the office of the Director of Planning and Development. At least once a year, the Director of Planning and Development shall make public a listing of his decisions, by address, regarding the applications for interpretation.

**4. Appeal**

Appeals from interpretations rendered by the Director of Planning and Development may be taken to the Board of Zoning Appeals pursuant to Section 2, Part D.

**E. Standards for Interpretations**

The following standards shall govern the Director of Planning and Development, and the Board of Zoning Appeals on appeals from the Director of Planning and Development, in issuing interpretations.

1. Any use defined in Article 2, "Definitions" of this Ordinance shall be interpreted as therein defined;
2. No interpretation shall permit any use in any district unless evidence shall be presented that demonstrates that it will comply with the general district regulations established for that particular district;
3. No interpretation shall permit any use in a district unless such use is similar to other uses permitted in the district and is more similar to those uses than to uses permitted in a more restrictive district;
4. If the proposed use is most similar to a use permitted only as a conditional use in the district in which it is proposed to be located, then any interpretation permitting such use shall be conditioned on the issuance of a conditional use permit for such use pursuant to Section 1, Part B; and
5. No interpretation shall permit the establishment of any use that would be inconsistent with the statement of purpose of the district in question.

**F. Effect of Favorable Interpretations**

No interpretation finding a particular use to be permitted or permitted as a conditional use in a particular district shall authorize the establishment of such use nor the development, construction,

reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approvals that may be required by the Ordinances and ordinances of the City including, but not limited to, a building permit, a certificate of occupancy, subdivision approval, and site plan approval.

**G. Limitations on Interpretations**

1. Subject to an extension of time granted by the Director of Planning and Development, no interpretation shall be valid for a period longer than twelve (12) months from the date of issue.
2. An interpretation finding a use to be permitted, or permitted as a conditional use in a particular district, shall be deemed to authorize only the particular use for which it was issued, and such permit shall not be deemed to authorize any allegedly similar use for which a separate use interpretation has not been issued.

**Section 2. Appeals**

**A. Purpose**

1. The appeal procedure is provided as a safeguard against arbitrary, ill-considered, or erroneous administrative decisions. It is intended to avoid the need for legal action by establishing local procedures to review and correct administrative errors. It is not, however, intended as a means to subvert the clear purposes, meanings, or intent of this Ordinance or the rightful authority of the Director of Planning and Development to enforce the requirements of this Ordinance. To these ends, the reviewing body should give all proper deference to the spirit and intent embodied in the language of this Ordinance and to the reasonable interpretations of that language by those charged with the administration of this Ordinance.
2. The filing of an appeal shall stay all proceedings in furtherance of the action appealed from, unless the Director of Planning and Development certifies to the Board of Zoning Appeals, after the notice of appeal has been filed, that by reason of facts stated in the certificate, a stay would cause, in his opinion, imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order that may be granted by the Board of Zoning Appeals or by a court of record, on application, of notice to the Director of Planning and Development and on due cause shown.
3. The Board of Zoning Appeals may reverse or affirm, wholly or partly, or may modify the order or final decision as in its opinion ought to be made in the premises, and to that end has all the powers of the officer from whom the appeal is taken.

**B. Authority**

The Board of Zoning Appeals shall hear and decide appeals from, and review orders, decisions, determinations, or the failure to act, of the Director of Planning and Development acting pursuant to his or her authority and duties under this Ordinance and to that end the Board of Zoning Appeals shall have the same powers and be subject to the same standards and limitations as the Director of Planning and Development with respect to any order, decision, or determination being appealed.

**C. Parties Entitled to Appeal**

Appeals to the Board of Zoning Appeals concerning the interpretation or administration of this ordinance may be taken by any persons aggrieved or by any officer or bureau of the legislative authority of the city affected by any decision of the Director of Planning and Development.

**D. Procedure****1. Application**

An application for appeal to the Board of Zoning Appeals shall be filed not later than forty-five (45) days after the action being appealed and shall be in accordance with the requirements of Part A of this Article 4.

**2. Action by Director of Planning and Development**

Upon receipt of a properly completed application for an appeal, the Director of Planning and Development shall forthwith transmit to the Board of Zoning Appeals the application together with all the papers constituting the record upon which the action appealed from was taken.

**3. Public Hearing and Notice**

The Board of Zoning Appeals shall hold a public hearing on the application in accordance with the requirements of Part A of this Article 4. Notice for the public hearing shall be provided in the manner prescribed by Part A of this Article 4.

**4. Action by Board of Zoning Appeals**

Within thirty (30) days after the close of the public meeting, the Board of Zoning Appeals shall render a written decision on the appeal. Such decision may reverse, affirm, or modify, in whole or in part, the action appealed from and may include such order or determination as, in the opinion of the Board of Zoning Appeals, is proper to be made in the premises. The failure of the Board of Zoning Appeals to act within such thirty (30) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the appeal.

**5. Review by Certiorari**

Every decision by the Board of Zoning Appeals shall be subject to review by certiorari. Any person aggrieved by a decision of the Board of Zoning Appeals may present to the Circuit Court of Hamilton County a petition duly verified setting forth that such decision is illegal in whole or in part and specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the entry of the decision or order of the Board of Zoning Appeals.

**E. Right to Grant Variance in Deciding Appeals**

In any case, where the application for appeal is accompanied by an application for a variance in accordance with Section 3, Part D, the Board of Zoning Appeals shall notice, hear, and decide to grant or deny, such variance in compliance with the provisions of Section 3, Part D.

**F. Conditions and Limitations on Rights Granted by Appeal**

In any case where this Ordinance imposes conditions and limitations upon any right, any such right granted by the Board of Zoning Appeals on appeal shall be subject to such conditions and limitations in the same manner and to the same extent as if secured without the necessity of an appeal.

**Section 3. Variances****A. Purpose**

The variance procedures are intended to provide a narrowly circumscribed means by which relief may be granted from unforeseen particular applications of this Ordinance that create unnecessary hardships. When such hardships may be more appropriately remedied, if at all, pursuant to other provisions of this Ordinance, the variance procedure is inappropriate.

**B. Authority**

1. The Board of Zoning Appeals may authorize upon application in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in

serious practical difficulty. No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted solely on the grounds of convenience or profit; however, where strict application of the provisions of this ordinance would result in serious practical difficulty, convenience or profit may be considered as a relevant factor in the Board decision.

2. The Board of Zoning Appeals may consider issuing a variance from the terms and provisions of the Flood Hazard (FH) District provided the structure for which a variance is requested existed at the time of the effective date of this ordinance, and provided the applicant offers that the grant of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public or conflict with existing laws or ordinances.
3. In addition, the Board of Zoning Appeals may consider land use variances in cases in which a proposed use for a property does not fall within the list of permitted or conditional uses for the zone district in which it is located.

#### **C. Parties Entitled to Seek Variance**

An application for a variance may be filed with the Director of Planning and Development by the owner or lessee of the subject property or other person having a legal or equitable interest in the subject property.

#### **D. Procedure for Review and Decision**

##### **1. Application**

Applications for a variance shall be filed in accordance with the requirements of Part A of this Article 4.

##### **2. Action by Director of Planning and Development**

- a. Upon receipt of a properly completed application for a Conditional Use Permit, the Director of Planning and Development shall forthwith transmit it to the Technical Advisory Committee for its review subject to Part B of this Article 4.
- b. The report and recommendations of the Technical Advisory Committee shall be submitted in writing from the Director to the Board of Zoning Appeals for its review.

##### **3. Public Hearing and Notice**

The Board of Zoning Appeals shall hold a public hearing on the application in accordance with the requirements of Part A of this Article 4. Notice for the public hearing shall be provided in the manner prescribed by Part A of this Article 4.

##### **4. Action by Board of Zoning Appeals**

Within forty-five (45) days after the close of the public meeting, the Board of Zoning Appeals shall in writing approve, approve with supplementary conditions, or disapprove the application. If the application is approved or approved with modifications, the Board of Zoning Appeals shall instruct the Director of Planning and Development in writing to issue a Variance Permit listing the variance allowed and the specific conditions specified by the Board of Zoning Appeals for approval. If the application is disapproved by the Board of Zoning Appeals, it shall notify the applicant in writing.

##### **5. Review by Certiorari**

Every decision by the Board of Zoning Appeals shall be subject to review by certiorari. Any person aggrieved by a decision of the Board of Zoning Appeals may present to the Circuit Court of Hamilton County a petition duly verified setting forth that such decision is illegal in whole or in part and specifying the grounds of the illegality. The petition shall be presented to

the court within thirty (30) days after the entry of the decision or order of the Board of Zoning Appeals.

## **E. Findings of Fact for Variances**

### **1. Findings of Fact**

Every application for a variance shall meet the requirements of this Section 3 and the general standards for variances set forth below.

#### **a. Compliance**

A variance from the terms or land use of this Ordinance shall not be granted unless the Board of Zoning Appeals makes specific written findings of fact based directly on the particular evidence presented to it which support conclusions that all of the standards and conditions imposed by this Section 3, Part D and any conditions imposed by the Board of Zoning Appeals upon the recommendation of the Director of Planning and Development and the Technical Advisory Committee have been met.

#### **b. Hardship**

No variance shall be granted pursuant to this Section 3, Part D unless the applicant shall establish that carrying out the strict letter of the provisions of this Ordinance would create a particular hardship or a practical difficulty.

#### **c. Unique Physical Condition**

The subject lot is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure, or sign, whether conforming or non-conforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.

#### **d. Not Self-Created**

The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Ordinance.

#### **e. Denied Substantial Rights**

The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other lots subject to the same provision.

#### **f. Not Merely Special Privilege**

The alleged hardship or difficulty is neither merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely the inability of the owner to make more money from the use of the subject lot.

#### **g. Ordinance and Plan Purposes**

The variance would not result in a use or development of the subject lot that would be not in harmony with the general and specific purposes for which this Ordinance and the provision from which a variance is sought were enacted or the general purpose and intent of the Comprehensive Plan.

**h. No Other Remedy**

There is no means other than the requested variance by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject lot.

**i. Minimum Required**

The requested variance is the minimum measure of relief necessary to alleviate the alleged hardship or difficulty presented by the strict application of the Ordinance.

**2. Additional Findings of Fact for Flood Hazard Areas**

In addition to requirements and general standards set forth in this Section 3, Part D, the Board of Zoning Appeals shall, in weighing the appropriateness of a variance for Flood Hazard Areas, consider the following:

- a. The danger to life and property due to flooding or erosion damage or danger that materials may be swept onto other lands to the injury of others.
- b. The increased flood heights that cause additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- c. The cost to the City in providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- d. Whether development on the subject lot that would substantially affect the use and value of the area adjacent to the subject property in an adverse manner.
- e. Whether development of the subject lot would be in harmony with the general and specific purposes of this Ordinance and the Comprehensive Plan and Flood Plain Management program of that area.
- f. The safety of access to the property for ordinary and emergency vehicles in times of flood.
- g. The importance of the services provided by the proposed facility.
- h. The necessity to the facility of a waterfront location.
- i. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.
- j. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effect of wave action, if applicable, expected at the site.

**3. Additional Findings of Fact for Land Use Variances**

In addition to requirements and general standards set forth in this Section 3, Part D, including Section 3(E)(2), the Board of Zoning Appeals shall, in weighing the appropriateness of a variance for land use, consider the following:

- a. The land use variance shall not be materially detrimental to the public health, safety, morals, and general welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity.
- b. The variance would not result in a use or development on the subject lot that would substantially affect the use and value of the area adjacent to the subject property in an adverse manner, including but not limited to, impairing an adequate supply of light and air to the properties and improvements, substantially increasing congestion in the public

streets due to traffic or parking, unduly increase the danger of flood or fire, or unduly tax public utilities and facilities in the area.

**F. Supplemental Requirements for Variances in Flood Hazard Areas**

1. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the items above have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
5. No variance for a residential use in a floodway may be granted without prior approval from the Indiana Department of Natural Resources.
6. The Board of Zoning Appeals shall notify, in writing, the recipient of a variance that the proposed construction will be subject to increased risks to life and property, and, could require payment of excessive flood insurance premiums.

**G. Variance Less Than Requested**

The Board of Zoning Appeals may grant variance less than or different from that requested when the record supports the applicant's right to some relief but not to the relief requested.

**H. Conditions on Variances**

The Board of Zoning Appeals may impose such specific conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of this Ordinance upon any lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject lot or upon public facilities and services. Such conditions shall be expressly set forth in the ordinance or order granting the variance. Violation of any such condition or limitation shall be a violation of this Ordinance and shall constitute grounds for revocation of the variance.

**I. Effect of Grant of Variance**

The grant of a variance shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approvals that may be required by the Ordinances and ordinances of the City.

**J. Limitations on Variances**

1. Subject to an extension of time granted by Director of Planning and Development, no variance from the provisions of this Ordinance shall be valid for a period longer than one year unless a building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion or unless a Certificate of Occupancy is issued and a use is commenced within that period.



2. A variance shall be deemed to authorize only the particular construction or development for which it was issued and shall automatically expire and cease to be of any force or effect if such construction or development is beyond the scope so authorized.
- {3. Where the requested variance is for a condition that already exists on the site, the applicant/petitioner shall have ninety (90) days to comply with any conditions of the variance approval. The Director of Planning and Development may authorize one (1) extension not to exceed ninety (90) days to the original deadline. Any further extension shall be approved by the Board of Zoning Appeals.} **ORD. #23-6-10**

## **PART E. AMENDMENTS**

### **Section 1. Purpose**

The purpose of this Part E is to provide standards and procedures for making amendments to the text of this Ordinance and the Zoning Map that are of general significance or application. This amendment process is not intended to relieve particular hardships nor to confer special privileges or rights upon any person, but only to make adjustments necessary in light of changed conditions or changes in public policy.

### **Section 2. Authority**

The text of this Ordinance and the Zoning Map may be amended from time to time by the passage of an ordinance duly adopted by the Common Council in accordance with the procedures set forth in this Part E.

### **Section 3. Parties Entitled to Initiate Amendments**

#### **A. Amendment to Text**

Amendments to this Ordinance may be initiated by adoption of a motion of the Plan Commission or by adoption of a resolution by Common Council.

#### **B. Amendment to Zoning Map**

Amendments to this Ordinance may be initiated by adoption of a motion of the Plan Commission; by adoption of a resolution by Common Council; or by the filing of a petition by at least fifty percent (50%) of the owners of property within the area proposed to be changed or affected by said amendment.

### **Section 4. Standards for Amendments**

The wisdom of amending the text of the Unified Development Ordinance or the Zoning Map is a matter committed to the sound legislative discretion of the Common Council and is not controlled by any one standard. In making their determination, however, the Common Council should, in determining whether to adopt or deny, or to adopt some modification of the Plan Commission's recommendation, consider, among other factors, the following:

- A.** Whether the proposed amendment is consistent with the goals, objectives, and policies of the Comprehensive Plan, as adopted and amended from time to time by the Common Council;
- B.** Whether the proposed amendment is compatible with current conditions and the overall character of existing development in the immediate vicinity of the subject property;
- C.** Whether the proposed amendment is the most desirable use for which the land in the subject property is adapted;
- D.** Whether the proposed amendment will have an adverse effect on the value of properties throughout the jurisdiction; and
- E.** Whether the proposed amendment reflects responsible standards for development and growth.

**Section 5. Procedure for Review and Decision**

A petition to amend the text of the Unified Development Ordinance or the Zoning Map shall be processed in accordance with the procedures set forth below:

**A. Petitions**

Petitions for amendment to the Unified Development Ordinance shall be filed in accordance with the requirements of Part A of this Article 4.

**B. Public Hearing and Notice**

After receipt of a properly completed petition for an amendment, the Director of Planning and Development shall fix a date for a public hearing in accordance with the requirements of Part A of this Article 4. Notice of the public hearing shall be provided as prescribed in Part A of this Article 4.

**C. Plan Commission Action**

Within sixty (60) days after receipt of the proposed amendment, the Plan Commission shall recommend the approval or denial of the proposed amendment, or the approval of the amendment with modifications, and shall then submit its written recommendation, together with the petition for the text and/or map change, to the Common Council.

**D. Common Council Action**

The Common Council shall either adopt or reject the recommendation of the Plan Commission or adopt some modification of the recommendation of the Plan Commission. Failure of the legislative body to pass the proposed amendment within ninety (90) days after its rejection by the Plan Commission constitutes rejection of the proposed amendment; and the proposed amendment may not be reconsidered by the Plan Commission or legislative body until the expiration of one (1) year after the date of its original rejection by the Plan Commission.

**E. Effective Date**

Such amendment adopted by Common Council shall become effective immediately upon adoption and approval by the Plan Commission.

**PART F. PERMITS AND CERTIFICATES OF APPROVAL**

**Section 1. Improvement Location Permits**

**A. Scope**

No building or other structure shall be erected, moved, added to, or structurally altered; nor shall any building, structure, or land be established or changed in use without an improvement location permit issued by the Director of Planning and Development. A permit shall be issued by the Director of Planning and Development upon finding that the proposed use complies with the requirements of this ordinance or upon written order from the Board of Zoning Appeals deciding an appeal, conditional use, or variance; or from the Common Council approving a Planned Unit Development, as provided by this ordinance. {Such permit shall be posted on or near the structure during the entire duration of construction and shall be the original card issued by the Director of Planning and Development.} **ORD. #21-6-97**

**B. Application for Improvement Location Permit**

Applications for Improvement Location Permits (ILP) shall be filed in accordance with the requirements of Article 4 of this Ordinance. {An ILP for the installation of infrastructure and/or grading, erosion, or other similar land activities shall be required to obtain approvals from the various Technical Advisory Committee members {prior to a request for a Pre-Construction

meeting. The information required for a Pre-Construction meeting} includes but is not limited to {performance bond submittals,} certified grading plans, construction plans, and other documentation as may be necessary for the release of the **ORD. #89-10-06, ORD. #56-11-07, ORD. #12-2-11**

1. For all Non-Residential Construction Projects, Multi-Family Construction Projects, and those projects as deemed necessary by the Director of Planning and Development or the City Engineer, a Pre-Construction meeting is required.
2. Contact the Engineering Department for scheduling of a Pre-Construction meeting. At a minimum, one week prior to the scheduled meeting, the following information shall be submitted {as per the PRE-Construction Meeting Protocol Sheets.} **ORD. #10-03-13**
  - a. A PDF copy of all civil drawings approved by the Technical Advisory Committee.
  - b. A copy of the Technical Advisory Committee approval letter(s).
  - c. A copy of the Geographic Information System (GIS) approval letter.
  - d. A copy of the MS4 approval letter.
  - e. A copy of the Indiana Department of Environmental Management (IDEM) approval letter for sanitary sewers.
  - f. A copy of the County Surveyor's "indirect" or "direct" outlet permit regarding any County Legal Drains. (if applicable)
  - g. A copy of all conveyance documents for off-site easements and/or public right-of-way.
  - {h. A check payable to the City of Noblesville for pre-paid engineering inspection fees} **ORD. #10-03-13**
  - i. A Certified Construction Cost Estimate prepared by a professional engineer or land surveyor detailing each individual infrastructure item to be bonded and its associated costs. (e.g. surface, binder, stone, sub-base)
  - j. Original Performance Bond(s) in the amount of 110% of the construction cost estimates for all public infrastructure improvements. This includes but is not limited to sidewalk/trails, driveway approaches and/or entrance/deceleration lane improvements.
  - k. Residential Development**
    - i. **Three (3)** sets of full-sized scaled drawings as per the approvals above.
    - ii. Two (2) sets of 11 x 17-IN scaled drawings.
    - iii. One (1) PDF of the approved scaled drawings submitted on a disk **or other acceptable media.**
  - Non-Residential Development**
    - i. Three (3)sets of full-sized scaled drawings as per the approvals above.
    - ii. Two (2) sets of 11 x 17-IN scaled drawings.
    - iii. One (1) PDF of the approved scaled drawings submitted on a disk **ORD. #12-2-11 or other acceptable media. ORD. #10-03-13**

### C. Permits for Industrial Uses

An application for an Improvement Location Permit for an enclosed industrial use or an open industrial use shall be accompanied by a "Certificate of Compliance" subscribed by a registered professional engineer or architect, certifying that the use intended will satisfy the standards of the enclosed industrial use or the open industrial use, as the case may be, and in the District in which it is to be located. The Director of Planning and Development or his/her designee may take ten (10) working days in which to study the application, during which time he may consult with appropriate technical consultants. If after the ten (10) working days period the Director has not

required any additional information or stated any objections in writing, the Director of Planning and Development or his/her designee shall issue the Improvement Location Permit.

**D. Submission to State or Local Highway Department**

Before any improvement location permit is issued which affects any land within three hundred (300) feet of the centerline of a proposed highway or a highway for which changes or improvements are proposed, or within five hundred (500) feet of the intersection of the aforementioned highway and any other public road or street, the Indiana Department of Transportation (INDOT) and/or any local or county highway departments must be notified by the applicant and comments or suggestions received back from same.

**E. Action by the Department of Planning and Development**

1. Upon receipt of a properly completed application for an Improvement Location Permit, the Director of Planning and Development or his/her designee shall forthwith transmit such application to the Technical Advisory Committee for its review subject to Part B of this Article 4.
2. After the receipt of the report and recommendations of the Technical Advisory Committee, the Director of Planning and Development shall either approve or disapprove the application. One set of the plans shall be returned to applicant by the Director of Planning and Development and be marked either "approved" or "disapproved", and the Director of Planning and Development's signature on the copy should attest. One set of the plans, similarly marked, shall be retained by the Director of Planning and Development. If the application is approved, the Director of Planning and Development shall issue a placard to the applicant. It is to be posted in a conspicuous place on the property in question and will attest to the fact that the plans for construction or alteration are in compliance with the provisions of the state building rules and regulations. If disapproved, the Director of Planning and Development shall notify the applicant indicating the reasons in writing within ten (10) days.

**{F. Sexually Oriented Business Uses**

1. No sexually oriented business as regulated by Article 9, Part J of this Ordinance shall be permitted to operate without obtaining a Sexually Oriented Improvement Location Permit. This permit shall be required separately from other permits as required by the City of Noblesville.
2. Applications for Improvement Location Permits shall be filed in accordance with the requirements of Article 4, of the Unified Development Ordinance. Sexually Oriented Improvement Location Permit Applications must include the following:
  - (a) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. The sketch must also address the specific requirements of the business for which the permit application is for, as outlined by the Classification Specific Design Requirements
  - (b) A current certificate and straight-line drawing prepared within 30 days prior to application prepared by a State of Indiana registered land surveyor depicting the property lines and the structures containing any established existing uses regulated by this chapter within 1,000 feet of the property to be certified; the property lines of any established protected use within 1,000 feet of the property to be certified; and the property lines of any residentially zoned area or residential property within 1,000 feet of the property to be certified, if not apparent. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.} **ORD. #57-9-04**

**G. Expiration of the Improvement Location Permit**

The work or use authorized by any Improvement Location Permit must be commenced within {six (6) months} of the date of issuance of such permit, otherwise the same shall lapse and be and become null and void. All work so authorized shall be completed within twenty four (24) months from the issuance of the permit, and provided that for good cause shown the Director of Planning and Development may extend the work completion time. **ORD. #23-6-10**

**H. Failure to Obtain an Improvement Location Permit**

Failure to obtain an Improvement Location Permit shall be a violation of this ordinance and be punishable under the provisions of Article 15, Enforcement.

**I. Limitation on Improvement Location Permits**

Improvement location permits issued on the basis of plans and applications approved by the Director authorize only the use or arrangement set forth in such approved plans and applications or amendments thereto, and no other use, arrangements, or construction. Any use, arrangement, or construction contrary to that authorized shall be deemed a violation of this ordinance and be punishable under the provisions of Article 15, Enforcement.

**J. Records of Improvement Location Permits**

Every Improvement Location Permit issued pursuant to this Section 1, Part C shall be kept on file in the Office of the Director of Planning and Development and shall be a public record.

**Section 2. Building Code and Building Permits****A. Purpose**

The City Building Code is intended to regulate the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, maintenance, electricity, plumbing, heating, ventilation and air conditioning of all public and private buildings or structures within the corporate limits of the City of Noblesville, Indiana, and within the area which is within the jurisdiction of the Noblesville City Plan Commission. The creation of the Office of Building Commissioner provides for the issuance of building permits, the collection of fees therefor, and a penalty for the violation thereof.

**B. Title**

This section shall be known and may be cited as the "Building Code of Noblesville, Indiana ."

**C. Content of Building Code**

Certain Documents, copies of which are on file in the Office of the Department of Planning and Development and the Office of the Clerk-Treasurer of the City of Noblesville, Indiana, being marked and designated as {INTERNATIONAL BUILDING CODE, INTERNATIONAL FIRE CODE, {2006} EDITION AS ADOPTED BY REFERENCE IN INDIANA CODE AND ALL AMENDMENTS TO THE INDIANA FIRE SAFETY LAWS AND BUILDING LAWS; NATIONAL ELECTRICAL CODE AND INDIANA AMENDMENTS; UNIFORM PLUMBING CODE AND INDIANA AMENDMENTS; INTERNATIONAL MECHANICAL CODE AND INDIANA AMENDMENTS; INDIANA BUILDING CODE CHAPTER 11; ACCESSIBILITY; AND INTERNATIONAL RESIDENTIAL CODE FOR ONE AND TWO-FAMILY DWELLINGS AND INDIANA AMENDMENTS; THE INDIANA ENERGY CONSERVATION RULES FOR NEW CONSTRUCTION AND THE INDIANA SWIMMING POOL RULES be and the same are hereby adopted as the Building Code for regulation, the erection, construction, enlargement, alteration, repair, moving, removal, maintenance, fire prevention and safety, electricity, plumbing, heating, ventilation and air conditioning of all public and private buildings and structures within the Jurisdiction of the Noblesville Plan Commission as set forth herein; and all rules and regulations as provided by the Fire Safety Division of the Indiana Homeland Security as above referenced to, as now on file in the Offices referred to and are hereby adopted including

all amendments by the Fire and Building Safety Commission} and made a part hereof as if fully set out in this Code. **ORD. #76-9-05, ORD; #64-11-08**

**D. Building Permit**

No persons, firms, or corporations shall erect, construct, enlarge, alter, move, remove, improve, convert, or demolish any building or structure within the Jurisdiction of the Noblesville City Plan Commission, or cause the same to be done, until first having obtained a separate building permit for each such building or structure from the Director of Planning and Development, who may require plans thereof, together with a statement of materials to be used. {Such permit shall be posted on or near the structure during the entire duration of construction and shall be the original card issued by the Director of Planning and Development.} **ORD. #21-6-97**

**{E. Application for Permit**

1. To obtain a permit, applicant must first file an application therefor, on forms to be furnished by the Director of Planning and Development, and every applicant shall complete all information requested on said form.
2. {Each application for a permit shall be accompanied by the following:

***Residential Projects:***

- a. two (2) sets of construction plans and specifications
- b. three (3) development plans and legal description
- c. **{2012 Energy Code Compliance}** **ORD. #10-03-13**

***Projects within the City Limits require:***

- c. a copy of the approved sewer/driveway permit OR
- d. a copy of the approved septic and a copy of the approved driveway permit

***Project within the Territorial Jurisdiction of Noblesville require:***

- e. a copy of the approved septic permit and a copy of the approved driveway permit from Hamilton County.

**{One (1) complete Portable Document Format (PDF) , Version 7 or later, of all required documents and paperwork provided through a file hosting system such as Drop Box, on a CD, DVD, or other similar media filed at the time the application is submitted to the Planning Department. Review of the submitted documentation shall not begin until the digital formatted items are submitted to the department.} **ORD. #10-03-13****

***Commercial Projects:***

- a. Three (3) sets of construction plans plus Two (2) 11 by 17-IN reduced set of plans} **ORD. 89-10-06**
- b. Two (2) copies of the development (site) plan including the legal description.
- c. Two (2) copies of the landscaping plan including both botanical and general names; heights, calipers, and gallon sizes of plants at the time of planting. Include the location of both underground and above ground utilities. For above ground utility lines indicate the type of line i.e. transmission or distribution.
- d. One (1) full set of color elevations of the building exterior (front, both sides, and rear) labeling building materials, colors, and height.
- e. One (1) copy of the State **Construction Design Release (CDR) form.**
- f. One (1) completed Road Impact Fee Calculation Request} **ORD. #12-4-97, ORD. # 42-5-05**

**{One (1) complete Portable Document Format (PDF) , Version 7 or later, of all required documents and paperwork provided through a file hosting system such as Drop Box, on a CD, DVD, or other similar media filed at the time the application is submitted to the Planning Department. Review of the submitted documentation shall not begin until the digital formatted items are submitted to the department.} **ORD. #10-03-13****

3. Applications, plans, and specifications filed by an applicant for a permit shall be checked by the Director of Planning or his representative. If the Director of Planning and Development is satisfied that the work described in the application for a permit and the plan filed therewith conforms to the requirements of the code and other pertinent laws and ordinances, he shall issue a permit to the applicant. When the Director of Planning and Development issues the permit he shall endorse in writing and stamp on plans specifications the word "Approved." Such approved plans and specifications shall not be changed, modified, or altered without authorization by the Director of Planning and Development or his representative.
4. {No building permit shall be issued until such time notification has been received from the Water Utility for the project stating the water lines have been accepted and are in service, the fire hydrants have been accepted by the Fire Marshall, and streets, curbs, {gutters, sanitary sewers, storm sewers and like infrastructure} have been constructed to the Noblesville Standards {and accepted by the City Engineering Department.} This applies to each section of a subdivision or approved development plan in which structures are being constructed.} **ORD. #42-5-05, ORD. #32-6-10**
5. {Roof Truss Certification for One and Two Family Structures shall be as per local ordinance as required by State of Indiana, Section R802.10.1 and shall include the following:
  - a. Truss design drawings must have lot number and subdivision stated on packet
  - b. Truss design drawings shall be dated within the code-cycle that is in effect and be clear and readable.
  - c. Truss design must comply with ANSI/TPI 1-2002
  - d. Trusses shall be designed in accordance with accepted engineered practices.
  - e. Truss design drawings shall be certified by a registered architect under IC. 25-4 or a professional engineer registered under IC. 25-31.
  - f. Wind uplift rating must be on truss specifications.
  - g. Locations noted on truss design drawings where permanent member bracing is required by the manufacturer or design professional.} **ORD. #89-10-06**

{6. For single-family and two-family dwellings, {the site plan shall include the standard information as defined in the Unified Development Ordinance and the following additional information. The drawing shall be titled "Site Plan and Pre-Construction Elevation Certificate.} Information required on the updated submitted site plan includes both "existing" and "proposed" grades for the structure, lot, and drainage swales, adjacent pond 100-year flood elevations; finished floor elevations of the proposed structure; {all window wells and/or ingress/egress areas from the basement area including elevations;} the finish floor elevations for structures on adjacent lots or the proposed pad elevations for those adjacent lots without structures; and spot grade elevations for those adjacent structures. A "typical driveway construction profile" {as per the Noblesville Construction Standards and drive slope calculations are required on the submittal including the profile of the grade on the driveway elevation.} Any and all Flood Hazard Statements, base flood profiles, floodway/floodway fringe/flood hazard area lines, etc. {Include the subdivision restrictions for all yard setbacks and/or aggregate side yards, finished floor elevation including pad grade, garage finished floor elevation, basement finished floor elevation, residential finish first floor elevation and any notes pertaining to the garage finish floor elevation and its height above the curb at the drive, and all ground cover calculations including drive, public walks, private walk, sod, and hydroseeding. Additional information may be required from either the Planning Department or Engineering Department under certain circumstances.} The following certification statement "*I certify that the elevations shown as "existing" grades were existing on (insert date), prior to the construction of the house and lot improvements and prepared for the benefit of the parties indicated hereon and for the purpose of obtaining approval for the "Building Permit." It is my opinion that if the proposed finish grades are constructed as shown, the surface drainage on the subject lot will be satisfactory for residential construction. This plan was compiled based on documents prepared by others and the (insert your*

*company's name) assumes no liability for the accuracy, completeness, or acceptance of those documents. This drawing is not intended to be represented as a retracement or original boundary survey, a route survey, or a surveyor location report."*

*{Include "Notes: The drawing is based on (fill in the blank with one or all including but not limited to construction plans, record drawings, type of survey). Your company's name detailing any warranties to the accuracy or sufficiency of the construction plans or record drawings and any discrepancies.*

Upon completion of the improvements and prior to the issuance of a TEMPORARY and/or FINAL Certificate of Occupancy, a "Post Construction Elevation Certificate" shall be submitted to the Planning Department to verify all information submitted on the "Site Plan and Pre-Construction Elevation Certificate".} **ORD. #03-02-12**

{As per the submitted 'Site Plan and Pre-Construction Elevation Certificate', the finished floor elevation of the proposed structure shall not be greater than three (3) feet (+/-) above the required height of the finished floor elevation (15-inches) as measured from the lowest point of the top of the back of curb as per the 'Grading and Building Pad Elevation – Section 105.02' of the City of Noblesville Stormwater Technical Standards Manual as adopted and amended unless otherwise approved by the City of Noblesville's Engineer for warranted circumstances particular to said structure/parcel.} **ORD. # 09-03-12**

## **F. Procedure**

### **1. Application**

Applications for a Building Permit shall be filed in accordance with the requirements of Part A of this Article 4.

### **2. Fees**

- a.** No permit shall be granted by the Director of Planning and Development until all applicable fees pertaining to that permit have been paid in full.
- b.** No permit shall be granted by the Director of Planning and Development until all fees owed by the applicant to the City of Noblesville have been paid in full. This requirement shall apply not only to fees specified in Article 4, Part F, Section 2.a above, but shall also include all fees owed on any permit previously issued to the applicant. A schedule of payment of all owed fees provided by the applicant to the satisfaction of the Director of Planning and Development shall satisfy the requirement of this section in lieu of payment in full.
- c.** No part of any filing fee paid pursuant to this Article shall be returnable to the applicant.
- d.** The Building Permit fees may include the Improvement Location Permit fee for those applications listed in Article 4, Part F, Section 1 of this Ordinance.} **ORD. #57-9-98**

### **3. Identification**

- a.** {Lot identification number, structure address number, and building permit shall be established on a 2-IN by 4-IN post, a minimum of 5-FT to a maximum of 6.5-FT in height above the ground level, with the following 8.5-IN by 11-IN laminated permit/identification items. Top posting is Building Permit, next is the lot number, and third is the address numbers. These laminated permit/identification items will be given to the individual who obtains the building permit and must be posted between 10-15-FT behind the street pavement or curb line and must be posted by the time of the first inspection. The identification/permit must be clearly visible from the road and must remain posted until such time the house number is permanently attached to the structure or mailbox adjacent to the road and final inspection is approved.} **ORD. #55-12-02**



**G. Penalties**

1. If construction has commenced prior to obtaining permit or payment of fees, penalties may be assessed pursuant to Article 15, Section 6 of this ordinance.
2. Also, any person who shall initiate construction prior to obtaining a Building Permit (or a Certificate of Occupancy) or any other permit required, shall pay twice the amount of the filing fee set forth herein.
3. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, realtor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

**{H. Deadline for Obtaining Permit Once Filed**

Any permit shall be considered null and void unless all applicable fees have been paid in full within ninety (90) days from the date a permit is approved by the Department of Planning and Development.} **ORD #57-9-98**

**{I. Fees for Renewing Permits**

In the event that a building permit is commenced but not completed in the time frame established by this ordinance, it will be necessary for the applicant to renew the permit at the end of the prescribed time frame. The fee that shall be collected for this renewal shall be equal to 50% of the building fee originally paid for the permit. This fee must be paid prior to the issuance of the renewed permit.} **ORD # 25-5-01**

**J. Appeals**

Any person may appeal any decision of the Director of Planning and Development or anyone acting under his supervision in the enforcement of this Chapter of the Code to the Board of Zoning Appeals of the City of Noblesville.

**Section 3. Certificate of Occupancy****A. Scope**

It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy shall have been issued by the Director of Planning and Development. The certificate of occupancy shall state that the proposed use of the building and/or land conforms to the requirements of this ordinance and that the Director or his representative has inspected the property and attested to that fact.

**B. Application for Certificate of Occupancy**

Applications for Certificates of Occupancy shall be filed in accordance with the requirements of Part A of this Article 4.

**C. Change in Use**

No change shall be made in the use of land, except as provided in this ordinance or the use of any building or part thereof, now or hereafter erected, reconstructed, or structurally altered, without a Certificate of Occupancy having been issued by the Director of Planning and Development; and no such Certificate shall be issued to make such change unless it is in conformity with the provisions of this ordinance.

**D. Change of Occupancy**

No persons, firms, or corporations shall move into or occupy any nonresidential structure or land, new or existing, without first obtaining a Certificate of Occupancy from the Department of Planning and Development.

**E. Completion Time**

{The work or use authorized by any Improvement Location Permit, Conditional Use Permit, Variance Permit, {Building Permit} or other Permit must be commenced within {six (6)} months of the date of issuance of such permit, otherwise the same shall lapse and be and become null and void. All work so authorized shall be completed within twenty-four (24) months from the issuance of the permit therefore, and if for good cause shown, the Director of Planning and Development may extend the work completion time. **ORD. #29-9-11**

**F. Issuance of Certificate of Occupancy**

Certificates of Occupancy may be issued by the Director of Planning and Development within ten (10) days after notification by the applicant that the lawful erection, reconstruction, or structural alteration of such building or other improvement of the land shall have been completed and the finding of the Director that such erection, reconstruction, or structural alteration is complete.

**G. Enforcement**

In case any building, structure, or property is, or is intended to be erected constructed, reconstructed, altered or converted, or any building, structure, or property is, or is intended to be used in violation of, or contrary to the provisions of this ordinance, the Director of Planning and Development is hereby authorized, in addition to other remedies set forth in the Statutes of the State of Indiana and in this ordinance, to institute an action to enjoin, or any other appropriate action or proceeding to prevent such erection, construction, alteration, conversion, or use.

**H. Sewage Disposal**

An application for an Improvement Location Permit for any use shall not be approved until it has been ascertained by the Director of Planning and Development or his/her designee that the proposed use and minimum lot size and width meet the minimum standards for a sewage disposal system as required by the Hamilton County Health Department, the Noblesville Board of Public Works and Safety, other licensed centralized waste collection entities of appropriate jurisdiction, and as otherwise required by this ordinance.

**I. Temporary Certificate of Occupancy**

When the improvement covered by the issued permit has been completed in substantial conformity with the architectural plan, site plan and/or development plan submitted with the application, a Conditional Certificate of Occupancy may then be issued. For Non-residential structures, the Conditional Certificate of Occupancy shall permit the stocking, shelving, furniture installation and similar activities but not the utilization of the building for general public use or the term "Open for Business." For residential structures, a Conditional Certificate of Occupancy does permit the occupying of the structure in most instances. All Conditional Certificates of Occupancy are valid for a period not exceeding thirty (30) days. At the end of the 30-days, all unfinished items shall be completed and re-inspected for total compliance with the issued permit and submitted plans. The Director of Planning and Development may grant a one time extension not exceeding 30 days for unusual or unique circumstances.

**J. {Final Certificate of Occupancy**

For commercial projects, no FINAL Certificate of Occupancy will be issued to occupy the structure until such time the GIS submittal (As-Built Infrastructure), per the Noblesville GIS requirements, has been submitted and approved and all building and site conditions have been inspected and approved as per the issued permit. The above applies to the overall residential subdivision and/or planned development and not individual lots. In addition, for Commercial Projects, the Fire Department GIS submittal of "as-built building plans" per the specifications shall be submitted and accepted.

**K. Records of Certificate of Occupancy**

Every Certificate of Occupancy issued pursuant to this Section 2, Part C shall be kept on file in the Office of the Director of Planning and Development and shall be a public record.} **ORD. #64-11-08**

**{Section 4. Demolition Permits****A. Scope**

A demolition permit shall be obtained prior to a structure being removed and/or destroyed to the ground.

**B. Application for Demolition Permit**

1. Completed application for a building permit.
2. A single copy of a sketch plan drawing (informal) including the general locations of all existing structures on the real estate; highlighting/identifying the structure(s) to be removed.
3. A written statement as to the removal of the demolished materials and the intended use of the area. [The place where the demolished materials are being located (hailed)].
4. A signed copy of the "Demolition Permit Requirements Application" concerning the existing well, septic systems, sanitary sewer, and/or fuel tanks.
5. Written proof of disconnection from utilities such as gas, water, and/or electric.

**C. Application for Demolition Permit for Specific Area**

Application requirements for demolitions within the following described area beginning at the north-south alley between 11<sup>th</sup> and 10<sup>th</sup> Streets north of Clinton Street continuing in a westerly direction to White River, thence south to Conner Street, thence west to 6<sup>th</sup> Street, continuing south along 6<sup>th</sup> Street to an east-west alley south of Maple Street, thence continuing easterly to the north-south alley between 10<sup>th</sup> and 11<sup>th</sup> Streets north of Cherry Street, thence continuing in a northerly direction to the place of beginning. and the adoption of Appendix I.

1. All of the above requirements in Paragraph B shall be met in addition to the following:
  - a. Prior to the issuance of a demolition permit, a minimum 30-day notice shall be given by the Planning Department in a report to the Common Council at its first scheduled meeting following the filing of said demolition application.} **ORD. #76-9-05**

**Section 5. Other Permits Issued by Department of Planning and Development**

Permits or registrations shall be required for the following uses pursuant to the procedures and standards in Article 9, General Provisions:

- A.** Accessory Uses and Structures
- B.** Home Occupations
- C.** Residential Care Homes
- D.** Temporary Uses

**Table 4.0. Administrative Procedures**

	Reviewing Authority	Final Decision Maker	Additional Reviews/Approvals	Appeal of Decision
Site Plan Review	Technical Advisory Committee	Reviewing authority for applicable procedure		* Advisory - no Appeal Necessary
Conditional Uses	* See Site Plan Review	Board of Zoning Appeals		Circuit or Superior Court
Interpretations	Director of Planning and Development	Director of Planning and Development		Board of Zoning Appeals
Appeals Conducted by BZA	Board of Zoning Appeals	Board of Zoning Appeals		Circuit or Superior Court
Zoning Variances	* See Site Plan Review	Board of Zoning Appeals		Circuit or Superior Court
Amendments	Planning Commission	Common Council		Circuit or Superior Court
Improvement Location Permits	* See Site Plan Review	Director of Planning and Development	Board of Public Works/County Commissioners	Board of Zoning Appeals
Certificates of Occupancy	Director of Planning and Development	Director of Planning and Development		Board of Zoning Appeals
Miscellaneous Permits Issued by Director**	Director of Planning and Development	Director of Planning and Development		Board of Zoning Appeals

- Accessory Uses and Structures
- Home Occupations/Child Care Homes
- Residential Care Homes
- Temporary Uses
- Sign Permits