

CHAPTER 813

ZONING ORDINANCE: CONDITIONAL USES

813-1. Regulations for Conditional Uses

The regulations set forth or identified in this chapter are provided to establish procedures, criteria and conditions which shall be met before the Board of Zoning Appeals may approve a conditional use to the terms of this ordinance.

813-2. Application for Conditional Use Approval

A person desiring conditional use approval shall submit a written application for such approval with the Administrator. An application for approval shall:

- (A)** be made on the forms available at the office of the Board and be signed by the owner of the property subject to the conditional use request ("subject property") or by a person who has been authorized to sign the form by the owner. If the form is signed by a person other than the owner, the person must submit written documentation of his/her authority to sign the form (e.g., a letter from the owner which states that the person has been authorized to sign the form);
- (B)** identify the specific conditional use requested;
- (C)** be presented to the Administrator in duplicate;
- (D)** be accompanied by two (2) copies of an area map which shows the location of the subject property, the locations of related public and utility facilities (e.g., schools, sewer, etc.), and the relationship of the subject property to the thoroughfare plans for the area;
- (E)** be accompanied by two (2) copies of a site plan, drawn to an appropriate scale, which shows:
 - (1)** the subject property;
 - (2)** the location of all existing and proposed buildings, structures and improvements to be made to the subject property, including drainage and erosion control facilities and features;
 - (3)** accurate dimensions of the parcel, buildings, parking areas and ingress/egress driveways;
 - (4)** location, owner of record, zoning and use of adjacent properties, including the location, size and use of all structures within fifty (50) feet of the subject property;
 - (5)** location, right-of-way and pavement width of all streets adjacent to the subject property; and
 - (6)** proposed connections to public utilities; and

- (7) landscaping improvements, as required by Chapter 830.
- (F) be accompanied by any other information reasonably required by the Administrator; and,
- (G) be accompanied by the fee established by the Plan Commission.

813-3. Conditional Use Approval Procedure

Applications for conditional use approval shall be considered in accordance with the following procedures.

- (A) Within thirty (30) days after receiving a complete application, the Administrator shall schedule and announce the date and time of the Board's hearing on the application. At the time the hearing is scheduled, the Administrator shall provide the applicant with written notice of the hearing date and time.
- (B) Prior to the Board's hearing on the application, the Administrator shall review the application for compliance with the Zoning Ordinance. Following such review and prior to the hearing, the Administrator shall prepare and provide the Board and the applicant with the Administrator's written comments and recommendation on the application, including the Administrator's opinion as to any effect which the proposed conditional use might have upon the Comprehensive Plan;
- (C) The Board, and its representatives, at its discretion, may visit the subject property at any reasonable time during the review process;
- (D) Notice of the Board's hearing on the application for conditional use approval shall be published in two (2) local newspapers of general circulation at least ten (10) days prior to the hearing, in accordance with IC 5-3-1;
- (E) At least ten (10) days prior to the Board's hearing on the application for conditional use approval, the applicant, in the manner prescribed in the Board's Rules of Procedure, shall notify all interested parties of the public hearing by certified mail. Prior to the hearing, the applicant shall provide the Administrator with certified mail receipts demonstrating that the required notices were delivered or returned as undeliverable;
- (F) At least ten (10) days prior to the Board's hearing on the application for conditional use approval, the applicant shall post and maintain a sign on the subject property notifying those passing the property that a request for conditional use approval for the property has been made. The sign shall be provided to the applicant by the Administrator. The cost of the sign shall be borne by the applicant.
- (G) The Board shall conduct a public hearing on the application for special exception approval in accordance with the Board's Rules of Procedure;
- (H) Following the Board's hearing on the application for conditional use approval, the Board shall take action on the applicant's application. The Board may approve the application, approve the application with conditions, or deny the application.
- (I) The Board shall make written findings of fact in support of its decision. The Administrator shall promptly provide the applicant with a copy of the Board's written

findings.

- (J) If the Board approves the application for conditional use approval, the Administrator may issue the applicant an improvement location permit and/or land use certificate subject to the conditions of conditional use approval and the provisions of the ordinance.
- (K) If the Board denies the application for conditional use approval, the applicant may file an amended application. If the amended application is filed within six (6) months of the Board's denial of the original application, the applicant shall not be charged an application fee.

813-4. Environmental Impact Statement

The Board shall have the authority to require an applicant to perform an environmental impact study of the area in which the use is proposed and to submit the results of the study to the Board.

813-5. Standards for Approval

In order for a conditional use to be approved, the Board must find that:

- (A) the requested conditional use is one of the conditional uses listed in Chapter 813-8 (for the traditional County planning jurisdiction) or Table 33-3 (for the former Fringe) for the zoning district in which the subject property is located. In addition to the other relevant standards imposed by or pursuant to this chapter, the standards, uses and conditions set forth in Section 813-8 are hereby incorporated as standards, uses and conditions of this chapter;
- (B) all conditions, regulations and development standards required in the Zoning Ordinance shall be satisfied;
- (C) granting the conditional use shall not conflict with the general purposes of the Zoning Ordinance or with the goals and objectives the Comprehensive Plan;
- (D) the conditional use property can be served with adequate utilities, access streets, drainage and other necessary facilities;
- (E) the conditional use shall not involve any element or cause any condition that may be dangerous, injurious or noxious to any other property or persons, and shall comply with performance standards delineated in this ordinance;
- (F) the conditional use shall be situated, oriented and landscaped (including buffering) to produce a harmonious relationship of buildings and grounds with adjacent structures, property and uses;
- (G) the conditional use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood;
- (H) the conditional use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and,
- (I) all permits required by other Federal, State and local agencies have been obtained.

813-6. Conditional Approval

All conditional use approvals shall be considered to be conditional approvals. The Board shall have the authority to impose specific conditions as part of its approval in order to protect the public health, and for reasons of safety, comfort and convenience (e.g., to ensure compatibility with surroundings). A conditional use approval may be denied or revoked where the applicant fails to comply with specific conditions made a part of the approval by the Board, or fails to comply with a reasonable request of the Board or the Administrator for furnishing specific information related to the proposed use. Failure to comply with the conditions of approval shall constitute a violation of the Zoning Ordinance.

813-7. Miscellaneous Guidelines

- (A) If there are other valid reasons for denying a conditional use application, the denial may be sustained even if the proposed conditional use use constitutes the highest and best use which can be made of the subject property.
- (B) The Board may not deny a permit solely for the purpose of limiting the number of similar uses in an area. However, the Board may require that reasonable minimum distances be maintained between similar uses as a condition of approval.

813-8. Additional Criteria for Certain Categories of Conditional Use

All conditional uses are subject to the criteria established in Section 813-5. Additional criteria as specified in this section must be met by the following categories of conditional use.

- (A) Wireless Communications Facilities
 - (1) The proposed facility must comply with Chapter 834 of this Zoning Ordinance.
 - (2) The Board shall consider whether a proposed facility minimizes land use impacts by being designed to accommodate future co-location by other users.
 - (3) The Board shall consider the extent to which the WCF has been designed to blend with surroundings and reduce visual impact.

813-9. Conditional Use Approval for Pre-Existing Nonconforming Uses

The Board may grant conditional use status to a pre-existing nonconforming use in accordance with the following procedures and standards.

- (A) An applicant for conditional use approval shall file an application for site plan review, in accordance with Subsections 815-3(A) and (B) of these regulations. The application shall be considered in accordance with the procedures set forth above, in Section 813-3. The Board's final decision on the application must comply with Subsection 815-3(C) (substituting the Board for the Administrator).
- (B) To be eligible for conditional use approval, the applicant must demonstrate and agree to continued compliance with the following standards:

- (1) the proposed conditional use is a pre-existing, nonconforming use (or building or structure);
- (2) the general performance standards set forth in Chapter 802-4 of these regulations; and,
- (3) the use (or building or structure) will not be expanded, enlarged or changed.

813-10.

Specific Criteria for Conditional Use Approvals

- (A) Standards for Conditional Use Permits. No conditional use permit shall be granted pursuant to this Chapter unless the applicant shall establish that the specific standards of Chapter 813-5 for the conditional use have been or shall be met. The proposed use and development shall also comply with any additional standards imposed upon the particular use by Section 813-10(B).
- (B) **Additional Criteria for Certain Categories of Conditional Use in the Former Two-mile Fringe.** All conditional uses are subject to the criteria established in Chapter 813-5 and referenced in 813-10(A) . Additional criteria as specified in this section must be met by the following categories of conditional use:
 - (1) Bed and Breakfast Establishments
 - (a) The operator shall reside on the property;
 - (b) The establishment shall maintain a maximum of three (3) guestrooms;
 - (c) The establishment shall provide one (1) parking space per guest room in addition to the spaces required for the dwelling unit; and
 - (d) The building and its parking facilities shall be designed for compatibility with the surrounding properties.
 - (2) Day Care Centers
 - (a) Proof of licensing or exemption from the State shall be presented with the application;
 - (b) Operator shall be responsible for compliance with all applicable city ordinances and state and federal statutes and regulations;
 - (c) The center shall be screened from adjacent properties with a fence or vegetative buffer, and an adequate fenced play area shall be provided;
 - (d) The minimum lot size shall be 15,000 square feet or the minimum lot size for the district, whichever is greater;
 - (e) Site design and supervision characteristics shall insure that the peace and safety of the surrounding area shall not be impaired; and

(f) No center shall be approved within 500 ft. of another center.

(3) Drive-Through Uses

(a) Structures shall be located so as to minimize impacts on adjacent property and the character of the streetscape;

(b) Design of maneuvering and stacking aisles shall not interfere with circulation or visibility for traffic either on or off site and shall be designed to minimize headlight glare to adjacent property and streets. Applicant shall provide reasonable estimates of peak stack needs and accommodate those needs on the site plan; and

(c) The radius and width of maneuvering areas shall be as required by County Engineer.

(4) Historic Adaptive Reuse

(a) Property shall have been designated Historic or have filed a petition for Historic designation at the time of the application for a conditional use permit;

(b) Proposed use shall not diminish the historic character of the property or, if it is located within an historic district, the historic character of said district;

(c) Proposed use shall enhance the ability to restore and/or preserve the property; and

(d) The granting of the conditional use permit shall be contingent upon any required Certificate of Appropriateness and upon the granting of Historic designation.

(5) Places of Worship

(a) Design of the structure and site shall be compatible with the surrounding area;

(b) Outdoor group activities shall not be allowed after 10 pm; and

(c) Facilities shall have adequate access to collector or arterial streets and traffic shall not travel through a residential neighborhood on local streets.

(6) Rehabilitative Facilities

(a) The design of the site and structure, and the intensity of use and population density shall be compatible with the surrounding area;

(b) Adequate access is provided to a street classified as a collector or arterial; and

(c) Peace and safety of the surrounding area shall not be impaired.

(7) Commercial Uses in Industrial Districts

- (a)** Applicant shall demonstrate to the Board's satisfaction that the proposed use is a retail, restaurant, tavern, gasoline service station or business or consumer-oriented office/service use, and the proposed use will serve primarily the industries of the district in which they are located, and/or their employees;
- (b)** A maximum of 10% of the total area of an industrial property may be occupied by such uses; and
- (c)** Individual retail enterprises shall be limited to a maximum floor area of 3,000 square feet.

(8) Industrial Uses with Potentially Adverse Effects

- (a)** The following uses may be approved as a conditional use:
 - (1)** Petrochemical facilities
 - (2)** Manufacture of chemicals and chemical products
 - (3)** Processing of meat, poultry, or seafood and other agricultural products, solid waste disposal, or transfer facilities
 - (4)** Manufacture of paper products
 - (5)** Manufacture of paving material and concrete block
 - (6)** Motor or bus terminal
 - (7)** Pharmaceuticals other than light manufacturing
 - (8)** Metal fabrication other than light manufacturing
- (b)** Compliance with the Comprehensive Plan and its impact upon development objectives of the plan, including review by the Plan Commission and recommendation to the Board of Zoning Appeals;
- (c)** Proposed use shall not present undue risk of fire, explosion or release of harmful materials;
- (d)** Applicant shall submit data which details the environmental and other effects of proposed use and which quantifies the potential risks in term of noise, dust, odor, traffic, and discharges to the air, ground water, or surface water. Statement shall be certified by a Professional Engineer (PE) and presented to the Board at time of application;
- (e)** The Board may required mitigation measures such as careful arrangement of buildings and uses on the site, a means of reducing

noise and emissions, and may require screening or setbacks greater than normally required in the IG or HI Districts; and

- (f) Board may required post-construction testing or inspection at appropriate times and intervals to insure ongoing compliance with the applicant's representations of impact and any required mitigation measures.

(9) Outdoor Storage Yards which are Accessory to Permitted Principal Uses

- (a) Yards may be set back from side and rear lot lines not less than ½ the setback required for buildings on the lot if such lot lines do not abut residential use or zoning. If adjacent to residential use or zoning, such yards must meet the required building setback; and
- (b) Shall be screened so as to mitigate the appearance and impact of the proposed storage use and its level of activity, in a manner consistent with the purposes of the district.

(10) Fire and Police Stations

- (a) Shall have adequate access to collector or arterial streets; and
- (b) Design of the structure and the site shall be compatible with the surrounding area.

(11) Golf, Swim and Tennis Clubs

- (a) Facilities shall have adequate access to collector or arterial streets and traffic shall not travel through residential neighborhood on local streets; and
- (b) Design and location of any structure and the design of the site shall be such that adjacent properties shall not be subjected to offensive noise, lights, odors, or flying objects.

(12) Convalescent, Nursing or Rest Homes; Auditoriums, and Community and Recreation Centers

- (a) Proposed facility shall be located on a site of minimum 15,000 square feet, or minimum lot size of the district, whichever is greater;
- (b) Adequate access shall be provided to collector or arterial streets and traffic shall not travel through residential neighborhoods on local streets; and
- (c) The design of structure and site, hours of operation, and intensity of use, shall be compatible with the surrounding area.

(13) Cemeteries and Mausoleums

- (a) Shall be located on a site not less than two (2) acres in size;

- (b)** Access to site shall be such that traffic and funeral processions to site will create a minimum of interference with normal traffic operations in the area;
- (c)** The design of the site and any structures shall be compatible with the surrounding area; and
- (d)** All structures shall be set back from any property line a minimum of thirty-five (35) feet and all graves and burial plots shall be set back a minimum of 25 feet from any property line.

(14) Mortuaries and Crematoriums

- (a)** Site of the proposed facility shall be a minimum of 50,000 square feet;
- (b)** Adequate access shall be provided to a street classified collector or arterial and traffic shall not travel through residential neighborhoods on local streets;
- (c)** Design of site and structure shall be compatible with surrounding uses; and
- (d)** Access to proposed site shall be such that traffic and funeral processions will create a minimum of interference with normal traffic operations in the area.

(15) Accessory Gasoline Sales

- (a)** The use shall be accessory to a grocery store having at least 1,500 square feet devoted to food sales. The use shall be limited to one dispensing nozzle for each grade of gasoline offered;
- (b)** Adequate access shall be provided from a collector or arterial street;
- (c)** Pump island shall not eliminate or interfere with required off-street parking spaces or access thereto;
- (d)** Adequate stacking space shall be available at the pump island and shall not interfere with traffic safety on the site or adjacent roadway;
- (e)** Design of site and structure shall be compatible with surrounding area; and
- (f)** Site shall conform to Karst regulations found in Chapter 829.

(16) Correctional Facilities

- (a)** Adequate access is provided to a collector or arterial street;
- (b)** Design of site and structure, and the intensity of use and population density shall be compatible with surrounding area; and

- (c) Site design and supervision characteristics shall insure that the peace and safety of the surrounding area shall not be impaired.

(17) Junk, Wrecking, and Automobile Storage Yards

- (a) Processing of metal salvage shall be permitted only in the IG District. All other waste processing shall take place only within an enclosed building. No processing operation shall be permitted closer than 300 feet from any residential use or district;
- (b) All outdoor storage shall be conducted entirely within an enclosed opaque fence or wall designed to obscure the view from the road and from adjacent properties. Such wall or fence shall be constructed on or inside the front, side, and rear setback lines required within the zoning district and shall be constructed in such a manner that no outdoor storage or salvage operations shall be visible from an adjacent property, street, or highway. Storage, either temporary or permanent, between such fence or wall and any property line is expressly forbidden;
- (c) Front, side, and rear yards shall be landscaped to the Board's satisfaction with appropriate materials. At a minimum such landscaping shall include a D-value 1.5 times that required in the zoning district; and
- (d) A maximum of one (1) access driveway shall be permitted on any single street frontage.

(18) Shared Parking

- (a) No more than fifty (50) percent of the parking spaces required for a building or use may be supplied by parking facilities required for any other building or use;
- (b) Total parking provided shall be sufficient to meet the requirements of the greatest combined peak parking demands. The Board may require such evidence as it deems necessary to establish parking demands;
- (c) The Board shall require the owners of the properties included in the conditional use request to make a written commitment guaranteeing that the parking spaces shall be maintained as stipulated in the approval so long as parking is required for either of the properties or until the required parking is provided elsewhere in accordance with the provisions of this Chapter. Such instrument shall be recorded by the property owners with the County Recorder, and a copy filed with the planning department; and
- (d) The commitment required above may be modified or terminated only by order of the Board.

(19) Off-Site Parking

- (a)** The off-site parking facility is within a reasonable walking distance of said structure or use, in consideration of the use;
- (b)** Such parking facility is located in a zoning district where such parking facilities are allowed as a permitted or conditional use;
- (c)** The Board shall required the owners of the properties included in the conditional use request to make a written commitment guaranteeing that the parking spaces shall be maintained as stipulated in the approval so long as parking is required for the property, or until the required parking is provided elsewhere in accordance with the provisions of this chapter, and prohibiting any other use of the lot which is used for off-site parking. Such instrument shall be recorded by the property owners with the County Recorder, and a copy filed with the planning department; and
- (d)** The commitment required above may be modified or terminated only by order of the Board.

(20) Drive-In Theaters

- (a)** The site must have direct access to an arterial road as identified on the functional street classification map. In addition to the required setbacks from the streets and highways, all yards shall be planted and maintained as a landscaped strip;
- (b)** The theater viewing screen shall not be visible from any public street within 1,500 feet of the screen. In addition, cars parked in the viewing area shall be screened on all sides by a wall, fence, or densely planted evergreen hedge not less than six (6) feet in height;
- (c)** Loading space for patrons waiting for admission to the theater shall be equal to twenty (20) percent of the capacity of the theater. All entrances and exits shall be separated, and internal circulation shall be laid out to provide one-way traffic; and
- (d)** Sale of refreshments shall be limited to patrons of the theater. Amusement parks or kiddylands shall be accessible only to patrons of the theater;
- (e)** All parking areas and access ways shall be adequately lighted; provided, however, that such lighting shall be shielded to prevent any glare or reflection onto a public street or onto neighboring properties; and
- (f)** No central loudspeakers shall be permitted.

(21) Light Manufacturing and Distribution Facilities

- (a)** Architecture and site design shall be compatible with the surroundings and with the purpose of the BP District;

- (b)** Truck parking, loading areas, and outdoor mechanicals of any kind shall be adequately screened in a manner compatible with the surroundings;
 - (c)** The design of the access route to the facility must be suitable for truck traffic; and
 - (d)** Outdoor processes and/or storage are prohibited.
- (22)** Commercial use as principal use in Airport District
- (a)** Applicant shall demonstrate that the proposed retail, restaurant, or business or consumer-oriented uses serve primarily the medical or airport uses in the zoning district and/or their employees;
 - (b)** Individual retail enterprises shall be limited to a maximum floor area of 3,000 square feet.
- (23)** Home Occupations in the Two-Mile Fringe
- (a)** The operator of the home occupation must reside in the dwelling unit. Only one (1) employee who does not reside in the dwelling unit may be permitted, regardless of the number of home occupations in the dwelling unit;
 - (b)** The use must be conducted entirely within the principal residence or attached garage. Outdoor display of materials, good, supplies, or equipment shall be prohibited;
 - (c)** Direct sales and/or rentals of products is prohibited, except for the incidental sale of arts and crafts created on the premises in connection with the home occupation;
 - (d)** Not more than fifteen (15) percent of the total interior floor area of the dwelling unit may be used in connection with the home occupation. However, no home occupation shall be limited to less than 200 square feet nor shall the area of a home occupation exceed 500 square feet;
 - (e)** There shall be no advertising, signs, display, or other indications of a home occupation in the yard, on the exterior of the dwelling unit, or visible from anywhere outside the dwelling unit, except for one (1) sign, attached to the wall of the building, of a maximum size of two (2) square feet;
 - (f)** More than one (1) home occupation may be permitted within an individual dwelling unit, provided all other standards and criteria applicable to home occupations are complied with. All home occupations within the same dwelling unit may cumulatively use no more than fifteen (15) percent or 500 square feet of the dwelling unit; and
 - (g)** An approved home occupation shall be treated as a single family

dwelling unit for purposes of site plan review.

(24) Hotel/Motel in Business Park District

- (a)** Design of the structure and site shall be compatible with the purposes of the BP District.

(25) Off-Premise Sign Relocation

- (a)** The new location is within a CA, IL, or IG District if the new location is on a different zoning lot. No sign shall be relocated so that a sign face is directed toward, or intended to be legible to, a motorist traveling along SR 37;
- (b)** Sign area at the new location shall not exceed the sign area at the previous location, nor shall the height of the sign at the new location exceed thirty-five (35) feet, measured from the base of the sign or from the crown of the road directly in front of the sign, whichever is greater, to the top of the sign;
- (c)** The off-premise sign as relocated shall be at least 300 feet from the nearest off-premise sign, except on limited-access highways, where the distance to the nearest sign shall be 500 feet. Such spacing shall apply to signs on the same side of the road, measured along the roadway between points on the roadway that are nearest to each sign. Spacing provisions shall not apply when signs are separated by obstructions in such manner that the only one sign within the spacing distances is visible from the street at any one time;
- (d)** The relocated off-premise sign shall be subject to a street setback of $\frac{1}{2}$ of the required building setback from the front property line. The relocated off-premise sign shall be subject to the side and rear building setback requirement of the district in which it is being relocated;
- (e)** The relocation promoted the public welfare and tends to balance to preserve and enhance the scenic beauty and aesthetics of the planning jurisdiction, taking into account the location from which the sign is being moved as well as the character of the new location, including but not limited to any landscaping or other amenities proposed for the new location; and
- (f)** An application for conditional use to relocate a sign shall be accompanied by a commitment to the removal of the sign from its existing location by both the owner of the property and of the sign. Each such conditional use approval shall include, as a condition of approval, a stipulation that the previous lawful nonconforming use at the previous location shall be deemed abandoned immediately upon relocation.

(C) Additional Criteria for Certain Categories of Conditional Use in the Standard County Jurisdiction. All conditional uses are subject to the criteria established in Chapter 813-5 and referenced in 813-10(A) . Additional criteria as specified in this section must be met by the following categories of conditional use:

(1) Amphitheater

- (a)** The site must have direct access to an arterial road as identified on the functional street classification map. In addition to the required setbacks from the streets and highways, all yards shall be planted and maintained as a landscaped strip;
- (b)** Cars parked in the viewing area shall be screened on all sides by a wall, fence, or densely planted evergreen hedge not less than six (6) feet in height;
- (c)** Loading space for patrons waiting for admission to the theater shall be equal to twenty (20) percent of the capacity of the theater. All entrances and exits shall be separated, and internal circulation shall be laid out to provide one-way traffic; and
- (d)** Sale of refreshments shall be limited to patrons of the theater. Amusement parks or kiddylands shall be accessible only to patrons of the theater;
- (e)** All parking areas and access ways shall be adequately lighted; provided, however, that such lighting shall be shielded to prevent any glare or reflection onto a public street or onto neighboring properties; and
- (f)** No central loudspeakers shall be permitted.

(2) Boat Storage

- (a)** the required building setbacks shall be applied to all boats stored outside;
- (b)** all boats stored outside of enclosed buildings shall be screened from adjoining properties by a double staggered row of evergreen trees, installed in conformance with Chapter 830, or a 6 ft. high opaque fence or wall; and
- (c)** the retail sales of merchandise, and/or boat repair services shall be prohibited.

(3) Resorts

- (a)** Design of the structure and site shall be compatible with the surrounding area;
- (b)** Outdoor group activities shall not be allowed after 10 pm; and
- (c)** Facilities shall have adequate access to collector or arterial streets

and traffic shall not travel through a residential neighborhood on local streets.

- (4)** Rodeo, Race Track, and Transient Amusement Enterprises
 - (a)** The site must have direct access to an arterial road as identified on the functional street classification map. In addition to the required setbacks from the streets and highways, all yards shall be planted and maintained as a landscaped strip;
 - (b)** Cars parked in the viewing area shall be screened on all sides by a wall, fence, or densely planted evergreen hedge not less than six (6) feet in height;
 - (c)** Loading space for patrons waiting for admission to the theater shall be equal to twenty (20) percent of the capacity of the theater. All entrances and exits shall be separated, and internal circulation shall be laid out to provide one-way traffic;
 - (d)** Sale of refreshments shall be limited to patrons of the theater. Amusement parks or kiddylands shall be accessible only to patrons of the theater;
 - (e)** All parking areas and access ways shall be adequately lighted; provided, however, that such lighting shall be shielded to prevent any glare or reflection onto a public street or onto neighboring properties; and
 - (f)** No central loudspeakers shall be permitted.
- (5)** Indoor and Outdoor Shooting ranges are not permitted as accessory uses in this category.
- (6)** Rock Crushing Establishments, Cement Products, and Paving Materials Central Mixing
 - (a)** Applicant shall submit data that details the anticipated impacts of the proposed use which quantifies at a minimum the potential impacts in terms of vibration, traffic loading. Noise, dust, and discharges to the air, ground, water, or surface water. This data shall be presented to the Board at the time of application.
 - (b)** The Board may require mitigation measures such as the enclosure of plan and silos, arrangement of structures, limitations on the hours of operation, limits on the location of exterior lighting, required haul routes, etc., as means of reducing anticipated impacts of the proposed use.
 - (c)** The Board may require post-construction testing, inspection, and reporting at appropriate times and intervals to insure ongoing compliance with any commitments made by the applicant and any required mitigation measures.

(7) Artisan Crafts

- (a)** All aspects of business operations (manufacture, processing, retail sales, shipping of goods produced) shall take place in the residence or in no more than one accessory structure to the residence. The accessory structure shall not exceed either: a) the gross floor area of the residential structure or, b) 1750 square feet; whichever is greater unless otherwise permitted by the Board of Zoning Appeals;
- (b)** No outdoor storage shall be permitted unless the site plan includes screening deemed sufficient by the Board of Zoning Appeals;
- (c)** For operations in AG/RR, FR, and CR zones, a maximum of eight (8) employees are permitted; in the ER and SR zones, a maximum of four (4) employees are permitted;
- (d)** The owner-artisan must live on site; and
- (e)** Signage shall follow the same provisions of Chapter 807 as a home based business.

(8) Tourist Home or Cabin

- (a)** The Tourist Home or Cabin must have a kitchen, a bathroom, a living/dining room area and must meet or exceed all infrastructure requirements (e.g., septic system, driveway);
- (b)** Use must have legal access via an existing public improvement to one or some of the following tourist and guest attractions:
 - (1)** *Lake Monroe, Lake Lemon and Lake Griffy:*
By adjoining the public property surrounding the lake, having public access within 200 feet of the property line or by right of access through other parcels under the same ownership, excluding easements, as the Tourist Home or Cabin or some combination thereof.
 - (2)** *Morgan-Monroe State Forest or Hoosier National Forest:*
By having public or private access for equestrian or bicycle use or a public access trailhead with parking improvements within 200 feet of the property line or by right of access through other parcels under the same ownership, excluding easements, as the Tourist Home or Cabin or some combination thereof.
 - (3)** *Other public recreational or cultural facilities (e.g. Monroe County Parks and Recreation, City of Bloomington Parks and Recreation, Indiana University, Tibetan Cultural Center, etc.) maintained for the benefit of local, state, national, and international visitors:*
By having public access within 200 feet of the property line or by right of access through other parcels under the

same ownership, excluding easements, as the Tourist Home or Cabin or some combination thereof.

- (c)** Any outdoor pool or spa facilities must meet State and Local Board of Health requirements and must be visually screened from surrounding properties and properly secured with a Power Safety Pool Cover or Enclosure as defined in Indiana Code (675 IAC 20-4-7 – Safety Features; 675 IAC 20-3-9 – Enclosure) standards for a Class C, Semi-Public Pool.
 - (d)** Parking:

 - (1) Parking only on paved or graveled driveways;
 - (2) No parking is allowed on the street or road;
 - (3) One (1) parking space per guest room; and,
 - (4) No parking of any vehicles in any yard or setback area as defined by Chapter 804 of the Zoning Ordinance.
 - (e)** Rules, in a readable size and format, shall be posted outside near the main entrance to the Tourist Home or Cabin and shall include the following:

 - (1) Rules and regulations for ensuring safety and preservation of neighborhood values (e.g., emergency phone numbers; 24 hour contact number for property owner or manager; noise restrictions; solid waste management rules; fishing license rules; etc.);
 - (2) Diagram of property boundary lines; and
 - (3) Diagram of designated parking.
 - (f)** Smoke detectors and a fire extinguisher shall be installed and maintained in working order in all Tourist Homes or Cabins.
 - (g)** All solid waste and refuse shall be removed from the property and properly disposed of prior to a change of occupancy.
 - (h)** No more than two (2) guests per guest room.
- (D)** Effect of Issuance of a Conditional Use Permit. The grant of a conditional use authorizes the use and establishes the terms of use. Conditional uses are also subject to site plan requirements, all necessary permits and approvals, and other applicable requirements. All required permits must be obtained before any grading, construction, or use commences.

- (E)** Expiration of Conditional Use Permit. Any conditional use permit granted by the Board of Zoning Appeals shall expire:
- (1)** In the case of new construction or modifications to an existing structure:
 - (a)** Two (2) years after the date granted by the Board of Zoning Appeals, unless a building permit has been obtained and construction of the structure or structures has commenced; or
 - (b)** At the date of termination established by the Board of Zoning Appeals as a condition or commitment if different from (1) above.
 - (2)** In the case of occupancy of land which does not involve new construction:
 - (a)** Two (2) years after the date granted by the Board of Zoning Appeals, unless an occupancy permit has been obtained and the use has commenced; or
 - (b)** At the date of termination established by the Board of Zoning Appeals as a condition or commitment if different from (1) above.
 - (3)** If an appeal by writ of certiorari is taken from an order granting a conditional use, the time during which such appeal is pending shall not be counted in determining whether a conditional use or order has expired under Subsections (a) or (b) of this Section.
 - (4)** The Board of Zoning Appeals may provide by rule for the granting of extensions of conditional uses.
- (F)** Amendments to Conditional Use Permits. Any modification or intensification of a conditional use that alters the essential character or operation of the use in a way not intended by the Board of Zoning Appeals at the time the conditional use was granted shall require a new conditional use permit. The property owner, use operator, or his authorized representative shall apply for such conditional use permit prior to any modification of the use or property.

The Administrator shall determine in writing whether the proposed modification or intensification represents an alteration in the essential character of the original conditional use as approved. The operator of the conditional use shall provide the Administrator with all the necessary information to render this determination.

The Hearing Officer may hear requests for amendments to a conditional use, if authorized by the Plan Commission.

No use classified as conditional may be conducted without first obtaining a conditional use permit under this chapter, and no such use shall be conducted except in compliance with all applicable provisions of this Zoning Ordinance and with any conditions upon such permit.

[end of chapter]

