

**1.1 TITLE**

These regulations shall be known and cited as the Zoning Ordinance of the Town of Bargersville, Indiana.

**1.2 PURPOSE**

This Ordinance is adopted for the following purposes:

1. To secure adequate light, air, convenience of access, and safety from fire, flood, and other danger;
2. To lessening or avoid congestion in public ways;
3. To promote the public health, safety, comfort, morals, convenience, and general welfare.

This Ordinance is intended to encourage the growth and development of the Town in accordance with the Comprehensive Plan for the Town of Bargersville. The Comprehensive Plan and all amendments thereto are incorporated herein by reference with copies of the same maintained in the Office of the Clerk-Treasurer and the Bargersville Planning Department being open for public inspection during regular business hours.

**1.3 JURISDICTION**

This Ordinance shall apply to all lands within the corporate limits of the Town and the two-mile territorial jurisdiction of the Town of Bargersville, Indiana, unless otherwise specified.

**1.4 INTERPRETATION**

The provisions of this Ordinance shall be held as the minimum requirements for the protection of the health, safety, comfort, morals, convenience, and general welfare of the people at large, and are designed to encourage the establishment and maintenance of reasonable community standards for the physical environment.

**1.5 APPLICATION**

It is not intended by this Ordinance to interfere with, abrogate or amend any existing easements, covenants, or other agreements between parties, nor is it intended by this Ordinance to repeal, abrogate, annul, or in any way interfere with any existing provisions of laws or ordinances (other than previous zoning ordinances), or any rules, regulations, or permits previously adopted or issued pursuant to law relating to the use of building or premises provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises than is imposed or required by such existing provisions of law or by such rules, regulations, agreements, covenants, or permits, the provisions of this Ordinance shall control; but where private covenants, permits, agreements, rules or regulations impose a greater restriction than is imposed by this Ordinance, the greater restriction shall control.

**1.6 SAVING PROVISION**

This Ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing zoning regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue.

**1.7 COMPLIANCE**

No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, or enlarged; nor shall any structure or land be used, unless in full compliance with all provisions of this Ordinance and under the lawful issue of all permits and certificates required by this Ordinance.

**1.8 SEVERABILITY**

If any provision of this Ordinance is held unconstitutional or invalid by the courts, the remainder of the Ordinance shall not be affected.

**1.9 REPEALER**

This Ordinance repeals all prior zoning ordinances and zoning maps.

**1.10 AMENDMENTS**

In accordance with I.C. 36-7-4-602, the legislative body may amend or partially repeal the text of this Ordinance or they may amend the zoning maps of this Ordinance as follows:

- A. The legislative body or the Plan Commission may initiate a proposal to amend or partially repeal the text according to the procedure of I.C. 36-7-4-602(b) and I.C. 36-7-4-607 and according to the Commission Rules and Procedures.
  
- B. The legislative body, Plan Commission, or at least fifty percent of the affected property owners may initiate a petition to change the zoning maps according to the procedure of I.C. 36-7-4-602(c) and I.C. 36-7-4-608 and according to the Commission Rules and Procedures.
  
- C. In its review of the text and zoning map amendments, the legislative body and the Plan Commission shall pay reasonable regard to:
  - 1. The most recently adopted Comprehensive Plan.
  - 2. The current conditions and the character of structures and uses in each district.
  - 3. The most desirable use for which the land in each district is adapted.
  - 4. The conservation of property values throughout the jurisdiction.
  - 5. Responsible development and growth.

**1.11 ENFORCEMENT, VIOLATION, AND PENALTIES**

- A. It shall be the duty of the Administrator to enforce these regulations and to bring any violations or lack of compliance to the attention of the Town Attorney who may file a complaint against the person and prosecute the alleged violation.
  
- B. Any person may, by suit in a circuit or superior court of the county, enjoin the violation of this Ordinance.
  
- C. The Board of Zoning Appeals, by mandatory injunction in a court of competent jurisdiction of the county against the owner or possessor of the real estate, may require the removal of a structure

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erected in violation of this Ordinance, or the removal of any use or condition permitted in violation of this Ordinance.

- D. A use that violates this Ordinance shall be treated as if it were a common nuisance, and the owner or possessor of the structure, land, or premises upon which the use is maintained shall be liable for such nuisance.
- E. Any person whether owner or possessor, who shall violate, or who permits or allows a violation, of any of the provisions of this Ordinance, or who fails to comply therewith or with any requirements thereunder, or who shall build, reconstruct, or structurally alter any building in violation of any detailed statement or plan submitted upon which an approval or grant is given under this Ordinance, shall upon complaint filed in any court of the county and upon judgment finding such violation, be fined not less than Twenty-five dollars (\$25.00) and not more than Five Hundred dollars (\$500.00), and each day that such violation or noncompliance shall be permitted to exist, shall constitute a separate violation.
- F. No Improvement Location Permit or Building Permit required under the Uniform Building Code or this Ordinance shall be issued on any property subject to this Ordinance in violation of the provisions of this Ordinance.
- G. Notwithstanding anything contained in this Ordinance to the contrary or appearing to be to the contrary, and in addition and supplementary to other provisions of this Ordinance, if the Board of Zoning Appeals or the Town is required to utilize the services of the Town Attorney or any other attorney in investigating a possible violation of this ordinance or enforcing the provisions of this Ordinance pursuant to Section I.11C, I.11D, or I.11E, or any other Section, before any board or court (including appeals), and such investigation results in a determination that a violation has occurred or if the Board of Zoning Appeals or Town is successful in its enforcement of the Ordinance by way of suit, appeal or other appropriate proceeding, the respondent, defendant, or party investigated for a violation shall pay the Town's reasonable attorney fees and all costs related to the investigation of the violation and/or the enforcement of this Ordinance, unless such attorney fees or costs are specifically waived by the Bargersville Town Council.
- H. As to any appeal from a decision of the Board of Zoning Appeals, costs may not be allowed against the Board of Zoning Appeals

unless it appears to the court that the Board acted with gross negligence or in bad faith in making the decision brought up for review.

- I. The Administrator, his staff, or any person or persons assisting the Administrator in the application and enforcement of this Ordinance is hereby authorized to go onto private property for the purpose of conducting inspections required by the Ordinance or any order of the Plan Commission and/or Board of Zoning Appeals, or required to determine if this Ordinance is being violated, or required to enforce this Ordinance. Such inspection or inspections shall occur at reasonable times and shall be conducted in a manner not to disturb the peace.

**1.12 ADMINISTRATIVE OFFICER**

The Bargersville Plan Commission's appointed Administrator shall have the principal responsibility for implementation and enforcement of this Ordinance.