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10.1 IMPROVEMENT LOCATION PERMIT

A. Permits Required

No building or other structure shall be erected, moved, added to, or structurally altered without an Improvement Location Permit issued by the Administrator in accordance with Commission policies and procedures. No Improvement Location Permit shall be issued by the Administrator except in conformity with the provisions of this Ordinance, unless by written order from the Board of Zoning Appeals in the form of an administrative appeal review, special exception, or variance as provided by this Ordinance.

B. Application for an Improvement Location Permit

All applications for Improvement Location Permits shall be accompanied by plans accurately drawn, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Plan Commission or its staff to determine conformance with and provide for the enforcement of this Ordinance including: existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and building setback distances from property lines. The department shall endeavor to review, and make a determination on all permit applications within three (3) working days of filing. The review period may extend beyond that time where circumstances require additional review. The approved plans shall be retained by the Commission.

C. Expiration of Permits

1. **Initiation of Work:**
If the work described in any Improvement Location Permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the Commission or Administrator, and written notice thereof shall be given to the persons affected.
2. **Completion of Work:**

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If the work described in any Improvement Location Permit has not been completed within eighteen (18) months of the date of issuance thereof, said permit shall expire and be cancelled by the Commission or Administrator and written notice thereof shall be given to the persons affected, together with notice that future work as described in the cancelled permit shall not proceed unless and until a new Improvement Location Permit has been obtained.

D. Construction According to Plans

Improvement Location Permits issued on the basis of plans and applications approved by the Commission or its staff authorize only the use, arrangement, and construction set forth in such approved plans and applications; and any other use, arrangement, or construction not authorized shall be deemed as a violation of this Ordinance.

E. Schedule of Permits

The Town of Bargersville hereby requires that an Improvement Location Permit be obtained for the following:

1. All residential dwellings
2. Mini-barns (without foundation)
3. Other detached residential accessory buildings (with foundation)
4. Detached and attached garages and carports
5. Signs
6. Swimming pools
7. All commercial, industrial, and institutional buildings
8. Structures other than buildings (including satellite dishes, towers, antennas)
9. Conversions of occupancy classification (as per State Building Code)
10. Manufactured or mobile homes
11. Parking lots
12. Any exterior construction that adds to or alters the existing host structure
13. Awnings

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F. Schedule of Petition

1. The Town of Bargersville hereby requires that a formal petition and filing fee be submitted for the following:
 - Zoning Amendments (zoning map change)
 - Variances (dimensional or use)
 - Special Exceptions
 - Subdivision Plats
 - Administrative Appeals
 - Non-Subdivided Site Development Plans
2. Any petition submitted to the Plan Commission or the Board of Zoning Appeals shall contain, in addition to the legal description of said property, a statement of the common address or general location description, whichever is appropriate, as well as a site location map showing the precise boundary lines and dimensions thereof.

10.2 CERTIFICATE OF OCCUPANCY

- A. It shall hereby be declared unlawful and in violation of the provisions of this Ordinance for any builder or property owner to allow any structure (for which an Improvement Location Permit has been legally obtained) to become occupied or utilized prior to the following:
 1. Passing a final inspection; and
 2. Receiving an Occupancy Permit from the Town of Bargersville
- B. For the purpose of this paragraph, the term “builder” shall mean the person or firm who obtained the Improvement Location Permit.
- C. The penalty for such a violation shall be as provided in Section 10.7 of this Ordinance.

10.3 SPECIAL EXCEPTIONS

- A. There shall be no cases or application therefor, nor any particular situation in which this Ordinance authorizes special exceptions without approval of the Board of Zoning Appeals. Further, no

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previous applications shall set a precedent for any other application before the Board of Zoning Appeals.

- B.** The Board may grant a special exception for a use in a district if, after a hearing, it makes findings of facts in writing, that:

 - 1. The requirements and development standards for the requested use as prescribed by this Ordinance will be met; and
 - 2. Granting the exception will not subvert the general purposes served by this Ordinance and will not, because of traffic generation, placement of outdoor lighting, noise production or hours of operation, materially and/or permanently injure other property or uses in the same district and vicinity.

- C.** The Board may impose such reasonable conditions upon its approval, as it deems necessary to find that (2) above will be served.

- D.** The Board may permit or require the owner of the parcel of property to make a written commitment concerning the use or development of the parcel as specified under I.C. 36-7-4-921.

- E.** The granting of a special exception is unnecessary for a use if that use existed on the date this Ordinance, or pertinent amendments to it, were passed. However, this subsection shall not authorize the expansion of such a use if it involves the enlargement of a building, structure, or land area.

- F.** A use authorized by special exception may not be expanded, extended, or enlarged unless reauthorized by the Board under the procedures set forth in this Ordinance for granting a special exception.

- G.** A special exception, granted for a specific use ceases to be authorized and is void if that use is not established within a twelve-month period of the date the special exception was granted, or if that use is discontinued at that site for a twelve-month period during which time it is not succeeded by the same use specifically authorized as a special exception.

- H.** A special exception may be terminated by the Board of Zoning Appeals, upon filing of an application therefor by an interested person or a member of the staff, or Administrator, and upon a

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finding at a public hearing, with notice to the property owner, that the terms of this Ordinance, or conditions of approval or commitments have not been complied with.

- I. To be eligible for the granting of a special exception under this section, a person must first receive a determination from the Administrator that a special exception is required for the intended use or for the expansion, extension, or enlargement of a use. The Administrator shall file a report of determination (in a form prescribed by the Board) with the Commission. The Commission shall determine how the granting of the special exception would affect the purposes served by this Ordinance in furtherance of the Comprehensive Plan. Within thirty (30) days of the date on which it received the application, the Commission shall report its determination to the Board, for action by it as authorized. If the Board grants the special exception, it shall direct the applicant to apply for an Improvement Location Permit. If such application complies with this Ordinance and all other applicable codes or ordinances, the Administrator shall issue the Improvement Location Permit for the use authorized by special exception.

10.4 DEVELOPMENT STANDARD VARIANCES

- A. The Board may grant a variance from the development standards (such as height, bulk, area) of the Zoning Ordinance if, after a public hearing, it makes findings of facts in writing, that:
 - 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and
 - 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
 - 3. The strict application of the terms of this Ordinance will result in a Practical Difficulty. This situation shall not be self-imposed, nor be based on a perceived reduction of or restriction on economic gain.

- B. To be eligible for the granting of a variance under this section, a person must first receive a determination from the Administrator that a variance is required for the intended use or for the expansion, extension, or enlargement of a use. The Administrator shall file a report of determination (in a form prescribed by the Board) with the Commission. The Commission shall determine how the granting of the variance would affect the purposes served

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by this Ordinance in furtherance of the Comprehensive Plan. Within thirty (30) days of the date on which it received the application, the Commission shall report its determination to the Board, for action by it as authorized. If the Board grants the variance, it shall direct the applicant to apply for an Improvement Location Permit. If such application complies with this Ordinance and all other applicable codes or ordinances, the Administrator shall issue the Improvement Location Permit for the use authorized by variance.

- C. A Board may permit or require the owner of a parcel of property to make written commitment concerning the use or development of that parcel or may impose conditions upon that grant of variance.
- D. A variance granted by a Board shall run with the parcel until such time as: (1) the use of the variance ends, or (2) the property conforms with the Ordinance as written.
- E. Where an owner has failed to comply with any condition and/or commitment permitted or required by the grant of variance, the Board may authorize such action as it may deem appropriate to obtain compliance by the owner with the condition or commitment of the grant, or with the terms of this Ordinance in the same manner as if the variance had not been granted.

10.5 USE VARIANCES

- A. The Board may grant a use variance from the terms of the Zoning Ordinance if, after a public hearing, it makes findings of facts in writing, that:
 - 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and
 - 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
 - 3. The need for the variance arises from some condition peculiar to the property involved; and
 - 4. The strict application of the terms of this Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
 - 5. The approval does not interfere substantially with the comprehensive plan adopted under the 500 series of this chapter.

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- B. The Board may impose reasonable conditions as part of its approval.
- C. The Board may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel or may impose conditions upon that grant of variance.
- D. A variance granted by a Board shall run with the parcel until such time as: (1) the use of the variance ends, or (2) the property conforms with the Ordinance as written.
- E. Where an owner has failed to comply with any condition and/or commitment permitted or required by the grant of variance, the Board may authorize such action as it may deem appropriate to obtain compliance by the owner with the condition or commitment of the grant, or with the terms of this Ordinance in the same manner as if the variance had not been granted.

10.6 SCHEDULE OF FEES

- A. The Plan Commission shall maintain the official schedule of fees, charges, and expenses and a collection procedure for permits, appeals, and other petitions pertaining to this ordinance. The schedule of fees shall be available to the public in the office of the Clerk-Treasurer and may be altered or amended only by resolution of the Town Council.
- B. Until all applicable fees, charges, and expenses have been paid in full, no final action shall be taken on any permit application, appeal, or petition.
- C. Any person or persons who shall initiate construction of a structure prior to obtaining an Improvement Location Permit or any other required permit shall pay twice the amount of the current permit fee as established by the Town Council.

10.7 ENFORCEMENT AND PENALTIES

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- A. Any person may, by suit in a circuit or superior court of the county, enjoin the violation of this Ordinance.
- B. The Board of Zoning Appeals, by mandatory injunction in the circuit court of the county against the owner or possessor of the real estate, may require the removal of a structure erected in violation of this Ordinance or the removal of any use or condition in violation of this Ordinance.
- C. A use that violates this Ordinance or duly made commitment 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.
- D. 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 duly made commitment, 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 exists shall constitute a separate violation.

10.8 EFFECT ON ANNEXATION OR VACATION OR ZONING

- A. After the effective date of this Ordinance, territory which may hereafter be annexed to the Town of Bargasville shall be zoned as provided in the annexation ordinance. In determining the zoning to be provided in the annexation ordinance, the Town Council shall give due regard to all relevant factors, including but not limited to any change requested in a petition for annexation, the current use of the territory to be annexed, the current uses and probable future uses of territory adjacent and/or near to the territory to be annexed, and the comprehensive plan.
- B. Whenever any street, alley, public way, railroad right-of-way, waterway, or other similar area is vacated by proper authority, the districts adjoining each side of the street, alley, public way, railroad right-of-way, or similar areas shall be extended

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automatically to the center of the vacation and all areas included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts. In the event of a partial vacation, the adjoining district, or district nearest the portion vacated, shall be extended automatically to include all of the vacated area.

10.9 EXCLUSION

- A.** Nothing in this Ordinance or in any rules, regulations or orders issued pursuant to this Ordinance shall be deemed to restrict or regulate or to authorize any unit of government, legislative body, plan commission or Board of Zoning Appeals now or hereafter established, to restrict or regulate the exercise of the power of eminent domain by the State of Indiana or by any state agency, or the use of property owner or occupied by the State of Indiana or any state agency. As used in this section, the term “state agency” shall mean and include all agencies, boards, commissions, departments, and institutions, including state educational institutions of the State of Indiana.