

**CHAPTER III:**

**PROCEDURES**



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## III.I GENERAL PROCEDURES

### A. GENERAL

1. Table III-2, the Review Process Chart, establishes the required review steps applicable to different forms of approval which may be requested by the applicant. Applicants should refer to the chart to determine which one (1) or more "APPROVAL REQUESTED" under the left-hand column of the chart applies to their proposed development. The required stages of review for each approval are shown on the lines to the right. Submission requirements and the specific review process for each stage are set out in detail in the balance of this Chapter under the appropriate headings. Unless otherwise indicated, amendment or modification of a prior approval follows the procedure for review of the original application.
2. In the event the Area Planning Commission, the appropriate Board of Zoning Appeals or department with authority under this Section recommends denial of an application at any stage, the applicant may choose to proceed to the next stage of review or may resubmit the application at the first stage. In the event the review stage is before an elected body, the application may not be further processed for one (1) year following a denial. If, in the opinion of the Director or Zoning Administer a submittal at any stage of review is incomplete, the matter shall be removed from the agenda and not further processed until deemed complete.
3. At any stage of review of any application the Planning Commission, the appropriate Board of Zoning Appeals, an elected body or Director may require at the applicant's expense the submission of any plan, study, survey, or other information in addition to that specified in this Chapter, as such body or individual may determine necessary to enable it to review and act upon the application or in order to determine whether the application complies with the requirements of this Chapter.
4. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday or legal holiday. If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.



## B. APPLICATION PROCEDURES

1. All petitions for a land use change shall be submitted on forms provided by the Department.
2. An application will only be considered complete if it is submitted in the required form and number, including all required information and the applicable fee. If an application is determined to be incomplete, the Department shall provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected. If the applicant does not correct the deficiencies within thirty (30) days from receipt of the notice, the application shall be considered withdrawn, and the application shall be returned to the applicant.

## C. FEES

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters will be charged to applicant for permits, plat approvals, zoning amendments, variances, and other administrative relief. The fee schedule will be adopted periodically by the elected body of the applicable jurisdiction and is available from the Department. In addition to the application fee, outside consulting fees may be required. In the event the Area Plan Commission, the appropriate Board of Zoning Appeals or department with authority under this Section determines that it is in need of additional technical expertise in order to conduct a competent analysis of the application, the Department shall be authorized to engage the services of a qualified consultant. These services shall be provided at the applicant's expense. It is anticipated that a determination on whether to use outside consulting services for the review of an application will be made during the pre-application meeting.

## D. PRE-APPLICATION MEETING

All applicants shall schedule and attend a pre-application meeting with a member of the Department before submitting an application. The purpose of the pre-application meeting is to inform the applicant of the applicable procedures, submittal requirements, development standards, and other pertinent matter before the applicant finalizes the proposal. If a formal permit application is not submitted within one hundred eighty (180) days of the pre-application meeting, a new pre-application meeting must be scheduled before the formal application will be accepted.

## E. REVIEW BY ADMINISTRATIVE STAFF/TAC

1. The Department shall review each application pursuant to established review criteria. Based upon the Department's review and based upon the comments received from the review agencies, the Department shall provide a report, with a



recommendation for action, to the appropriate decision-making body. If requested by either the applicant or the Department, submittals shall proceed to a work session(s) with the Planning Commission. Following the work session(s), and the submittal of any additional information or materials that may be required, the Department shall schedule either a formal public meeting or hearing as detailed in Section III.I.G, Review by Area Planning Commission.

2. If the Director or Zoning Administrator determines improvements are required, the Technical Advisory Committee may examine the application to determine if the proposed improvements meet the requirements of this Chapter. The Technical Advisory Committee shall report its findings to the Director and Zoning Administrator within thirty (30) days from their receipt of an application and before a date can be set for a public hearing.

## F. REVIEW BY REFERRAL AGENCY

1. Based upon the specific nature of the application, the Department shall distribute a copy of a completed application to other reviewers, such as other County or City departments, and outside review agencies. The applicable reviewing agencies will have up to twenty-one (21) days to respond. The express purpose of this distribution is to solicit review comments and to ensure that the proposal complies with all applicable development standards and requirements. Outside review agencies can include, but are not limited to, the following:
  - a. Each county and/or municipality within a two (2) mile radius of any portion of the proposed development.
  - b. The school district.
  - c. Any utility (such as, but not limited to, electric, gas, and telephone companies), local improvement and service district, or ditch authority.
  - d. The local Natural Resource Conservation Service office for explicit review and recommendations regarding soil suitability, flooding problems, and watershed protection.
  - e. The Indiana Department of Environmental Management and the appropriate wastewater treatment utility, when applicable, for their review of any on-lot sewage disposal adequacy and for review of the adequacy of existing or proposed sewage treatment works to handle the estimated volume of sewage.
  - f. Other county, city, and town offices as appropriate.
  - g. Other referral agencies and potentially affected parties as the Director may, in the exercise of reasonable discretion, determine to be reasonable



and appropriate in order to provide the Area Planning Commission with adequate information.

2. Each review agency shall return its recommendations to the Department in accordance with state statutes unless a necessary extension of not more than thirty (30) days has been consented to by the applicant. The failure of any agency to respond within the allocated time or within the period of an extension shall, for the purpose of the hearing on the plan, be deemed approval of such application. Final submission application materials shall, unless the Director deems otherwise, be submitted for review only to those referral agencies expressing concerns or making negative recommendations at the general submission stage of review. Any improvements, such as roads or upgrading of existing roads, utilities, etc., or improvements required by the reviewing agencies shall be the responsibility of the applicant.

## G. REVIEW BY AREA PLANNING COMMISSION

The Area Planning Commission shall conduct either a public meeting or public hearing on an application, as appropriate. The Area Planning Commission shall consider the application, the relevant support materials, the recommendation of the Department, the recommendations of the outside review agencies, and public testimony. The Area Planning Commission, by a majority vote, shall recommend either approval, approval with conditions, or denial of the application. The Area Planning Commission may also table the request to a future meeting date.

## H. REVIEW BY COUNTY COMMISSIONERS

The Board of County Commissioners shall conduct either a public meeting or public hearing on an application, as appropriate. After receipt of the recommendations from the Department and the Area Planning Commission, the Board of County Commissioners shall consider the application, the relevant support materials, the recommendations of the outside review agencies, and the public testimony. The Board of County Commissioners, by a majority vote of the total membership, shall approve, approve with conditions, table to a future meeting date, or deny the application.

## I. REVIEW BY CITY COUNCIL

The City Council shall conduct either a public meeting or public hearing on an application, as appropriate. After receipt of the recommendations from the Department and the Area Planning Commission, the City Council shall consider the application, the relevant support materials, the recommendations of the outside review agencies, and the public testimony. The City Council, by a majority vote of the total membership, shall approve, approve with conditions, table to a future meeting date, or deny the application.



## J. REVIEW BY TOWN BOARDS

The Town Board of each applicable jurisdiction shall conduct either a public meeting or public hearing on an application, as appropriate. After receipt of the recommendations from the Department and the Area Planning Commission, the Town Board shall consider the application, the relevant support materials, the recommendations of the outside review agencies, and the public testimony. The Town Board, by a majority vote of the total membership, shall approve, approve with conditions, table to a future meeting date, or deny the application.

## K. REVIEW BY THE APPROPRIATE BOARD OF ZONING APPEALS

The appropriate Board of Zoning Appeals shall hear all applications for variances to this Chapter and appeals presented to it for review. The appropriate Board of Zoning Appeals shall hold a public hearing and grant or deny variances from the provisions of this Chapter based on the powers set forth in this Chapter.

## L. EXPIRATION OF APPROVAL

1. Unless otherwise specifically provided in this Chapter, any preliminary or final approval shall expire and become null and void if:
  - a. For sketch plan or preliminary approvals, an application for final approval is not filed within two (2) years of such approval, or a one-time, one (1) year extension of such original approval has not been approved by the Area Planning Commission; or
  - b. For final approvals, a building permit is not issued for the work authorized within one (1) year from the date of final approval, or if a one-time, one (1) year extension of such original approval has not been approved by the Area Planning Commission; or if the work is ceased for a period of one hundred eighty (180) days or more at any time after work is commenced.
2. For final approval of a rezoning, planned unit development, or conditional use permit, a public hearing before the Area Planning Commission, appropriate Board of Zoning Appeals or appropriate elected officials, in the manner required for final review shall be held to confirm whether the zoning and/or permitted use of the property shall revert to that in place prior to the (expired) approval, or whether a one-time, one (1) year extension of such original approval may be granted.
3. After approval has expired, no work shall be commenced until the developer has received new approval pursuant to the procedures set forth in this Chapter.
4. Any issued building permit shall expire if the work authorized is not commenced within one year from the date of issuance or in accordance with provisions in the Building and Construction Rules of the appropriate jurisdiction.



## M. PUBLIC NOTICE REQUIREMENTS

1. The requirements of this Section apply only to public hearings required by this Chapter and as shown on the Review Process Chart. If a public meeting (in contrast to a public hearing) is required, this Section does not apply.
  - a. **Published Notice.** For a land use change which requires published notice, the Director shall publish in the legal section of a newspaper of general circulation within the County a notice of such public hearing at least ten (10) days prior to any public hearing. The notice shall specify the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel under consideration, by both address and legal description.
  - b. **Mailed Notice.** The notice shall include a vicinity map, a short narrative describing the application, and an announcement of the date, time and location of the scheduled hearing. The notice shall specify the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel under consideration by address or approximate address. Failure of a property owner to receive a mailed notice will not necessitate the delay of a hearing and shall not be regarded as constituting inadequate notice. At least ten (10) days prior to any public hearing which requires notification by letter, the Director shall cause to be sent, by first class U. S. mail, a letter to:
    - i. Owners of unincorporated property whose land abuts the subject property, is within five hundred feet (500') of the subject property, or is separated from the subject property only by a public right-of-way or water course; and
    - ii. Owners of incorporated property whose land abuts the subject property, is within three hundred feet (300') of the subject property, or is separated from the subject property only by a public right-of-way or water course; and
    - iii. Owners of property included within the application.
  - c. **Public Notice Time Requirements.** Unless otherwise provided in this Chapter, public notice time requirements include the day the notice appears in the newspaper, is mailed, is received by a recipient, and is the day of the public hearing.
  - d. **Public Notice Requirements Chart.** Table III-1 identifies the notice required for each requested approval:





**Table III-1: Public Notice Requirements**

<b>Approval Requested</b>	<b>Notice Required</b>	
	<b>Publish</b>	<b>Mail</b>
Conditional Use Permit	X	X
Preliminary PUD	X	X
Final PUD	X	
Rezoning	X	X
Subdivision Preliminary Plat	X	X
Subdivision Final Plat	X	
Subdivision Vacation	X	
Subdivision Exemption	X	
Variance	X	X



## III.II VARIANCES

### A. QUALIFICATION FOR VARIANCE

Variations may be granted from portions of this Ordinance in which the applicant can clearly demonstrate that because of peculiar conditions, the literal enforcement of one or more of these regulations is impractical or will exact undue hardship. Such variations shall be heard by the appropriate Board of Zoning Appeals, and action taken which shall be consistent with Section III.I.K of this Chapter and shall not be detrimental to the general welfare of the county, city, towns, or their residents.

### B. SUBMITTAL REQUIREMENTS

The applicant shall submit, on forms provided by the Department, a completed application for a variance. Payment of the non-refundable application fee and all required supplemental data must be made to the appropriate jurisdiction.

### C. REVIEW PROCEDURE

1. The Department shall prepare a written report and present it to the appropriate Board of Zoning Appeals. The report shall address the variance request as it relates to compliance or non-compliance with the standards for the grant of denial of variations in this Chapter.
2. The appropriate Board of Zoning Appeals shall approve, continue, or disapprove the variance request at the public hearing.
3. Appeals to a BZA decision shall be in accordance with the procedure set forth in this Chapter.



## III.III PERMITS REQUIRED

### A. IMPROVEMENT LOCATION PERMIT

1. No building, structure, improvement, or use of land may be altered, changed, placed, erected, repaired, or located on platted or unplatted lands, unless the building, structure, improvement, or use and its location conform to the provisions of this Chapter and an Improvement Location Permit has been issued.
2. An Improvement Location Permit shall be valid for:
  - a. Six (6) months after date of issuance; or
  - b. The length of any required building permit, if such building permit is obtained for the building, structure, or improvement covered by the Improvement Location Permit within six (6) months after the date of issuance of the Improvement Location Permit; or
  - c. The Director or Zoning Administrator shall have the power to extend the period of validity of any Improvement Location Permit one or more times, provided, however, the total time period of all extension (s) shall not exceed six (6) months.
3. The Director or Zoning Administrator may take up to five (5) business days to review an application for an Improvement Location Permit. During such five (5) business day period, the Director may consult with appropriate technical consultants. If, after such five (5) day period, the Director or Zoning Administrator has not requested any additional information or stated any objections in writing to the applicant, and the proposed building, structure, or improvement, and the proposed use conform in all respects to the provisions of this Chapter, the Director or Zoning Administrator shall issue the Improvement Location Permit.
4. Any determination by the Director or Zoning Administrator concerning the issuance of a Improvement Location Permit may be appealed to the appropriate Board of Zoning Appeals by any person claiming to be adversely affected by that decision.
5. A record of all Improvement Location Permits shall be kept on file in the Department and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected and shall be available for public inspection and copying as provided by applicable State law.
6. The issuance of an Improvement Location Permit cannot substitute for or supersede the requirement of any local ordinance which requires the issuance of a building permit before the construction of any building or structure. The



issuance of an Improvement Location Permit does not waive any requirement of any applicable Federal, State or local law, ordinance, rule, or regulation.

7. When a developer of any building, structure, or improvement for which an Improvement Location Permit has been obtained, for any reason, proposes that the construction of said building, structure, or improvement deviate from the plans filed with the Improvement Location Permit application and approved by the Director or Zoning Administrator, the developer shall make application for an Amended Improvement Location Permit. The Director or Zoning Administrator shall review the application for the Amended Improvement Location Permit in accordance with the procedures set forth in this Section to determine compliance of the Amended Improvement Location Permit application with the provisions of this Chapter and any other applicable conditions, covenants, or restrictions. If such Amended Improvement Location Permit application is found to be Complaint, the Director or Zoning Administrator shall issue an Amended Improvement Location Permit. Any determination by the Director or Zoning Administrator with respect to an Amended Improvement Location Permit shall be subject to the same appeal rights and procedures as set forth above for an initial application for an Improvement Location Permit.
8. Notwithstanding anything contained in this Section to the contrary, no Improvement Location Permit shall be required for minor repairs or alterations to buildings, structures, or improvements where:
  - a. No additional living area or useable space is created; and
  - b. All applicable zoning district front, side, and rear yard setbacks are compliant.
9. Farm structures constructed in the normal course of agricultural business for the support of individual farms are not subject to requirements for an Improvement Location Permit.
10. When an Improvement Location Permit is required by this Chapter, an application for an Improvement Location Permit shall be filed with the Director or Zoning Administrator. Said application shall be on a form prescribed by the Department and accompanied by a site plan consistent with the requirements set forth below:
  - a. A site plan drawn to scale of not more than 1 inch = 100 feet showing:
    - i. The actual shape and dimensions of the lot;
    - ii. The exact size and location of the lot;
    - iii. The principal and accessory buildings and structures, currently existing and proposed to be built;



- iv. The area of the existing and proposed buildings, structures, or improvements;
  - v. The building lines in relation to lot lines for the existing and proposed buildings, structures, or improvements;
  - vi. The number of stories or the height of the existing and proposed buildings, structures, or improvements;
  - vii. The number of dwelling units (if applicable) of existing and proposed buildings or structures;
  - viii. The current and proposed use to be made of the buildings, structures, improvements, or lands;
  - ix. The location of streets, alleys, thoroughfares, public ways, water ways, or railroad right-of-ways abutting or within the lot;
  - x. The location and dimensions of all off-street parking and off-street loading facilities;
  - xi. The location and dimensions of all screening and buffering devices; and
  - xii. All other information required by the Director or Zoning Administrator for the proper administration and enforcement of this Chapter, including but not limited to storm water drainage and erosion control.
- b. The site plan shall be attached to the application for an Improvement Location Permit when such application is submitted to the Director or Zoning Administrator and shall be retained by the Department as a public record.
  - c. An application for an Improvement Location Permit for any building, structure, improvement, or use shall not be approved until it has been ascertained by the Director that the proposed building, structure, improvement, or use will meet or exceed the minimum standards for sewage disposal and water as required by the Vigo County Health Department and State Board of Health, and as may be required by other provisions of state law or local ordinance.
  - d. An application for an Improvement Location Permit for any industrial use shall be accompanied by a "Certificate of Compliance" subscribed by a registered professional engineer or architect, verifying that the use intended will satisfy the performance standards of industrial district in



which the industrial use is to be located. The Director or Zoning Administrator may take an additional five (5) business days beyond that specified in Section III.III.A.3 in which to review the application, during which time he may consult with appropriate technical consultants. If, after such additional five (5) day period, the Director has not requested any additional information or stated any objections in writing to the applicant, and the proposed building, structure or improvement, and the proposed use conform in all respects to the provisions of this Chapter, the Director or Zoning Administrator shall issue the Improvement Location Permit.

- e. The Director or Zoning Administrator may promulgate rules, regulations, and procedures, in addition to those listed herein, as to the form and processing of the applications, site plans, and permits required by this Section.

## B. OTHER PERMITS

Other permits that may be required include a Sign Permit (see Chapter VIII), Temporary Use Permit (see Chapter V), or Conditional Use Permit (see Chapter V).

# PROCEDURES



Table III-2: Review Process Chart

APPROVAL REQUEST	PRE-APP	SKETCH		PRELIMINARY				FINAL					NOTES
		STAFF	APC	STAFF	APC	LB	A	STAFF	APC	BZA	LB	A	
Improvement Location Permit								ZA				BZA	See Chapter IX
Sign Permit								ZA				BZA	See Chapter VIII
Temporary Use Permit								ZA				BZA	See Chapter V
Conditional Use Permit	S									H		C	See Chapter V
PUD	S			D	O					H			See Chapter VI: Also Requires Zone Map Amendment, Plat Approvals
Amended PUD (Major)	S								H		H	C	See Chapter VI
Amended PUD (Minor)								D	O				See Chapter VI
Zone Map Amendment	S								H		H	C	See Chapter V, VI (PUD)
Variance										H		C	See Chapter IV
Major Subdivision	S	D	O	TC	H	O	C	EC	O			C	See Chapter IV
Minor Subdivision				TC	O			EC	O			C	See Chapter IV
Amended Plat (Major)		D	O	TC	H	O		D	O			C	See Chapter IV
Amended Plat (Minor)				TC	O			C	O			C	See Chapter IV
Lot Line Adjustment								D	O			C	See Chapter IV
Lot Consolidation								D	O			C	See Chapter IV
Subdivision Vacation									H	O		C	See Chapter IV
Subdivision Waiver					H								See Chapter IV
<b>KEY:</b>	APC	Area Planning Commission						LB	Applicable Legislative Body				
	A	Appeals						O	Optional Review				
	BZA	Applicable Board of Zoning Appeals						PUD	Planned Unit Development				
	C	Review by Certiorari						S	Meeting with APC Staff				
	EC	Executive Committee Review						TC	Meeting with Technical Committee				
	D	Director Review						ZA	Zoning Administrator				
	H	Public Hearing Required											



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