

TITLE XII. ADMINISTRATION AND ENFORCEMENT

Section 12.01 Permits:

- A. No building or structure shall be erected, reconstructed, enlarged or moved until a Building Permit shall have been applied for, in writing, and issued by the Town Building Official. A fee, as established by the Town Council, shall be paid when making application for a Building Permit. The Permit shall be posted in a prominent place on the premises prior to and during the period of erection, reconstruction, enlargement or moving.
- B. Issuance of a Building Permit shall, in addition to compliance with all Building Code requirements, be conditioned upon conformance in all respects with the provisions of this Zoning Ordinance. Zoning compliance shall be certified by the issuance of an Improvement Location Permit in conjunction with the building permit.
- C. No Improvement Location Permit shall be issued unless the Town Administrator, or duly designated Representative, certifies thereon that the Permit conforms to the provisions of this Zoning Ordinance or that the applicant has received a written Variance from the Board of Zoning Appeals. If the Permit is denied, reasons for the denial shall be provided to the applicant in writing.
- D. Any Improvement Location Permit issued, in accordance with this Zoning Ordinance, shall be valid for a period of one (1) year from the date of issuance. The Improvement Location Permit shall be revoked and rendered null and void, if substantial construction is not commenced within that one (1) year. Any structure or building not completed within one (1) year from issuance of a Building Permit shall necessitate a renewal of the Permit by action of the Town Building Official.
- E. **Site Plan:** Unless specifically exempted in Section 7.03, every application for Improvement Location or Building Permit shall be accompanied by a development plan, in accordance with the provisions of Title VII of this Ordinance. For those uses not subject to development plan review, per Title VII of this Ordinance, a site plan shall be submitted with the permit application(s) satisfying the following requirements:
1. drawn to scale,
 2. showing the lot and the building site and the location of existing buildings on the lot,
 3. locations, size and use of any land and all buildings not on the lot but within fifty (50) feet from the boundaries thereof, unless separated therefrom by a street
 4. such other information as may be necessary to the enforcement of this Zoning Ordinance, as determined by the Town Administrator or Building Official.
- F. As part of any petition, application or permit request for zone change, variance, special use, building permit, etc., a statement of intended use shall be provided to explain the purpose and intent of the petition/application/request.
- G. **Interpretation of Zoning Ordinance:** The provisions of this Ordinance shall be held to be the minimum requirements necessary for the promotion of health, safety, convenience and the general welfare. The lot or yard areas required for a particular building shall not be diminished and shall not be included as part of the required lot or yard areas of any other building. The lot or yard areas of buildings existing at the time this Zoning Ordinance became effective shall not be

diminished below the requirements herein provided and shall not be included as part of the required areas of any building hereafter erected.

- H. **Completion of Existing Buildings:** Nothing in this Ordinance shall require any change in the plans, construction or intended use of a building, the construction of which shall have been diligently prosecuted within six (6) months preceding the date of this Zoning Ordinance and, if such entire building shall be completed within two (2) years from the date this Zoning Ordinance became effective. Nothing herein shall prevent the reconstruction of a wall or other structural part of a building declared unsafe by the State Fire Marshal or the Administrative Building Council for the State of Indiana.
- I. **Summary of Permits:** The administration and enforcement of this Ordinance, from time to time, requires the review and issuance of certain permits. The following table summarizes the various permits, licenses and certificates that may be required:

Permit	Applicability	Authorization
Improvement Location Permit	Zoning compliance prior to construction	Town Administrator (or designee)
Building Permit	Construction or renovation of buildings and structures	Town Building Official
Certificate of Occupancy	Approval to occupy building/use	Town Administrator (or designee)
Temporary Certificate of Occupancy	Approval to occupy building/use prior to completion of construction	Town Administrator (or designee)
Fence/Wall Permit	Approval to construct fence or wall	Town Administrator (or designee)
Sign Permit	Approval to erect sign	Town Administrator (or designee)
Sexually Oriented Business License	Approval to operate sexually oriented business	Town Administrator (or designee)

Section 12.02 Certificate of Occupancy:

- A. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, wholly or in part, thereof, hereafter created, erected, changed, converted, altered, or enlarged until a Certificate of Zoning Compliance has been issued by the Town Administrator, or duly designated Representative, stating that the proposed use of the building or land conforms to the requirements of this Zoning Ordinance.
- B. No such occupancy, use or change of use shall take place until a Certificate of Occupancy therefore shall have been issued.
- C. A Certificate of Occupancy shall be required for any of the following:
1. Occupancy and use of a building hereafter erected or enlarged;
 2. Change in the use of any existing building;
 3. Occupancy and use of vacant land, except for the raising of crops;

4. Change in the use of land to a use of different classification, except for the raising of crops;
 5. Any change in use of a non-conforming use.
- D. Written application for a Certificate of Occupancy for a new building or for an existing building which has been enlarged shall be made at the same time as the application for the Improvement Location Permit for such building. No fee shall be charged for an original Certificate when applied for at the same time as an application for an Improvement Location Permit. For all other Certificates or copies of any original Certificate, there shall be a fee charged. The Certificate shall be issued within a reasonable time after a written request has been made to the Town Administrator following completion of the building construction or enlargement and conformity with the provisions of this Zoning Ordinance has been verified by the Town Administrator.
 - E. Pending the issuance of a Certificate, a Temporary Certificate of Occupancy may be issued by the Town Administrator, for a period of not more than six (6) months during the completion of the construction of the building or of alterations which are required under the terms of any law or Ordinance. A Temporary Certificate shall not be construed in any way to alter the respective rights, duties, or obligations of the owner or of the Town relating to the use or occupancy of the land or building, or any other matter covered by this Zoning Ordinance. A Temporary Certificate shall not be issued, except under such restrictions and provisions as will adequately ensure the safety of the occupants. The Town Administrator may require a performance guarantee, as provided in Section 12.06, as a condition of issuing a Temporary Certificate of Occupancy.
 - F. Written application for a Certificate of Occupancy for the use of vacant land, or for a change in the use of land or of a building, or for a change in a non-conforming use, as herein provided, shall be made to the Town Administrator.
 - G. If the proposed use is in conformity with the provisions of this Zoning Ordinance, the Certificate of Occupancy shall be issued within five (5) days after the written request has been submitted to the Town Administrator. Each Certificate of Occupancy shall state that the building or proposed use of a building or land complies with all applicable provisions of this Zoning Ordinance.
 - H. A record of all Certificates of Occupancy shall be kept on file in the Town Hall, and a copy shall be forwarded, on request, to any person having proprietary or tenancy interest in the building or land affected.
 - I. No Building Permit for erection of any building shall be issued before application has been made for a Certificate of Occupancy.

Section 12.03 Enforcement:

- A. All departments, officials and public employees of the Town which are vested with the duty or authority to issue permits, licenses or certificates shall conform to the provisions of this Zoning Ordinance and shall issue no Permit, License or Certificate for any use, building or purpose, in conflict with the provisions of this Zoning Ordinance.
- B. Any Permit, License or Certificate issued in conflict with the provisions of this Zoning Ordinance shall be null and void.
- C. Where it has been determined by the Town Administrator, or designee, that a violation of this Ordinance has occurred, the following procedure shall be followed to enforce the Ordinance

1. The Town Administrator, or designee, shall issue a Notice of Violation letter to the person who has committed, in whole or in part, a violation. The Notice of Violation letter shall state that a violation has been determined and that the person in violation must correct the violation within ten (10) days of the postmarked date of the Notice. If the violation has been corrected within ten (10) days, no further action will be taken and no fines will be imposed. The Town Administrator, or designee, may extend the time period to correct the violation if the violator is working in good faith toward correcting the violation.
2. If the violation is not corrected within ten days, the fines for first violation shall be imposed and will be accrued on a daily basis until the violation is corrected. The person in violation will then have ten (10) days to correct the violation or face additional Notice of Violation and added fines.
3. In the event, following a second Notice of Violation, the violation has not been corrected and, in the opinion of the Town Administrator, or designee, no diligent effort is being made toward its correction, a lien may be imposed against the property.
4. If no meaningful corrective action is taken and the violation continues, the Town may instruct the Town Attorney to initiate legal action through the courts to correct the violation. In such circumstance, the Town Attorney shall, immediately upon any such violation having been called to his attention, institute injunction, abatement, or any other appropriate action to prevent, enjoin, abate or remove such violation.
5. The remedy provided for herein shall be cumulative and not exclusive and shall not be in addition to any other remedies provided by law.

Section 12.04 Violations and Penalties:

- A. Any person or corporation, whether as principal, agent, employee or otherwise, who violates any of the provisions of this Zoning Ordinance shall be subject to penalty and fine of not less than Twenty-Five Dollars (\$25.00) and not more than Two Thousand Five Hundred Dollars (\$2,500.00) for each offense, such fine to inure to the Town. Each day of the existence of any violation shall be deemed a separate offense.
- B. The erection, construction, enlargement, conversion, moving or maintenance of any building or structure and the use of any land or building which is continued, operated or maintained, contrary to any of the provisions of this Zoning Ordinance is hereby declared to be a violation of this Ordinance and unlawful.

Section 12.05 Ordinance Amendments:

- A. The Town Council may, from time to time, amend, supplement, change, modify, or repeal this Zoning Ordinance, including the Zoning Map, by proceeding in the manner prescribed herein.
- B. **Initiation of Amendment:** A Zoning Ordinance Text Amendment may be initiated by the Town Council or the Plan Commission. An amendment to change the zoning map may be initiated by the Plan Commission or by a petition signed by property owners who own at least fifty (50%) percent of the land involved.

- C. **Form of Application:** Any request for Zoning Map change shall be in compliance with the provisions of Indiana Code 36-7-4-600, et. Seq., as amended. A Zoning Map change request shall be submitted in writing to the Town Administrator on a form provided for that purpose. In addition to the application form the following shall be submitted:
1. Payment of fees and charges as established herein.
 2. Sufficient graphic material, in triplicate, to adequately assist the Plan Commission in understanding the nature of the request.
 3. A legal description and, if the land is unplatted, a Plat of Survey by a registered land surveyor, showing dimensions of the subject property based on county records.
- D. The Plan Commission and Town Council shall not consider any proposed Zoning Map change which is substantially the same as any other proposed amendment submitted within the previous twelve (12) months.
- E. Any proposed Zoning Ordinance text amendment shall be in compliance with the provisions of Indiana Code 36-7-4-600, et. Seq., as amended.
- F. **Procedure:** The Plan Commission and Town Council shall study proposals for Text and Zoning Map changes to determine:
1. The general conformity and consistency with the various elements of the Comprehensive Plan;
 2. The need and justification for any proposed change of the Text of this Zoning Ordinance or the Zoning Map;
 3. Current conditions and the character of current structures and uses in each Zoning District;
 4. The effect of any District Zone change, if any, on the property and on surrounding property;
 5. The amount of available undeveloped land in the general area and in the Town having the same Zoning District classification as that requested or affected by an Ordinance Amendment; and
 6. The effect of a District Zone change in view of responsible growth and development.
- G. **Public Hearing and Commission Action:**
1. Before acting on any proposed amendment, the Plan Commission shall hold a public hearing, as required by Indiana Code 36-7-4-600, et. Seq., as amended. The rules of procedure of the Plan Commission for notice and proof shall be complied with.
 2. Any action of the Plan Commission shall be advisory only. No recommendation of the Plan Commission shall be effective, however, unless acted upon by a full majority of Plan Commission membership.
- H. **Action by Town Council on Amendment or Zone Map Change:**
- I. The Town Council shall be guided by the advice of its Plan Commission when considering a Zoning Ordinance Text Amendment or recommendation of the Plan Commission concerning a Zoning Map change.

J. **Questionable Zoning Districts:**

If any property is judicially determined, newly annexed, or otherwise determined to be without zoning, or exists without a clearly designated Zoning District classification, then in such case, that property shall be zoned in the Agricultural (A) District until changed in conformance with the procedures of this Section

Section 12.06 Performance Guarantees

A. **Purpose & Intent:** When required by this Ordinance, a performance guarantee shall be provided to the Town of Cedar Lake, prior to or at the time of approval, by performance bond or an irrevocable, unconditional, acceptable letter of credit issued by a financial institution acceptable to the Town. The performance guarantee is intended to provide assurance that all public facility improvements and installations, landscaping, and other improvements associated with a development and required under the provisions of this Ordinance shall be completed, as approved.

B. **Applicability:**

1. A performance agreement between the petitioner and the Town, supported by a performance guarantee in a form acceptable to the Town Administrator, shall be required ensuring the timely and proper installation of required public improvements.
2. The Plan Commission and Board of Zoning Appeals shall not approve any project for which a performance guarantee has been required as a condition of approval, without a performance guarantee being submitted to cover the proposed improvements and installation.
3. The performance guarantee for each individual improvement or installation may be handled separately and shall in no way be contingent on the completion of any other individual improvements and installations or their performance guarantees.
4. The posting of a performance guarantee may be accepted for incomplete requirements that will be completed, as per a written agreement with the Town. The time period and amount of the performance guarantee shall be determined by the Town Administrator or designee.

C. **Duration:**

1. *Time Limit:* The completion of facility improvements and installations shall be within two (2) years of the approval of the project.
2. *Extension of Completion Time:* Should the petitioner not complete the facility improvements and installations as herein required within a two-year period, the Town Administrator, or designee, may approve the petitioner's written request for an extension of time of up to two (2) additional years, granted at six-month intervals, for completion of the required facility improvements and installations.
3. *Nonperformance:* Should the petitioner not complete the facility improvements and installations as herein required within the two-year period or within any time extension

approved by the Town Administrator, or designee, the Town may take the necessary steps to proceed with the completion of the facility improvements and installations, making use of the performance bond or letter of credit.

4. *Expiration:* The performance bond or letter of credit shall be in effect and shall not terminate until thirty (30) calendar days after the Certificate of Final Acceptance is approved by the Town Council, and the Maintenance Surety has been accepted.
5. *Premature expiration or termination:* Upon premature expiration or termination of a performance guarantee as security, all work on a development shall be stopped until appropriate security is reestablished.

D. **Completion of Improvements:** Upon certification by the Town Administrator, or designee, that all improvements have been fully completed, the Town Administrator shall authorize the return of all cashier's checks, or give notice that the security may be terminated. A partial reduction in the amount of the security may be permitted in the Town Administrator's reasonable discretion as improvements are completed; provided that the Town Administrator may retain up to one hundred (100) percent of the estimated cost of remaining improvements.

E. **Partial Reduction of Performance Guarantee:** Periodic partial releases of a Performance Guarantee held by the Town may be approved by the Town Administrator, in accordance with the following:

1. Upon recommendation of the Town Engineer, the Town Administrator shall act within thirty (30) days of the receipt of any written request for a bond reduction, unless the Town Engineer notifies the petitioner in writing of nonreceipt of approval by applicable state or federal agencies or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the thirty-day period.
2. No more than three (3) reductions shall be permitted within any twelve-month period.
3. No bond shall be reduced beyond ninety percent (90%) of the original bond amount.
4. Periodic partial releases shall not occur before completion of at least thirty percent (30%) of the improvements covered by the Performance.

F. **Inspection:** The Town Administrator, Town Engineer, and other Town officials may inspect at any reasonable time any structure, other improvement, or site that is the subject of a Performance Guarantee Reduction.