

CLARK COUNTY UDO PROPOSED TEXT AMENDMENTS

VERSION: Updated 3/26/2024

AMENDMENT 1: REMOVE AGE OF MANUFACTURED HOMES WHEN PLACED.

Rationale: This is in response to an amendment to Indiana Code in 2023. Indiana Code no longer allows local to local land use controls to regulate the age of a manufactured home when it is initially placed. This standard in the UDO would be removed.

Page 91, Chapter 3: 9.b.ii.(9): Manufactured Homes

~~(9) A manufactured home shall be no more than five (5) years in age when structure is initially placed.~~

AMENDMENT 2: CHILD CARE HOME (IN-HOME) AS SPECIAL EXCEPTION MINIMUM LIVING AREA IN AG DISTRICT

Rationale:

Child Care Home: An in-home child care (listed as Child Care Home) is a special exception in all other districts that permit dwellings but not in the AG district. The vast majority of our county is zoned AG (including many subdivisions) and the impacts of an in-home child care would not be greater in AG than the residential districts.

Minimum Living Area: The BZA suggested considering removing or reducing the minimum living area for dwellings in the AG district. They receive a few variance applications each year for this and all of them have been approved. Removing or reducing the minimum living area for dwellings in only the AG district would allow for affordable or lower-cost houses within the county's jurisdiction. All dwellings would still have to comply with building codes. This would NOT allow any of the following:

- "Tiny homes" that are on a trailer would still NOT be permitted as a dwelling
- Any structure that is not affixed to a permanent foundation would still NOT be permitted as a dwelling
- Any structure that does not comply with state building code for a dwelling would still NOT be permitted as a dwelling

Page 21, Chapter 2:B.3.b: Use & Development Standards

Add "Child Care Home" to the land uses table as a special exception use in AG.

Page 22, Chapter 2:B.3.b: Use & Development Standards

DEVELOPMENT STANDARDS – GENERAL AGRICULTURE DISTRICT (AG)		
	Land Use	
	Single-family Residential	Non-residential
Structure Standards		
Minimum living area	644 240 sqft	N/A

**AMENDMENT 3:
SUBDIVISION ACCESS TO LOCAL ROADS.**

Rationale: There is a need to clarify when individual lots within a subdivision can access an existing/perimeter road directly versus requiring an internal road network. The UDO directly addresses this for arterials and collectors, but local roads have more discretion that is not as direct.

Page 134, Chapter 6: C.2: Freeway/Expressway, Arterials (Principal & Minor) and Collectors (Major & Minor)

2. **Freeway/Expressway, Arterials (Principal & Minor) and Collectors (Major & Minor). Access to Existing Public Roads.** Where a subdivision borders or contains an existing or proposed freeway/expressway, arterial or collector public road, based on the recommendation of the County Engineer, the PC may require:

**AMENDMENT 4:
SOLAR ENERGY SYSTEM REGULATIONS.**

Rationale: The following solar topics have been suggested to discuss based on a better understanding of these systems and to further mirror some standards with Senate Bill 411. Standards related to first responders have also been coordinated with Clark County Emergency Management Agency.

Page 115, Chapter 4: 9.c.i.(c): Power and Communication Lines.

- (1) All power and communication lines on the site shall be buried underground and underground high-voltage lines shall be in conduit. Exemptions may be granted by the BZA in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines or distance makes undergrounding infeasible.

Page 116, Chapter 4: 9.c.ii.(a): Setbacks.

- (a) **Setbacks and Location.** All Commercial SES structures must comply with the following locations and setbacks, as measured from the edge of the solar energy system array at maximum design tilt to the location specified below right-of-way or edge of pavement if right-of-way does not exist (setback excludes excluding security fencing, screening, or berm).
 - (1) **Non-Participating Landowner's Property Line.** Setbacks shall be a minimum of one-hundred and fifty (150) feet from any non-participating property line, unless waived upon mutual agreement of all of the property owner(s). Setbacks must meet the minimum setbacks in the zoning district in which the parcel is located.
 - (2) **Non-Participating Residential Dwelling.** Setbacks shall be a minimum of one two-hundred and fifty (150-250) feet from the closest edge of any non-participating residential dwelling, unless waived upon mutual agreement of all of the property owner(s).
 - (3) **Roads and Right-of-Way.** Setbacks shall be a minimum of fifty (50) one hundred and fifty (150) feet from any public right-of-way or edge of pavement in. In the event right-of-way is not dedicated by written, recorded document, the setback shall be seventy-five (75) feet from edge of pavement.
 - (4) **Location.** Commercial SES facility cannot be located within a floodplain, wetland, or waterway.

Page 116, Chapter 4: 9.c.ii.(b): Screening.

(b) **Screening.** All Commercial Solar Energy Facilities shall be fully screened **and not visible** year-round, **including across any street or right of way, from any public road and all** existing residential dwellings, **existing** residentially-zoned parcels, or **existing** parcels platted for residential development. Screening shall not be required along property lines **for all other uses unless required by the BZA, within the same zoning district unless the adjoining parcel has an existing residential use.** Screening may include continuous vegetation, fencing, and/or berms that **adequately completely** screens the view of the solar panels and accessory equipment **from the required locations or uses outlined above.** All screening shall comply with all standards of the UDO, including fence height.

Page 116-117, Chapter 4: 9.c.ii.(c): Ground Cover.

(c) **Ground Cover.**

- (1) Commercial SES facilities that are mounted on the ground are required to install perennial ground cover (such as grass, **pollinator meadow**, or other plant materials) for the site around and under solar panels and within all setback or buffer areas. This shall be planted, established, and maintained for the life of the project and shall comply with the following standards:
 - (2 a)** Plans showing compliance with the ground cover standards shall be submitted as part of a Development Plan application.
 - (3 b)** The site shall be planted and maintained to be free of **weeds**, invasive or noxious species, as listed by the Indiana Invasive Species Council.
 - (4 c)** No insecticide use is permitted on the site. This provision does not apply to insecticide use in on-site buildings, in and around electrical boxes, spot control of noxious weeds, or as otherwise may be deemed necessary to protect public health and safety.

Page 117, Chapter 4: 9.c.ii.(d): Fencing.

(d) **Fencing.**

- (1) Fence Required.** Except as otherwise allowed by IC 36-7-4-1109, the project owner shall completely enclose all areas used for the Commercial SES, including any structure, component, or electrical device, with fencing that is at least six (6) feet high. Fencing is in addition to any required screening
- (2) Fence Materials.** Barbed wire or woven wire fence designs for perimeter fencing are prohibited. Chain link fences **and wildlife-friendly fencing** are permitted.
- (3) Wildlife Corridors.** If more than fifteen hundred (1500) acres of contiguous area is enclosed within a single fence, a wildlife corridor shall be provided that meets all of the following standards:
 - (a)** Have a width of at least fifty (50) feet but no more than two hundred (200) feet;
 - (b)** Be maintained in a natural state or re-established with vegetation (including ground cover, shrubs, and trees) if necessary; and
 - (c)** Be unobstructed (other than vegetation or natural features) and cannot include any structures.

Page 117, Chapter 4: 9.c.ii.(e): Emergency Response.

(e) Emergency Response.

- (1) **Site Layout.** The site layout must accommodate adequate access for all first responders, such as EMS, fire, and police.
- (2) **Emergency Key Box.** The project operator shall provide and maintain an emergency key box/knox box at all entrances for emergency responders. The location and access code/key of each emergency key box/knox box shall be provided to Clark County Emergency Management Agency.
- (3) **Emergency Response Training.** The project operator shall provide training for all first responder agencies that may be required to provide services, including but not limited to Emergency Management, fire, police, and EMT. This training shall identify any special response needs or processes, orient responders to the site layout and structures on-site, and other information necessary for first responders to safely and quickly respond to an emergency related to the project and/or site.

Page 117, Chapter 4: 9.c.ii.(f): Noise and Vibration.

(f) Noise and Vibration.

- (1) Noise levels generated from any Commercial SES Facility, including any structure, component, or electrical device, shall not exceed 50 A-weighted decibels at the outer wall of an adjacent dwelling.
- (2) Commercial SES Facilities, including any structure, component, or electrical device, shall not create, produce, or cause any vibrations that are detectable beyond the property lines of the parcels where it is located without the aid of instruments.

Page 117, Chapter 4: 9.c.ii.(g): Signal Interference.

(f) Signal Interference.

- (1) All Commercial SES Facilities, including any structure, component, or electrical device, shall minimize and mitigate impacts to television signals, microwave signals, agricultural GPS, military defense radar, radio reception and weather/doppler radar as outlined in IC 8-1-42-15.

Page 117, Chapter 4: 9.c.iii.(c): Decommissioning Plan and Surety Required.

- (c) **Decommissioning Plan and Surety Required.** The project owner shall provide a decommissioning plan for all parcels and easements related to the project prior to any commercial SES devices being installed. The decommissioning plan shall be approved by the County Commissioners and shall be updated every five (5) years or if any of the property owner(s), operator, or project owner changes. Except as otherwise required by Indiana Code, the decommissioning plan shall include, at a minimum, the following:
- (1) **Affidavit of Responsibility.** A signed and notarized affidavit that is recorded with the Clark County Recorder's Office shall be provided by all property owners acknowledging that the responsibility of decommissioning (including costs to decommission) is ultimately the responsibility of the property owner(s) even if that responsibility and cost is assigned to the operator through a separate agreement. If ownership of a parcel and/or easement related to the project changes, the project owner or operator shall obtain and record a signed and notarized affidavit from the new parcel owner(s). If the operator fails to comply with any aspect of the decommissioning plan, the property owner(s) shall be ultimately responsible for all aspects of decommissioning and liable for all penalties for failure to comply.

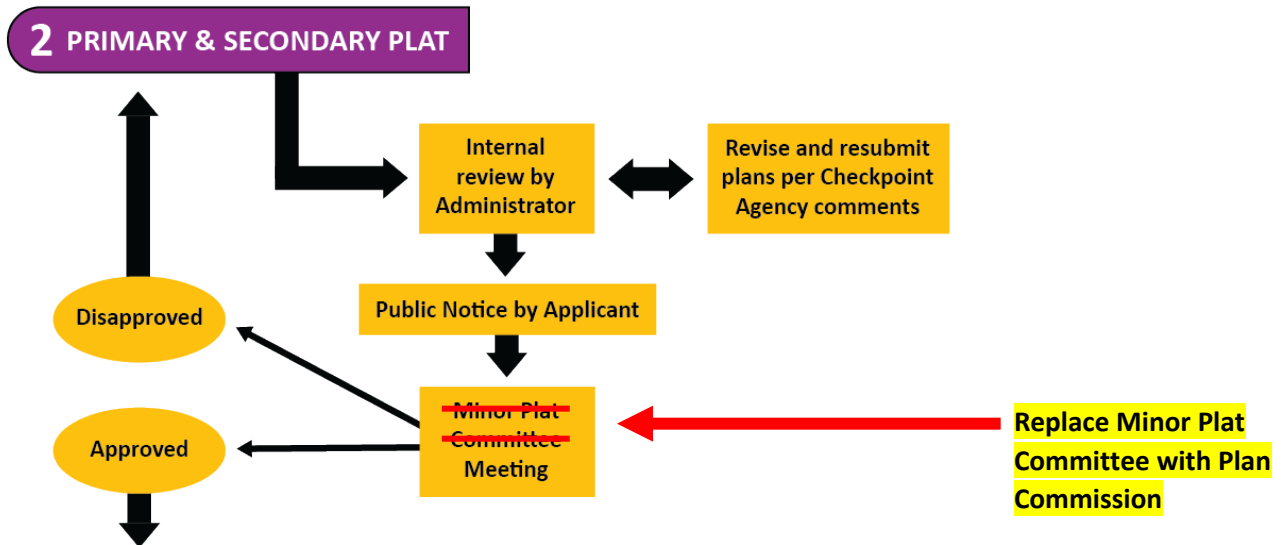
Page 117, Chapter 4: 9.c.iii.(c)(2): Commercial Liability Insurance Required.

- (2) **Commercial Liability Insurance Required.** The owner and operator of a Commercial SES Facility shall maintain the following insurance:
 - (a) A a commercial general liability policy covering death, bodily injury, and property damage, which may be combined with umbrella coverage. The owner and operator shall be required to name Clark County, Indiana as an additional insured solely to the extent of liabilities arising under this UDO. This policy shall carry dollar amounts satisfactory to the County Commissioners and with agreed upon dollar amount limits per occurrence, aggregate coverage, and deductible amounts, all of which shall be agreed upon by the owner and operator and the County Commissioners and provided in the Decommissioning Plan.
 - (b) An environmental liability insurance that covers the remediation from any cleanup or pollution from unexpected releases of pollutants on the site. This shall not be required if the project owner demonstrates that there are no hazardous materials located on-site or within any equipment located on-site. The owner and operator shall be required to name Clark County, Indiana as an additional insured solely to the extent of liabilities arising from the Commercial SES Facility and under this UDO. This policy shall carry dollar amounts satisfactory to the County Commissioners and with agreed upon dollar amount limits per occurrence, aggregate coverage, and deductible amounts, all of which shall be agreed upon by the owner and operator and the County Commissioners and provided in the Decommissioning Plan.

**AMENDMENT 5:
MINOR PLAT COMMITTEE.**

Rationale: The Minor Plat Committee was established to approve minor plats rather than having these on the PC agenda. However, the county does not receive many minor plats and it has become increasingly difficult to schedule these meetings (there are no set meeting dates). It would be more efficient for the applicant and county to have minor plats approved by the PC. This amendment would remove the minor plat committee.

Page 158, Chapter 7: B.2 Residential Subdivisions - Minor.



ii. Application.

- (a) The subdivider shall submit an application for a Minor Residential Plat both Primary Plat and Secondary Plat in accordance with the application requirements adopted by the PC as part of the PC Rules and Procedures and prepared in accordance with the formats described in Chapter 7, Section C.1: Primary Plat, Chapter 7, Section C.2: Secondary Plat, and Chapter 7, Section C.3: Construction Drawings.

iii. Public File.

- (a) Once the Administrator determines that an application is complete and in proper form, they shall assign a file number, create a public file, and assign a deadline date for receiving internal review comments from the appropriate checkpoint agencies. In accordance with *IC 36-7-4-705*, within thirty (30) days of receiving a complete application, the Administrator shall announce the tentative date for a hearing before the Plan Commission Minor Plat Committee.

iv. Internal Review.

- (a) The Administrator shall forward the plat to the appropriate checkpoint agencies for technical review.
- (b) After comments are received, the Administrator shall compile a written report for the Plan Commission Minor Plat Committee and the public file with the information from the checkpoint agency members.
- (c) The subdivider shall incorporate all of the comments from the checkpoint agencies and submit revised plans (if applicable) per the adopted schedule.

v. Public Notice.

- (a) Notice of public hearing shall be in accordance with the PC Rules and Procedures. In the event the hearing has been properly noticed, but the applicant is not able to provide revised plans per subsection (c) above, then the Administrator may have the Plan Commission Minor Plat Committee automatically

continue the petition to their next regular meeting (or a properly noticed special meeting) without requiring additional notice by the subdivider or requiring the Plan Commission Minor Plat Committee to hold a meeting in order to continue the petition.

vi. Public Hearing.

- (a) The Plan Commission Minor Plat Committee shall simultaneously consider the Primary Plat and Secondary Plat at a public hearing. The subdivider or his/her representative shall be in attendance to present the plan and address any questions or concerns of the Committee.
- (b) Decision by the Plan Commission Minor Plat Committee.
 - (1) Approval. If the Plan Commission Minor Plat Committee determines that the plats comply with the standards set forth in this UDO, it shall grant approval. Within ten (10) days of the hearing, the Administrator shall notify the subdivider of approval in writing or electronic transmission and itemize any changes or revisions deemed necessary by the Plan Commission Minor Plat Committee as a term of its approval.
 - a. In accordance with IC 36-7-4-702, the Plan Commission Minor Plat Committee may introduce changes or revisions to the proposed plans as a condition of primary approval when necessary to facilitate the best interest and general welfare of the community, including, but not limited to:
 - i. The manner in which any shared driveways shall be laid out, graded, and improved;
 - ii. A provision for water supply, sanitary sewer facilities, and other utility services; and
 - iii. A provision for other services as specified in this UDO.
 - (2) Disapproval. If the Plan Commission Minor Plat Committee disapproves the plats, it shall make written findings of fact and the Administrator shall notify the subdivider in writing or electronic transmission within ten (10) days of the hearing, stating the specific reasons for disapproval. The subdivider may then resubmit a revised plat that addresses the reason for disapproval or appeal the decision to the PC.