

# ALLEN COUNTY ZONING ORDINANCE

## TITLE 3 – ZONING ORDINANCE

### ARTICLE 1 – GENERAL PROVISIONS

#### **Chapter 1 Title**

3-1-1-1 This ordinance shall be formally known as the “Allen **County** Zoning Ordinance”; the Allen **County** Zoning Ordinance may also be cited and referred to as the “Zoning Ordinance” or “ordinance”. This ordinance is codified as Title 3 to the Allen **County** Code. Citations to this ordinance shall be by Title, Article, Chapter and Section of the Allen **County** Code; for example, A.C.C. 3-1-1-1.

#### **Chapter 2 Authority**

3-1-2-1 This ordinance is adopted by the **Board of Commissioners** of the **County** of Allen pursuant to its authority under the laws of the State of Indiana, including the 600 Series of Indiana Code (IC 36-7-4-600).

#### **Chapter 3 Effective Date**

3-1-3-1 This ordinance and any subsequent amendments shall be in full force and effect as of the designated effective date noted in the ordinance adopted by the **Board of Commissioners**; if there is no designated effective date, the ordinance shall be in effect as of the date of the **Commissioners** approval.

#### **Chapter 4 Purpose**

3-1-4-1 The purpose of this ordinance is to promote carefully planned, orderly growth and **development** and the efficient **use** of land resources within the **County’s planning jurisdiction**, and to carry out the land **use** objectives and strategies of the **Comprehensive Plan**, and in doing so to:

- (a) Carry out the purposes of IC 36-7-4-201(b) and the IC 36-7-4-600 Series, including, but not limited to the following:
  - (1) Promote the health, safety, convenience, and welfare of the citizens of the community;
  - (2) Secure adequate light, air, and convenience of access;
  - (3) Provide safety from fire, flood, and other danger;
  - (4) Reduce or avoid congestion and provide for the safe and efficient movement of vehicles and pedestrians along public ways;
  - (5) Encourage that the growth of the community is commensurate with and promotive of the efficient and economical **use** of public funds;
  - (6) Set forth the **uses** permitted in the **County’s** residential, commercial, and industrial **districts**; and establish other permitted and prohibited land **uses**;
  - (7) Establish **uses** that the **Board of Zoning Appeals** may permit as **contingent uses** and **special uses**, along with the **zoning districts** where **special uses** will be allowed;
  - (8) Regulate both the **use** and the intensity of **use** of land for commercial, community, industrial, institutional, residential, and other purposes and activities;
  - (9) Establish minimum standards for **lot** areas and sizes, **yard** requirements, and **residential building** sizes;

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- (10) Establish maximum **building** and **structure** heights;
- (11) Establish standards for accessory construction such as **fences, garages, sheds, swimming pools**, and similar **buildings, structures** and **uses**; and
- (12) Provide consistent **subdivision** control provisions, standards, and policies;
- (b) Provide for the enforcement of this ordinance, including recourse for **violations** and other noncompliance with these provisions; and
- (c) Define terms used in this title.

## Chapter 5 Jurisdiction

3-1-5-1 This ordinance shall apply to all land within the **planning jurisdiction** of the **County**. A map showing the boundaries of the **County's planning jurisdiction** shall be available for public inspection in the office of the **Department of Planning Services**. This ordinance does not revoke any previously-granted extra-territorial **planning jurisdiction**. Any requests for a city or town to exercise jurisdiction over any part of the unincorporated area beyond the city or town's corporate limits shall be prepared and considered as set forth in IC 36-7-4-205(e). **DPS** staff shall maintain a map showing all areas of extra-territorial jurisdiction.

## Chapter 6 Reserved

## Chapter 7 Applicability

3-1-7-1 Except as noted below, this ordinance shall be applicable to all **structures**, land, and **uses** on property located within the **planning jurisdiction** of the **County**, including private **primary uses** on otherwise-exempt property. Any applicant or property **owner** who feels that their property or proposed **building, structure** or **use** is expressly exempted from this ordinance (as in the case of express field implied pre-emption, or pre-emption under IC 36-7-4-1104 (b)) shall be required to furnish documentation supporting such an exemption. A project that may otherwise be deemed exempt may be voluntarily submitted for review. Projects or properties which are exempt within the **County's planning jurisdiction** shall not automatically be exempt outside of the **County's planning jurisdiction**.

However, this ordinance does not apply to, and does not regulate or restrict, the **County's** public **use** of any **lot** or **parcel** within the **Commission's planning jurisdiction** that is only owned and occupied for **County** purposes by the **Board of Commissioners**. In the event the **Board of Commissioners** cease to own or occupy the **lot** or **parcel** for a **County** public **use**, then this ordinance shall apply, and shall regulate and restrict, any other **use** of the **lot** or **parcel**. Any prior **use** of a **lot** or **parcel** by the **Board of Commissioners** that was exempt from this ordinance shall not be deemed a **nonconforming use** when the **Board of Commissioners** cease to own or occupy the **lot** or **parcel** for a **County** public **use**.

## Chapter 8 Compliance

3-1-8-1 After the effective date of this ordinance, no **building, structure** or land shall be used, and no **building** or **structure** shall be altered, converted, enlarged, erected, moved, reconstructed, or reused except in conformance with the provisions of this ordinance, including the issuance of any required permits. No **lot** or **parcel** shall hereafter be established or divided except in conformance with the provisions of this ordinance. Existing **buildings, structures** and **uses** that do not comply with the provisions of this ordinance shall be subject to the provisions of A.C.C. 3-5-4 (Nonconforming Situations).

## Chapter 9 Reserved

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## Chapter 10 Graphics, Headings, and Illustrations

3-1-10-1 To aid in the creation of standards that are reasonable, clear and precise, this ordinance includes diagrams, graphics, illustrations, images, and tables to help show the applicability, **use**, and intent of the relevant standards. The accompanying ordinance text is also intended to explain the standard that the diagram, graphic, or illustration is showing. If there is a conflict between the text and a diagram, graphic, or illustration, the text shall override the diagram, graphic, or illustration.

## Chapter 11 Interpretation

3-1-11-1 In cases where the provisions of this ordinance require interpretation, such interpretation shall be provided by the **Zoning Administrator**, with assistance from the **Plan Commission, Board of Zoning Appeals**, definitions used in State or Federal law, or other **Department of Planning Services** staff, if determined necessary by the **Zoning Administrator**. In interpreting this ordinance, words are to be given their plain, ordinary, and usual meaning, unless a contrary purpose or meaning is shown by the ordinance itself. Where possible, every word is to be given effect and meaning, and no word or part is to be held to be meaningless if it can be reconciled with the rest of this ordinance.

## Chapter 12 Minimum Requirements

3-1-12-1 Unless specifically noted otherwise, the provisions of this ordinance shall be held to be the minimum requirements for the protection of the health, safety, comfort, morals, convenience, and general welfare of the **County**, and are designed to encourage the establishment and maintenance of reasonable community standards for the physical environment of the **County**.

## Chapter 13 Overlay Districts

3-1-13-1 This ordinance permits the creation of overlay **districts**, as a **district** that extends across one or more underlying **zoning districts**, to prescribe additional or alternate regulations to the regulations included in the underlying **zoning district** for a specific critical feature or resource. Overlay **districts** shall include the **Airport Overlay Districts** and the Floodplain regulations.

## Chapter 14 Relation to Plans

3-1-14-1 In the administration, enforcement, and amendment of this ordinance, reasonable regard should be paid to the **Comprehensive Plan**. Amendments to the text of this ordinance should maintain and enhance the consistency between this ordinance and the **Comprehensive Plan**. In the event the **Plan Commission** determines that this ordinance is inconsistent with the **Comprehensive Plan**, the **Commission** may initiate an ordinance amendment pursuant to I.C. 36-7-4-602(b).

## Chapter 15 Relation to Other Laws and Regulations

3-1-15-1 (a) This ordinance does not supersede or amend more restrictive requirements of ordinances or regulations adopted by other local entities, including **building**, drainage, health, housing, **on-site sewage systems**, sewage, and water regulations or other similar requirements. If a conflict arises between this ordinance and other local ordinances or regulations, any action taken under this ordinance shall be based on the standards and regulations herein. When not in conflict, this ordinance shall be construed as being in addition to or supplemental to such other ordinances or regulations.

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- (b) This ordinance does not supersede more restrictive requirements which may be contained in the Indiana Code, the Indiana Administrative Code, the United States Code, or the Code of Federal Regulations. To the extent that the regulatory standards of this ordinance are more restrictive than the requirements contained in the Indiana Code, the Indiana Administrative Code, the United States Code, or the Code of Federal Regulations and such regulatory standards are not otherwise specifically prohibited by the Indiana Code, the Indiana Administrative Code, the United States Code, or the Code of Federal Regulations, such regulatory standards shall be applicable and enforceable.
- (c) All **infrastructure** installed in conjunction with a project based on the provisions of this ordinance shall meet the applicable requirements of the Americans with Disabilities Act.

## Chapter 16 Saving Provision

3-1-16-1 This ordinance shall not be construed as eliminating or reducing any action now pending under, or by virtue of, an existing law or previous Zoning Ordinance, **Subdivision** Control Ordinance, or related ordinance. This ordinance shall not be construed as discontinuing, reducing, modifying, or altering any penalty accruing or about to accrue.

## Chapter 17 Severability

3-1-17-1 If any provision of this ordinance as existing now or later amended, or its application to any **person** or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

## Chapter 18 Similar Uses Permitted

3-1-18-1 The **uses** specified herein shall be permitted in the noted **zoning districts**. Land **uses** similar to those listed as permitted in a **district**, but not specifically mentioned in these provisions may be permitted with the approval of the **Zoning Administrator**; however, in the absence of a determination by the **Zoning Administrator** that a non-mentioned **use** is permitted, no land shall be used for any purpose other than a **use** specified herein.

## Chapter 19 State Statute Amendments

3-1-19-1 If any of the provisions of Indiana Code cited in this ordinance are amended or superseded, this ordinance shall be deemed amended with regard to the reference(s) to the new or revised code, until such time that the ordinance is amended to conform to the new or revised code. If Indiana Code is amended to require a more restrictive standard than this ordinance, the more restrictive State standard shall be applicable and enforced.

## Chapter 20 Subdividing Land

3-1-20-1 Land may be **subdivided** within any **zoning district**.

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## Chapter 21 Transitional Provisions and Vested Rights

3-1-21-1 The intent of this section is to make this ordinance fully effective, but to allow for the continuation of all vested rights related to permits and approvals issued prior to April 3, 2014. The transitional provisions shall apply to the following situations:

(a) Applications Filed Prior to April 3, 2014

(1) Completed Applications

Any application for an **Improvement Location Permit, Certificate of Occupancy, or Certificate of Compliance**, or any application for a land use approval from the **Board of Zoning Appeals** or the **Plan Commission**, which has been filed with the required filing fee and which has been determined to be complete prior to April 3, 2014, shall be regulated by the terms and provisions of the zoning ordinance that were in effect as of the date the application was determined to be complete. Any re-application for an expired application or permit shall meet the provisions and **development** standards of the zoning ordinance in effect at the time of re-application. However, any such completed application filed before April 3, 2014, shall be subject to the administrative procedures, procedural rules, and hearing process in effect at the time the completed application is reviewed or heard at a public hearing.

(2) No Applications Submitted and Incomplete Applications

Projects for which no application has been submitted or which have been determined to be incomplete prior to April 3, 2014 shall be subject to all requirements and standards of this ordinance.

(b) Approved Permits and Projects

(1) Permits

All permits (including **Improvement Location Permits**, Site Plan reviews, **Certificates of Occupancy**, and **Certificates of Compliance**) which have been issued prior to April 3, 2014, or which are issued after April 3, 2014 for a complete application filed under A.C.C. 3-1-21-1(a)(1) shall remain valid and in effect until the applicable expiration date. Projects with valid permits may be carried out in accordance with the provisions and **development** standards of the zoning ordinance in effect at the time of the approval of the permit, or at the time of filing a completed application under A.C.C. 3-1-21-1(a)(1), provided that the permit does not expire or lapse prior to April 3, 2014. If an application to substantially change a permit is filed after three (3) years of the effective date of this ordinance, then the change to the permit shall be governed by all requirements and standards of this ordinance in effect at the time of applying for the change.

(2) **Plan Commission** Final Decisions

All **Plan Commission** final decisions (as defined in IC 36-7-4-1016(b), which includes Development Plans and **plats**) which have been approved prior to April 3, 2014, or which were approved after April 3, 2014 for a complete application filed under A.C.C. 3-1-21-1(a)(1) above, shall remain valid and in effect until the applicable expiration date. A final decision of the **Plan Commission** may be carried out in accordance with the **Plan Commission's conditions** of approval and the provisions and **development** standards of the zoning ordinance in effect at the

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time of the **Plan Commission's** decision, or for a completed application under A.C.C. 3-1-21-1(a)(1) above at the time the application is filed; unless the **Plan Commission's** decision is reversed, expired or lapsed prior to April 3, 2014. If an application to substantially change a **Plan Commission** final decision is filed after three (3) years of April 3, 2014, then the change to the final decision shall be governed by all requirements and standards of this ordinance in effect at the time of applying for the change.

(3) **Density Requirements in Rezoning**s

All rezoning that have been approved before April 3, 2014, that have an established density requirement shall remain in full force and effect, until the density requirement is amended or removed by another rezoning ordinance approved by the legislative body.

(4) **Board of Zoning Appeals** Final Decisions

All **Board of Zoning Appeals** final decisions (as defined in IC 36-7-4-1016(a), which includes special exceptions, **special uses, contingent uses, use** variances, and variance from **development** standards) which have been approved prior to April 3, 2014, or which were approved after April 3, 2014 for a complete application filed under A.C.C. 3-1-21-1(a)(1) above, shall remain valid and in effect until the applicable expiration date. A final decision of the **Board of Zoning Appeals** may be carried out in accordance with the **Board of Zoning Appeals conditions** of approval and the provisions and **development** standards of the zoning ordinance in effect at the time of the **Board of Zoning Appeals'** decision, or for a completed application under Section (A)(1) at the time the application is filed; unless the **Board of Zoning Appeals'** decision expires, lapses, or is reversed prior to the effective date of this ordinance . If an application to substantially change a **Board of Zoning Appeals** final decision is filed three (3) years after April 3, 2014, then the change to the final decision shall be governed by all requirements and standards of this ordinance in effect at the time of applying for the change.

(5) **Commitments**

Any **commitments** submitted as part of a rezoning, a **Plan Commission** final decision, or a **Board of Zoning Appeals'** final decision that is recorded prior to April 3, 2014, shall remain in full force and in effect. If an application to substantially change a **commitment** is filed after three (3) years of April 3, 2014, then the change to the **commitment** shall be governed by all requirements and standards of this ordinance in effect at the time of applying for the change.

(6) **Changes**

No provision of this ordinance shall require any change in the plans, construction, or designated **use** of any **structure** for which an **Improvement Location Permit** has been issued prior to April 3, 2014, or for a permit that was issued under A.C.C. 3-1-21-1(a)(1) above.

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(7) Extensions

The decision-making body that granted the original approval may renew or extend the time of a valid previous approval. Any extension granted shall not exceed the time specified for the extension of the specific permit approval in A.C.C. 3-5-3 (Procedures).

(8) Re-application

Any re-application for an expired permit or project approval shall meet the provisions and standards of the zoning ordinance in effect at the time of re-application.

(c) **Violations** Continue

Any **violation** occurring under the previous Zoning Ordinance will continue to be a **violation** under this ordinance and be subject to penalties and enforcement pursuant to A.C.C. 3-5-3 (Enforcement), unless the **use, development**, construction, or other activity complies with the provisions of this updated ordinance.

(d) **Nonconforming Uses and Structures** Under Prior Ordinance

Any **nonconforming use** or **structure** that lawfully existed on April 3, 2014, will be allowed to continue, as long as the nonconformity that resulted in the nonconforming status under the previous ordinance continues to exist. If a nonconformity under the previous ordinance conforms to the provisions or **development** standards of this ordinance, then the **use** or **structure** shall no longer be deemed nonconforming, but shall be considered a permitted **use** or **structure** and subject to the provisions of this ordinance.

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## Chapter 22 Zoning District Designation Conversions

3-1-22-1 The existing zoning district designations shall be converted into updated zoning district designations as noted in the table below.

<b>Existing and Updated Zoning Designations</b>	
<b>Existing Zoning Designation</b>	<b>Updated Zoning Designation</b>
A-E/Exclusive Agricultural	A1/Agricultural
A-1/Agricultural	A1/Agricultural
A-3/Estates	A3/Estates
RS-1/Suburban Residential	R1/Single <b>Family</b> Residential
RS-2/Two <b>Family</b> Residential	R2/Two <b>Family</b> Residential
RS-3/Multiple <b>Family</b>	R3/Multiple <b>Family</b> Residential
MH/Manufactured Housing (if platted)	MHS/ <b>Manufactured Home Subdivision</b>
MH/Manufactured Housing (if unplatted/Development Plan)	MHP/ <b>Manufactured Home Park</b>
RSP-1/Planned Single <b>Family</b>	R1/Single <b>Family</b> Residential
RSP-2/Planned Two- <b>Family</b>	R2/Two <b>Family</b> Residential
RSP-3/Planned Multiple <b>Family</b>	R3/Multiple <b>Family</b> Residential
RSP-MH/Planned Manufactured Housing (if platted)	MHS/ <b>Manufactured Home Subdivision</b>
RSP-MH/Planned Manufactured Housing (if unplatted/Development Plan)	MHP/ <b>Manufactured Home Park</b>
C-1A/Professional and <b>Personal Services</b>	C1/ <b>Professional Office and Personal Services</b>
C-1B/Planned Business and Technology	<b>BTI/Business, Technology, and Industrial Park</b>
C-1/(Limited Commercial	C2/Limited Commercial
C-7A/Neighborhood <b>Shopping Center</b>	NC/ <b>Neighborhood Center</b>
C-7B/Community <b>Shopping Center</b>	NC/ <b>Neighborhood Center</b>
C-7C/Metropolitan <b>Shopping Center</b>	SC/ <b>Shopping Center</b>
C-7D/Regional <b>Shopping Center</b>	SC/ <b>Shopping Center</b>
C-3/General Commercial	C3/General Commercial
C-4/Roadside Commercial	C4/Intensive Commercial
C-5/Commercial Interchange	C3/General Commercial
C-6/Drive-in Facilities	C3/General Commercial
C-P (Planned Commercial)	Corresponding Commercial <b>District</b>
I-1/Light Industrial	I1/Limited Industrial
I-2/General Industrial	I2/General Industrial
I-3/Heavy Industrial	I3/Intensive Industrial
I-4/Planned Industrial Park	<b>BTI/Business, Technology, and Industrial Park</b>
I-P (Planned Industrial)	Corresponding Industrial <b>District</b>