

2017 County and Fort Wayne Zoning Ordinance Technical Amendments Summary

This set of technical amendments is proposed to:

- 1) Clarify language that is not clear based on the use of the ordinances so far;
- 2) Address issues that have come up since the effective date of the replacement ordinances (4/5/2014) or the effective date of the last technical amendment (1/1/2016);

A summary of the proposed 2017 technical amendments is below; the proposed effective date is January 1, 2018. To maintain alignment with the County and Fort Wayne, the Town of Huntertown ordinance will also be amended.

Draft Summary of Amendments			
No.	Keyword/ Page Numbers (AC/FW)	Issue	Proposed Amendments
AN1	Annexation FW2	Several annexation-related issues have been identified	What happens to previous PC/BZA approvals, or ILP projects. Revise ordinances as set forth in proposed Bob Eherenman language (FW and Huntertown only)
TP 1	Transitional provisions 5-7/5-7	Update the transitional provisions effective dates	Change “the effective date of this ordinance” to “April 3, 2014”
AS1	Accessory Dwelling Units 17 et al/16 et al	There was confusion over what the minimum square footage of a freestanding Accessory Dwelling Unit needed to be	Freestanding Accessory Dwelling Units need to be at least 950 square feet; integrated ADUs need to be a minimum of 300 square feet; (revise applicable residential Accessory Buildings, Structures, and Uses tables; and Development Standards tables - number of buildings permitted on a lot provisions)
PU1	Permitted Uses 18/17	There has been confusion as to whether a freestanding accessory dwelling unit is permitted in the A1 and AR districts	Update the A1 and AR development standards tables to clarify that two dwelling units are permitted; change the accessory dwelling unit square footage from 300 square feet to 950 square feet
SU1	Special Uses 30 et al/22 et al	Temporary subdivision signs are currently a Special Use in AR-A1-A3; there have been requests to locate these signs in other districts	Add the Special use from the A districts to all of the zoning districts
DS1	Development Standards 33 et al/25 et al	A fence is defined as an accessory structure, but there are also fence development standards for corner lots – needs to be clarified	Treat retaining walls and fences the same; align the development standards, yard projections, and accessory structures exceptions to standards provisions; split fence and wall provisions into individual lines; add “excluding fences” to the Side Yard Corner lot provisions bullet points; update the Yard project table per DPS fence/wall staff sheet
DS2	Development Standards 45/38	It is not clear whether the multiple family perimeter setback applies only to a complex or to a single building as well	Clarify the development standards in the R3 and RP districts by adding “building and” to the Multiple family complex perimeter setback standard
DS3	Development Standards 46/38, 46	It is unclear what the building setback is for additions/new buildings in residential condominium development plans	Foxwood, Covington Creek, and other condominium projects are multiple family complexes; revise the RP and R3 10’ side yard standard to be a 10’ building separation standard for these types of projects
PU2	Permitted uses 59/59	Tattoo establishment is not included in the definition of personal services	Delete the C1 footnote excluding tattoo establishments; tattoo establishments will still not be a permitted C1 use

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SU2	Special Uses 61/61	There is a question about the retail (neighborhood) special use provisions; does the use have to be in an existing building?	Clarify the language to make it clear that this Special Use is only permitted for an existing building; remove the word (neighborhood)
DS4	Development Standards 63 et al/63 et al	It is not clear if a nonconforming primary building setback allows for an accessory building to be closer also	Clarify that “The smallest existing nonconforming primary building setback” provision in the commercial and industrial districts does not apply to an accessory building or structure
PU3	Permitted Uses FW 114	DE allows single family (one unit) and multiple family (3 or more units); there is a gap with 2 units above nonresidential	Add “dwelling, two family” to the permitted uses provisions; include footnote (2) (Fort Wayne only)
PU4	Permitted Uses 105/131	It is not clear that the Business, Technology, and Industrial Park district permits a professional office/research facility	Add “professional office and research facility” to the BTI permitted uses
PU5	Permitted Uses 118, 124/ 144, 149	There was a question as to where “equipment rental” is/should be permitted	Add limited and general equipment rental to the I2 and I3 districts
AU1	Accessory Structures/Uses 159-160/ 185-186	There is a conflict between the Parking and Vehicle Storage and the Prohibited Vehicles provisions	Update the provisions by dividing the language into Permitted vehicle storage and prohibited vehicle storage; update definition of motor vehicle to add “golf cart”, “lawn mower” and “lawn implements”
OS1	Outdoor storage 161/187	The outdoor storage provisions needs to be revised to address non-temporary portable storage units	Revise by adding “Portable storage containers used for accessory outdoor storage, if used for over 120 days, shall only be permitted in the C3, C4, I1, I2, and I3 districts, and shall meet the applicable provisions for outdoor storage in this chapter.”
TS1	Temporary Structures/Uses 163/189	The Temporary Structures and Uses section title does not include the word “Buildings”	Add the word “Buildings” to the title
TS2	Temporary Structures/Uses 163/189	It is unclear where shipping containers/portable storage units as an temporary use are permitted	Add “A temporary storage or similar structure, including a portable storage container, shall be permitted in a residential district for up to 90 days without a certificate of use; if the applicant obtains a certificate of use then the structure may be permitted up to 120 days” to the language
TS3	Temporary Structures/Uses 164/190	It is unclear which districts a temporary tent is permitted in, and which uses are permitted in conjunction with a temporary tent	Add/revise language to clarify how and where a tent is permitted in (see updated Temporary Tent language sheet)
DDS1	Development Design Standards 169/195	It is unclear about how a project phasing /timing of construction of sidewalks would lead to the requirement to install a sidewalk	Add “required and” before “existing” to 3-4-4-14(a)(1); change 3-4-4-14(b)(1)(A) to “including all development proposed as part of a primary development plan since April 4, 2014”;
DDS2	Development Design Stds	It is not clear when a multi-use trail would be required to be	Add “if engineering plans have been approved for the trail” to 3-4-4-14(a)(3) and 157.404(N)(c)

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	169/195	installed	
DDS3	Development Design Stds 169/195	Pedestrian circulation language “including previous or proposed phases of the proposed development” needs to include the date of 4-3-2014	Add date to AC page 169, 3-4-4-14 (b)(1)(A) and FW page 195, (N)(2)(a)(ii)
DDS4	Development Design Stds 175/199	There have been issues in terms of interconnections for both residential projects and nonresidential projects	Update ordinances per Bob Eherenman language for interconnections for development plans and plats
PARK2 DDS5	Parking 187/217 Development Standards 63/63	The ordinance is not clear on when an existing nonconforming gravel parking needs to be paved	Add a provision to the Parking Lot Improvement Standards that clarifies this Revise the commercial permitted uses general language by replacing the word “existing” gravel surface with “permitted”
DSW1	Development Standards Waivers 180/209	It is unclear if the height exclusion for amateur radio towers applies to both a freestanding or building mounted tower	Add (freestanding or building mounted) to “amateur radio tower/antenna” provision (add antenna as well)
DSW2	Development Standards Waivers 180/210	It is unclear if the height exclusion for television aerials includes radio antennae, and if it includes both a freestanding and building mounted tower	Television aerial (residential), including radio antennae (freestanding or building mounted)
PARK1	Parking 184/215	There is no specific parking standard for a public airport	Add “airport” to the list of uses that do not have a minimum parking requirement
LS1	Landscape Standards 222	It is unclear what the setback standard is for a dumpster in the DC, DE, and UC districts	Add a provision allowing a dumpster with no setback in these three districts (Fort Wayne only)
S1	Signs 211/241	There have been issues with automatically-permitted Electronic Message Center signs for Board of Zoning Appeals-approved uses	Create a separate EMC signage provision for BZA uses; create provisions for Single and Two Family, Other Permitted Residential Uses, Universally Permitted Uses, and BZA-approved uses
S2	Signs 211/241	There have been requests to install “subdivision/neighborhood” signs; it is not clear how to deal with the “neighborhood” signs	Create a neighborhood sign provision by adding “neighborhood” to the
S3	Signs 211/241	There is no provision for smaller auxiliary subdivision signs within a development (like for different sections/types of homes)	Add a provision for smaller non-illuminated auxiliary subdivision signs (4’ high, 24 square feet)
S4	Signs FW 249	There is a conflict in the window/wall signs general provision and the specific wall sign provisions – general allows window signs; the specific provisions do not	Revise the window signs general provisions (h) to exclude the DC-DE-UC districts (Fort Wayne only)

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S5	Signs 225/256	The general sign maintenance provisions do not exclude billboards	Revise the maintenance provisions to exclude billboards (there is a separate maintenance provision for billboards)
S6	Signs 226, 377/ 257, 409	The Sign height language in the Sign Measurement provisions is not consistent with the definition of sign height	Align the language by revising the sign measurement language
RE1	Roadway easements AC 230	There have been issues and questions about allowing roadway easements off of platted stub streets	Add language to 3-4-10-3 to allow a roadway easement access from a platted stub street (County only)
BZA1	BZA 267/297	Court cases have stated that the BZA may impose a greater standard where the ordinance has specific standard, based on evidence submitted at the hearing	Update the BZA powers provisions as proposed by Bob Eherenman to make it clear that the Board is permitted to do this; add a definition of conditions as part of this revised language
ILP1	Improvement Location Permits (ILPs) 275/305	There is not a provision for the validity of incomplete non-Site Plan ILP applications	Add a provision for validity of non-Site Plan ILP applications to the Improvement Location Permit provisions (new “g”/”8”)
ILP2	ILPs 276/306 385/417	There was a question as to whether a building mounted solar panel required an ILP	Building mounted solar panel falls under utility fixture, no ILP needed (add term to definition of utility fixture and to ILP exclusion table)
ILP3	ILP exclusions 276/306	The term “handicap ramp” is used in the ILP exclusions table, but the term “access ramp” is also used and defined	Remove the term handicap ramp from the ILP exclusion table; this is part of the definition of access ramp
ILP4	ILP exclusions 276/306	ILP exclusions – there are some structures missing from the exclusion lists	Add arbor, storage tank (underground), and Type 2 and Type 3 manufactured home in a manufactured home park
ILP5	ILP exclusions 276/306	There is a question about the standards for canvas/plastic-covered carports and whether ILPs are required for them	These should be considered structures. They should typically be required to get ILPs; add to the definition of structures
ILP6	ILP Exclusions FW 306	There is a typo in the Exclusions table cross reference, says 157.316, should be 157.409	Revise to correct typo (Fort Wayne only)
CU1	Contingent Uses 281/311	Look at the contingent uses provisions and determine which public facilities require a CU	Remove the Community Facility use from the list of permitted contingent uses; update the definitions of Community Facility and Neighborhood Facility)
SU3	Special Uses 287/316	The Commercial Communication Tower language is not clear	Clarify the Commercial Communication Tower Special Use language for AC 3-5-3-4(c)(1)(B) and FW 157.503(D)(3)(a)(ii); break up the sentence into separate requirements
NC1	Nonconforming Situations 293/323	For uses now in BTI districts which were determined to be permitted use by the County Plan	Add language to the Nonconforming Use provisions that allow for a nonconforming use in a BTI district to expand

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		Commission, it is unclear whether they would be permitted to expand	
NC2	Nonconforming Situations 293/323	It is not clear that an existing nonconforming single family residence can add a detached garage and/or fence	Add language to Nonconforming use (C)(2)(a)(i) to make it clear that a SFR can add a detached garage and/or fence without it being considered a non-permitted expansion of the use
NC3	Nonconforming Situations 294/325	There have been questions as to what “type” means in “type of fence” under Other Nonconforming Situations	Change the Fence language from “type” to “style and material”
DEF1	Definitions – Radio/TV tower 365/397	Radio or television tower is defined but not listed as a permitted and/or special use	Remove the definitions of Radio Tower, Television Tower, and Radio or Television Tower (IZO definitions also)
DEF2	Definitions School, parochial; school, public; school, private 371/402	Revisit the need to have a separate definition of school, parochial; school, private; and school, public; “parochial school”, “private school”, and “public school” are only used in definitions	Remove School, Parochial; School, Private; and School, Public definitions; add “post” to secondary in “business school” definition
DEF3	Definitions – Sign fabricating shop 377/409	Tweak definition of “sign fabrication shop” to include fabrication, maintenance, and/or installation of signs.	Add “The maintenance and installation of signs shall also be permitted as part of this use” to the definition.
DEF4	Definition – Retail, limited 369/401	There was a question as to where a drywall business with no customer showroom would be permitted	Delete “home accessory/improvement store” from the Retail/Limited definition and add Home Repair
DEF5	Definitions 317, 329, 381/349, 361, 413	There were questions about individuals living in tents and campers/RVs	Revise the definitions of building, single family dwelling, and structure; add tents and recreational vehicles to the definition exclusions
DEF6	Definitions 338 (FW only)	There are animals not included in the animal density provisions of the Low Intensity Livestock Operation definition	Add “sheep and goats ” and “horse and llama ” to the definition
DEF7	Definitions 379/411	“Standards” as defined refers to Board of Works/County Highway Department; is not used that way	Delete definition of “standards”
DEF8	Definitions Height exclusion 180/210	There have been questions about what a church steeple is and if the additional residential mitigation setback standards apply to a church with a steeple	Define steeple as “a conical, pyramidal, or similar structure on the top of a tower or roof of a religious institution; the additional setback standard does not apply
DEF9	Definitions 303/335	The Accessory Dwelling Unit definition is unclear	Clarify the definition by changing “is intended to be” to “shall be”
DEF10	Definitions 363/395	There have been issues with individuals calling junk materials	Update definition of play equipment by deleting “and other similar uses”, adding “but excluding materials

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		play equipment	that meet the definition of junk as set forth herein”
DEF11	Definitions 386/418	There have been questions about where a logistics facility would be permitted	Add “logistics and supply chain facility” to the definition of wholesale facility
DEF12	Definitions 333/365	In “fence, agricultural”, agricultural is misspelled	Revise; also, add “agricultural fence” to definitions
DEF13	Definitions 352/384	There is confusion over where the minimum lot width should be measured	Revise as per staff drawing; also revise the development standards tables to clarify how the lot width will be measured
DEF14	Definitions 385/417	The definition of “use, nonresidential” does not include educational or religious institution	Add educational institution and religious institution to definition (exclude parsonage, convent, etc.)
DEF15	Definitions 382/414	The definition of “substantial change” does not allow for any increase in the number of residential lots	Add a provision to the definition to allow for an increase in the number of residential lots of up to 5% of the original number of lots
DEF16	Definitions 373/405	There has been a question about the application of the blade signs provisions	Remove the 60 foot building height provision from the definition of “Sign, blade”
DEF17	Definitions Various pages	Look at the dimensional standards currently included in individual definitions and determine if the standard should be kept or removed from the definition, or included in the ordinance text	(See updated Definitions sheet for determinations)
DEF18	Definitions Various pages	There is confusion within several of the medically-related definitions as to whether the uses allow overnight stays	Update the definitions of “hospice care center”, “hospital”, “medical facility or office”, “nursing home”, “rehabilitation facility”, and “treatment center” to clarify the overnight stay provisions
ADD1 DEF19	Definitions 380/412	There are definitions for “street”, “private street”, and “public street”; the definitions conflict	Delete the definition of “street”
ADD2 DS5	Development Standards 45/37,45	There is a conflict between the R3 and RP permitted uses and the development standards	Resolve the conflict by adding “multiple primary buildings shall be permitted if approved by the Plan Commission as part of a development plan” to the development standards table language
ADD3 DP1	Development Plans 129/155	The language for when a development plan is required for multiple buildings is unclear	Clarify language by revising it to “Projects involving multiple buildings on a single lot or development site
ADD4 DEF20	Definitions 323/355	The definition for “conditions” needs to be revised based on the amendment for the BZA Powers and Duties	Revise the definition of “conditions”