

# **Chapter 1: Introductory Provisions.**

## **A. General Provisions.**

1. Title. This ordinance shall be formally known as the “Unified Development Ordinance,” or the “UDO” for the jurisdiction of the Thorntown Advisory Plan Commission.
2. Intent. The intent of the UDO is to promote orderly development while aligning with the vision of the Comprehensive Plan to:
  - a. Accomplish the purposes of IC 36-7-4 series: Local Planning and Zoning; and further such other purposes as stated hereinafter within specific provisions of this UDO;
  - b. Define the powers and duties of administrative officers and bodies as provided herein, and establish procedures for the implementation and enforcement of this UDO;
  - c. Protect the character and stability of residential, institutional, business, commercial, industrial, and natural areas;
  - d. Encourage compatibility between different land uses and to protect the scale and character of existing development from the encroachment of incompatible uses;
  - e. Establish reasonable standards and procedures for subdivisions in order to further the orderly layout and use of land;
  - f. Facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public facilities; and
  - g. Establish corrective and punitive recourse for violations or noncompliance regarding the provisions of this UDO.
3. Purpose. The purpose of this UDO is to combine the town’s Zoning Ordinance and Subdivision Control Ordinance into a single document in order to reduce redundancy and improve efficiency in the application of land development laws for the jurisdiction.
  - a. Zoning Ordinance Provisions. The regulations established for the administration of a Zoning Ordinance under IC-36-7-4-600 series are covered specifically in this UDO by Chapters 2, 3, 4, 5, 9, and 10. Relief from these provisions in the form of a Variance may be sought from the Board of Zoning Appeals (BZA). See Chapter 5, Section D: Special Exception and Variance Procedures.
  - b. Subdivision Control Ordinance Provisions. The regulations established for the administration of a Subdivision Control Ordinance under IC 36-7-4-700 series are covered specifically in this UDO by Chapters 6, 7, and 8. Relief from these provisions in the form of a Waiver may be sought from the Plan Commission (PC). See Chapter 8, Section D: Waiver Procedures.

4. **Defined Terms.** Specific words and terms relative to this UDO are defined in Chapter 10: Definitions. Words or terms used in this UDO that are not defined shall be as defined by a current dictionary and interpreted by the Administrator.
5. **Severability.** If any provision or the application of any provision of this UDO is held unconstitutional or invalid by the courts, the remainder of the UDO or the application of such provision to other circumstances shall not be affected.
6. **Interpretation.** The provisions of this UDO are the minimum requirements necessary for the protection of health, safety, comfort, morals, and general welfare of the people at large. If two (2) or more provisions within this UDO are in conflict or are inconsistent with one another, the provision which is most restrictive shall prevail.
7. **Statutory Changes.** If any Indiana Code cited in this UDO has been amended, this UDO shall be deemed amended in reference to the new or revised code.
8. **Repealer.** The following titles of the participating jurisdictions are hereby repealed and are replaced by the adoption of this UDO and the Official Zoning Map:
  - a. Parts of Thorntown Town Code Chapter 31;
  - b. Parts of Thorntown Town Code Chapter 90;
  - c. Parts of Thorntown Town Code, Chapter 150;
  - d. The entirety of Thorntown Town Code, Chapter 151; and
  - e. The entirety of Thorntown Town Code, Chapter 152.
9. **Effective Date.** This ordinance shall be in full force and effect upon passage.

## **B. Applicability, Authority, and Jurisdiction.**

1. **Authority.** This UDO is enacted by the Thorntown Town Council pursuant to the authority granted in IC 36-7-4-600 series and other applicable state and federal statutes, as amended.
2. **Jurisdiction.** The UDO shall apply to all land within the jurisdiction of the Town of Thorntown Advisory Plan Commission.
3. **Application.** It is not intended by this UDO to interfere with, abrogate, or amend any existing easements, covenants, or other agreements between parties, nor is it intended by this UDO to repeal, abrogate, annul, or in any way interfere with any existing provision of laws or ordinances not specifically repealed by this UDO, or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of buildings or premises. This UDO shall not affect valid

private covenants whose standards are above and beyond those of this UDO and which are not enforceable by the PC.

4. Other Jurisdictions and Approvals. Nothing in this ordinance shall eliminate the need to obtain any other approval or entitlement required by other provisions of the jurisdiction, the State, or Federal Agency.

## **C. Transition Policies.**

1. Pending Applications and Permits.
  - a. Pending Applications. Applications that have been received and submitted in a complete manner prior to the adoption of this UDO shall continue their respective process pursuant to the rules and provisions that were in place at the time of filing. This includes applications before the Thorntown Town Council, the Thorntown Advisory Plan Commission (PC), and the Thorntown Board of Zoning Appeals (BZA) as well as applications for Building Permits (BP) and Improvement Location Permits (ILP).
  - b. Permits Issued. A permit for a BP or ILP that was issued prior to the adoption of this UDO shall remain valid for the timeframe and provisions established by the regulations that were in effect at the time the permit was completely filed or issued. If applicable, a valid permit may be renewed per the provisions established by the regulations that were in effect at the time of filing. All permits that have expired per the provisions established by the regulations that were in effect at the time of filing shall be required to be resubmitted and shall be subject to the regulations established by this UDO. If the previous provisions did not identify an expiration, then said BP or ILP shall expire two (2) years from the date the BP or ILP was issued.
2. Approved Plats and Subdivisions. Because subdivisions are subject to two (2) phases of approval (primary plat and secondary plat), the following policies for transition apply:
  - a. Primary Plat. Any primary plat that was approved by regulations that were in place prior to the adoption of this UDO which has not expired, expired per any previous terms or conditions that were in place, and/or is otherwise still valid under said previous regulations, shall continue its respective process pursuant to the rules and provisions that were in place at the time of filing. If the previous provisions did not identify an expiration for primary plat approval and an application for secondary plat (all or in part) has not been received and completed within two (2) years after the date of the adoption of this UDO, then said primary plat shall automatically expire two (2) years after the date of the adoption of this UDO.
  - b. Secondary Plat. As long as the approved primary plat for a subdivision remains valid and has not expired, and the lot standards, structure standards, and utility standards that were in place in the Zoning Ordinance and/or Subdivision Control Ordinance at the time the primary plat was approved shall apply to the secondary plat (all or in part) included in the primary plat approval.
3. Commitments or Conditions. Commitments or conditions (whether recorded or not) that were made as part of approval before the Town Council, PC, or BZA or part of an application for a BP or ILP prior to the adoption of this UDO shall remain in full effect regardless of any resulting changes in regulations that are established by this UDO. Commitments or conditions may be modified pursuant to the applicable process outlined in Chapter 5: Zoning Ordinance Administration and

Procedures of this UDO and/or the applicable PC Rules and Procedures and/or BZA Rules and Procedures.

4. Property Not Included. Property that, for whatever reason, has not been specifically included within a zoning district is hereby declared to be in the Residential District (R) except for property designated as limited-access or interstate highway right-of-way.

## **D. UDO Administration: Administrator**

1. Duties. The Administrator shall be appointed by the PC per IC 36-7-4-311(a) and shall have the following duties:
  - a. Administer and enforce the provisions of this UDO in accordance with its literal terms and shall not have the power to permit any construction or any use or change of use which does not conform to this UDO;
  - b. Oversee the issuance of Building Permits (BP), Improvement Location Permits (ILP), and Certificates of Occupancy;
  - c. Maintain a permanent file of all permits and applications as public records; and
  - d. All other duties as outlined in the Administrator's job description.
2. Administrative Decisions. Whenever, in the course of administration and enforcement of this UDO, it is necessary to make an administrative decision which is not clearly governed by standards contained herein, such a decision shall be made so that the result will not be contrary to the spirit and purpose of this UDO or injurious to the area affected. Any such decision can be appealed to the BZA per Chapter 5, Section B: Appeals of Administrative Decision Procedures.

## **E. UDO Administration: Advisory Plan Commission (PC).**

1. PC Establishment and Membership. The PC shall be established in accordance with IC 36-7-4-200 series. The PC shall have membership in accordance with IC 36-7-4-207(b) and the qualifications outlined in IC 36-7-4-216.
2. PC Jurisdiction. The PC shall have jurisdiction over all land covered by the jurisdiction of this UDO.
3. PC Organization. The PC shall be organized in accordance with IC 36-7-4-300 series.
  - a. Quorum. In accordance with IC 36-7-4-301, a quorum of the PC consists of a majority of the entire membership of the PC.
  - b. Official Action. In accordance with IC 36-7-4-302, action of the PC is not official unless it occurs at a regular or special meeting, by a majority of the entire voting membership of the PC.
  - c. President and Vice President. In accordance with IC 36-7-4-303, at the first regular meeting in each year, the plan commission shall elect a president and a vice president from its members.
  - d. Secretary. In accordance with IC 36-7-4-304, the plan commission shall appoint a secretary at the first regular meeting each year, who is not required to be a member of the commission.
4. PC Meeting and Minutes.
  - a. Regular Meetings. In accordance with IC 36-7-4-306, the PC shall hold regular monthly meetings as necessary, keep minutes of its proceedings, keep records of its examinations and

- other official acts, and shall record and vote on all actions taken. All minutes and records shall be filed in the Office of the Administrator and shall be on public record.
- b. Special Meetings. In accordance with IC 36-7-4-307, a special meeting of the PC may be called by the president or by two (2) members of the PC upon written request to the Administrator.
5. Employees. In accordance with IC 36-7-4-311, the PC may appoint, prescribe duties, and fix the compensation of employees as necessary for the discharge of the duties of the PC. This compensation must be in conformity with salaries and compensation fixed by the Town Council. The PC may contract for special or temporary services and professional counsel.
6. PC Powers and Duties. The PC shall have the following powers and duties as authorized in IC 36-7-4-400 series including the following.
- a. Executive Committee. Per IC 36-7-4-408, the PC may establish an executive committee of not less than three (3) nor more than seven (7) persons appointed by the PC from its membership. The establishment of the executive committee, the naming of its individual members, and the adoption of rules governing its operation requires a two-thirds (2/3) majority vote of the entire membership of the commission. A majority of the executive committee may act on behalf of the PC, but if there are any dissenting votes, a person voting in the minority may appeal the decision of the executive committee to the PC.
  - b. Fees. Per IC 36-7-4-411, the PC may establish a fee schedule to defray the administrative costs associated with PC and BZA petitions, issuing permits, and other permitted actions.
  - c. Rules and Procedures. The PC shall adopt rules for its administration.
  - d. Comprehensive Plan. The PC shall approve and make amendments to the Comprehensive Plan for consideration by the town Council in accordance with IC 36-7-4-500 series.
  - e. Development Plans. The PC shall make decisions regarding development plans or delegate this authority to the Administrator in accordance with Chapter 5, Section C: Development Plan Procedures and IC 36-7-4-1400 series.
  - f. Streets and Addresses. The president of the Thorntown Town Council shall name or rename streets and assign addresses, however, this responsibility may be delegated to the PC, the Administrator, or another department by ordinance.
  - g. Subdivisions. The PC shall make decisions regarding plats, replats, and amendments to plats in accordance with Chapter 8: Subdivision Ordinance Provisions – Administration and Procedures, and IC 36-7-4-700 series, including:
    - i. Primary Plat as described in IC 36-7-4-702; and
    - ii. Secondary Plat as described in IC 36-7-4-709. The PC may delegate the authority to approve secondary plats to the Administrator.
  - h. Zone Map Changes. The PC shall make recommendations to the Town Council concerning changes to the zoning map in accordance with Chapter 5, Section E: Zone Map Change Procedures, IC 36-7-4-600 series, and IC 36-7-4-1500 series.

7. PC Committees. The following are established as committees of the PC as outlined in the PC Rules and Procedures.
  - a. Technical Advisory Committee (TAC). The TAC may assist in the review of applications by providing expert advice with regard to technical specifications, adequate capacity, public safety, and/or other specifications.
    - i. Membership. The TAC may include, but is not limited to, Administrator, Parks Department, Public Works Department, Town Engineer, Fire District(s), Water Utility(ies), Sewer Utility(ies), Boone County Surveyor, Boone County Health Department, and/or public school district(s), as appropriate.
    - ii. Duties. The TAC may be used on an as needed basis and have the following powers and duties to provide review and comment on:
      - (a) Primary and secondary subdivisions;
      - (b) Zoning map amendments (rezoning);
      - (c) Development plans; and
      - (d) Variances, Variances of Use, and Special Exceptions.
  - b. Other Committees. RESERVED.

## **F. UDO Administration: Board of Zoning Appeals (BZA).**

1. BZA Establishment and Membership. The Advisory BZA shall be established in accordance with IC 36-7-4-900 series. The BZA shall have membership in accordance with IC 36-7-4-902(a).
2. BZA Jurisdiction. The BZA shall have jurisdiction over all land covered by the jurisdiction of this UDO.
3. BZA Organization. The BZA shall be organized in accordance with IC 36-7-4-900 series.
  - a. Quorum. In accordance with IC 36-7-4-910, a quorum of the BZA consists of a majority of the entire membership of the BZA.
  - b. Official Action. In accordance with IC 36-7-4-911, action of the BZA is not official unless it is authorized by a majority of the entire membership of the BZA.
  - c. President and Vice President. In accordance with IC 36-7-4-912, the BZA shall elect a president and vice president from its membership at its first regular meeting each year.
  - d. Secretary. In accordance with IC 36-7-4-913, the BZA shall appoint a secretary at the first regular meeting each year, who is not required to be a member of the commission.
  - e. Meetings and Minutes. In accordance with IC 36-7-4-915, the BZA shall keep minutes of its proceedings, keep records of its examinations and other official acts, and shall record and vote on all actions taken by making findings of fact. All minutes and records shall be filed in the Office of the Administrator and shall be a public record.
    - i. Regular Meetings. The BZA shall fix the time for holding regular meetings each month or as necessary, keep minutes of its proceedings, keep records of its examinations and other official acts, and record and vote on all actions taken. All minutes and records shall be filed in the Office of the Administrator and shall be a public record.

- ii. Special Meetings. A special meeting of the BZA may be called by the president or by two (2) members of the BZA upon written request to the secretary.
- 4. BZA Powers and Duties. The BZA shall have the following powers and duties as authorized in IC 36-7-4-900 series.
  - a. Rules and Procedures. The BZA shall adopt rules for its administration in accordance with IC 36-7-4-916.
  - b. Appeals. The BZA shall make decisions regarding appeals in accordance with Chapter 5, Section B: Appeals of Administrative Decision Procedures and IC 36-7-4-918.1.
  - c. Special Exception. The BZA shall make decisions regarding special exceptions in accordance with Chapter 5, Section D: Special Exception and Variance Procedures and IC 36-7-4-918.2.
  - d. Variance from Development Standards. The BZA shall make decisions regarding variances from development standards in accordance with Chapter 5, Section D: Special Exception and Variance Procedures and IC 36-7-4-918.5.
  - e. Variance of Use. The BZA shall make decisions regarding variances of use in accordance with Chapter 5, Section D: Special Exception and Variance Procedures and IC 36-7-4-918.4.