

# Article 21-06: Uses

## Sections

Section 21-06.01: Principal Uses . . . . .	6-1
Section 21-06.02: Accessory Uses and Structures . . . . .	6-21
Section 21-06.03: Temporary Uses and Structures . . . . .	6-29

## Section 21-06.01: Principal Uses

### (a) Intent

This section classifies the uses allowed by zoning district in order to identify the activities that support the health, safety, and welfare of the people that live and work in all areas of South Bend. This section includes use definitions and any standards that may apply to a specific use.

### (b) Applicability

No building, structure, or land shall be used in any way other than an activity or use that is permitted in the applicable zoning district.

### (c) General Provisions

- (1) A site may contain more than one principal use, so long as each principal use is allowed in the zone.
- (2) If a use is not listed but is similar in nature and impact to a use that is listed, the Zoning Administrator may interpret the use as permitted and shall issue a written interpretation indicating which use category will be used.
- (3) All uses shall meet any applicable federal, state, and local requirements, including, but not limited to, licensing, health, safety, and building and fire code requirements.

### (d) Table of Principal Uses

- (1) **Allowed (■)**. These uses are permitted by right in the districts in which they are listed provided that they comply with the development standards of that district.
- (2) **Allowed subject to Conditions (▣)**. These uses are permitted by right in the districts in which they are listed, provided that they comply with the development standards of that district and with any standards that are listed specific to that use.
- (3) **Special Exceptions (▢)**. These uses are allowed only if reviewed and approved for a special exception in accordance with the procedures of [Section 21-12.07\(f\)\(4\)](#). In addition, they shall comply with the development standards of the district in which they are located and any applicable additional standards associated with the use.
- (4) **Prohibited Use**. Uses without a symbol are prohibited in the district because they are considered incompatible with the intent of the district.
- (5) **Use Specific Standards (✳)**. These uses shall comply with specific standards that apply to that use. The definition and use specific standards are located in the section referenced in the final column of [Table 21-06A](#). Except as noted, these use specific standards apply in any district.
- (6) **Definitions**. All uses are defined in the sub-sections following [Table 21-06A](#), listed alphabetically within their general use category.

Table 21-06A: Principal Uses by Zoning District	Zoning District											Use Definition & Standards		
	S1	S2	U1	U2	U3	UF	NC	DT	OS	U	C		I	
<b>Agricultural</b>														
Plant Agriculture											■	■		<a href="#">21-06.01(e)(1)</a>
Community Garden	■	■	■	■	■	■	■	■	■	■	■	■	*	<a href="#">21-06.01(e)(2)</a>
Indoor Food Production												■		<a href="#">21-06.01(e)(3)</a>
<b>Civic &amp; Institutional</b>														
Assembly, Neighborhood	■	■	■	■	■	■	■	■	■	■	■	■	*	<a href="#">21-06.01(f)(1)</a>
Assembly, General							■	■	■	■	■	■		<a href="#">21-06.01(f)(2)</a>
Cemetery	■	■	■	■	■	■			■	■	■	■		<a href="#">21-06.01(f)(3)</a>
College/University	■	■	■	■	■	■	■	■		■	■	■		<a href="#">21-06.01(f)(4)</a>
Correctional Facility											■	■		<a href="#">21-06.01(f)(5)</a>
Hospital							■	■		■	■	■		<a href="#">21-06.01(f)(6)</a>
Library/Museum/Cultural Facility	■	■	■	■	■	■	■	■	■	■	■	■	*	<a href="#">21-06.01(f)(7)</a>
Parks & Open Space	■	■	■	■	■	■	■	■	■	■	■	■		<a href="#">21-06.01(f)(8)</a>
Police/Fire Facilities	■	■	■	■	■	■	■	■	■	■	■	■		<a href="#">21-06.01(f)(9)</a>
Religious Institutions	■	■	■	■	■	■	■	■	■	■	■	■		<a href="#">21-06.01(f)(10)</a>
School, Pre-K/Primary/Secondary	■	■	■	■	■	■	■	■		■	■	■		<a href="#">21-06.01(f)(11)</a>
Zoo									■			■		<a href="#">21-06.01(f)(12)</a>
<b>Industrial, Manufacturing, &amp; Processing</b>														
Industrial, Artisan							■	■		■	■	■	*	<a href="#">21-06.01(g)(1)</a>
Industrial, Heavy												■	*	<a href="#">21-06.01(g)(2)</a>
Industrial, Light												■	*	<a href="#">21-06.01(g)(3)</a>
Research/Laboratory Facility							■	■		■	■	■		<a href="#">21-06.01(g)(4)</a>
Warehouse/Distribution Facility												■	*	<a href="#">21-06.01(g)(5)</a>
Waste Processing/Recycling Facility												■	*	<a href="#">21-06.01(g)(6)</a>
<b>Lodging</b>														
Bed & Breakfast	■	■	■	■	■	■	■	■		■	■	■	*	<a href="#">21-06.01(h)(1)</a>
Hotel						■	■	■		■	■	■	*	<a href="#">21-06.01(h)(2)</a>
<b>Office</b>														
Professional Offices						■	■	■		■	■	■		<a href="#">21-06.01(i)(1)</a>
<b>Residential</b>														
Dwelling, Ancillary	■	■	■	■	■	■	■	■	■	■	■	■	*	<a href="#">21-06.01(j)(1)</a>
Dwelling, 1 Unit	■	■	■	■	■	■	■	■					*	<a href="#">21-06.01(j)(2)</a>
Dwelling, 2 Units	■	■	■	■	■	■	■	■					*	<a href="#">21-06.01(j)(3)</a>
Dwelling, Mobile Home		■												<a href="#">21-06.01(j)(4)</a>
Dwelling, Multi-Unit		■		■	■	■	■	■		■			*	<a href="#">21-06.01(j)(5)</a>
Group Residence					■	■	■	■		■				<a href="#">21-06.01(j)(6)</a>
Group Residence, State Regulated	■	■	■	■	■	■	■	■						<a href="#">21-06.01(j)(7)</a>
Residential Care Facility	■	■	■	■	■	■	■	■			■			<a href="#">21-06.01(j)(8)</a>
Shared Housing					■	■	■	■						<a href="#">21-06.01(j)(9)</a>

Principal Uses

Table 21-06A: Principal Uses by Zoning District (continued)	Zoning District												Use Definition & Standards
	S1	S2	U1	U2	U3	UF	NC	DT	OS	U	C	I	
<b>Retail &amp; Service</b>													
Adult Business												■	* 21-06.01(k)(1)
Animal Care Establishment						■	■	■				■	* 21-06.01(k)(2)
Bar/Tavern						■	■	■	■	■	■	■	21-06.01(k)(3)
Beer/Wine/Liquor Sales							■	■			■	■	21-06.01(k)(4)
Commercial School								■	■		■	■	21-06.01(k)(5)
Day Care Center	■	■	■	■	■	■	■	■		■	■	■	21-06.01(k)(6)
Drive-Through Facility								■	■		■	■	* 21-06.01(k)(7)
Entertainment/Recreation Facility, Indoor								■	■	■	■	■	21-06.01(k)(8)
Entertainment/Recreation Facility, Outdoor	■	■	■	■	■	■	■	■	■	■	■	■	21-06.01(k)(9)
Funeral Services	■	■	■	■	■	■	■	■			■	■	21-06.01(k)(10)
Gas/Fuel Station								■	■		■	■	* 21-06.01(k)(11)
Medical/Dental Clinic						■	■	■		■	■	■	21-06.01(k)(12)
Personal Care & Services						■	■	■		■	■	■	21-06.01(k)(13)
Private Club/Lodge						■	■	■			■	■	21-06.01(k)(14)
Restaurant						■	■	■	■	■	■	■	21-06.01(k)(15)
Retail & Service, General						■	■	■		■	■	■	21-06.01(k)(16)
Retail & Service, Heavy											■	■	* 21-06.01(k)(17)
Self-Storage Facility							■	■			■	■	* 21-06.01(k)(18)
Tattoo/Piercing Parlor							■	■			■	■	21-06.01(k)(19)
Tobacco/Hookah/Vaping							■	■			■	■	21-06.01(k)(20)
Vehicle Sales or Rental							■	■			■	■	* 21-06.01(k)(21)
Vehicle Service, Major							■	■			■	■	* 21-06.01(k)(22)
Vehicle Service, Minor							■	■			■	■	* 21-06.01(k)(23)
<b>Transportation</b>													
Airport										■		■	21-06.01(l)(1)
Freight Terminal/Facility												■	21-06.01(l)(2)
Heliport								■		■	■	■	21-06.01(l)(3)
Parking Lot	■	■	■	■	■	■	■	■	■	■	■	■	* 21-06.01(l)(4)
Passenger Terminal								■	■		■	■	21-06.01(l)(5)
Transit Station								■	■		■	■	21-06.01(l)(6)
<b>Utilities</b>													
Solar Farm	■	■	■	■	■	■	■	■	■	■	■	■	21-06.01(m)(1)
Utilities, Major	■	■	■	■	■	■	■	■		■	■	■	* 21-06.01(m)(2)
Utilities, Minor	■	■	■	■	■	■	■	■	■	■	■	■	* 21-06.01(m)(3)
Wireless Communications	■	■	■	■	■	■	■	■	■	■	■	■	* 21-06.01(m)(4)

See Section 21-06.02 for accessory use standards.

Key ■ Allowed ■ Allowed subject to Conditions ■ Special Exception \* Use Specific Standards

---

**21-06.01(e): Agricultural****(1) Plant Agriculture**

A commercial agricultural operation of any size that grows horticultural or nursery stock or fruits, vegetables, grain, or other agricultural crops outdoors.

**(2) Community Garden**

A space where food, trees, and other plants are grown for personal, group, shareholder, or lessee use, or for donation, including for educational, recreational, and beautification purposes. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained or used by community group members.

**(A) Standards:**

- (i) No more than one stand selling and/or distributing agriculture and horticultural products produced on site shall be provided.

**(3) Indoor Food Production**

A commercial operation that produces fruits, vegetables, grain, or other agricultural crops; horticultural or nursery stock; or aquaculture in a permanent indoor facility. Includes greenhouses. Excludes retail sales of products.

---

**21-06.01(f): Civic & Institutional****(1) Assembly, Neighborhood**

A smaller-scale facility that has organized services, meetings, events, or programs to benefit, educate, entertain, or promote discourse in a public or private setting indoors. Includes such uses as community centers, recreation centers, meeting or lecture halls, exhibition rooms, or auditoria. If an assembly use is ancillary to another principal use, and has a gross floor area of less than 5,000 square feet, it is considered part of that use and is not considered a separate principal use. Excludes religious institutions.

**(A) Standards:**

- (i) Neighborhood assembly uses shall not exceed 20,000 square feet of gross floor area.

**(2) Assembly, General**

A large-scale facility that has organized services, meetings, events, or programs to benefit, educate, entertain, or promote discourse in a public or private setting, indoors or outdoors. Includes such uses as community centers, recreation centers, meeting or lecture halls, exhibition rooms, auditoria, arenas, stadia, and fairgrounds. Excludes religious institutions and uses classified as Assembly, Neighborhood.

**(3) Cemetery**

Land or structures dedicated for the internment of human or animal remains.

**(4) College/University**

A post-secondary institution, public or private, for higher learning that grants associate, bachelor, masters, or doctoral degrees. Includes theological schools. Includes related ancillary facilities, such as cafeterias, restaurants, retail, indoor or outdoor recreational facilities, research facilities, and similar uses.

**(5) Correctional Facility**

A jail, prison, or other similar place of incarceration of adults or minors owned by the government. Includes related ancillary facilities, such as cafeterias, classrooms, and recreational facilities.

**(6) Hospital**

A licensed facility that provides health, medical, or surgical care to the sick or injured, often on an inpatient basis. Includes related ancillary facilities, such as laboratories, outpatient clinics, pharmacies, cafeterias, gift shops, training facilities, classrooms, central service facilities, heliports, and offices integral to function of the facility.

**(7) Library/Museum/Cultural Facility**

A facility open to the general public for cultural services and exhibitions. Includes such uses as museums, cultural centers, historical societies, and libraries operated by a government or nonprofit establishment. Includes related ancillary uses, such as classrooms, meeting rooms, retail, offices, or food service.

**(A) Standards:**

- (i) In a S1, S2, U1, U2, U3, or UF district, library/museum/cultural facility uses shall not exceed 10,000 square feet of gross floor area.

---

**21-06.01(f): Civic & Institutional (continued)**

**(8) Parks & Open Space**

An open outdoor space, public or private, designed for active or passive recreational use or natural resources protection. Includes such uses as parks, plazas, greens, botanical or ornamental gardens, playfields and game courts, playgrounds, and monuments. Includes related ancillary facilities, such as picnic areas, gazebos, ziplines, and swimming pools. Excludes golf courses and skate parks, which are considered an Entertainment/Recreation Facility, Outdoor use.

**(9) Police/Fire Facilities**

A facility operated by a public safety agency, including such uses as fire stations and firefighting training facilities, police and sheriff substations and headquarters, emergency medical services substations, and public safety communication centers.

**(10) Religious Institutions**

A facility devoted primarily to the purpose of divine worship. Includes related ancillary uses, which are subordinate to and commonly associated with the religious institution use, such as schools and instructional facilities, daycare centers, and social uses.

**(11) School, Pre-K/Primary/Secondary**

A public, private, or parochial institution offering instruction at the preschool through high school levels with a full range of curricular programs. Includes related on-site ancillary facilities, such as cafeterias, gymnasiums, theaters, playgrounds, and athletic facilities.

**(12) Zoo**

A facility for the exhibition and viewing of animals. Includes related ancillary uses, such as retail and restaurants.

spaces. Includes related ancillary uses and facilities, such as a retail, restaurant, showroom, offices, storage, sales, and distribution of products.

**(A) Standards:**

- (i) Artisan industrial uses shall not exceed 15,000 square feet of gross floor area.
- (ii) Outdoor storage is prohibited, except in a C or I district. See [Section 21-06.02\(f\)\(25\)](#) for additional outdoor storage regulations.
- (iii) Deliveries or pick-ups related to the use are limited to parcel and small freight carriers, except in a C or I district.

**(2) Industrial, Heavy**

A facility for the processing, manufacturing, compounding, or storage of materials, products, or energy, where the scale and method of operation may produce significant external impacts detectable beyond the lot lines of the property. External impacts include noise, heat, glare, dust, smoke, fumes, odor, vibration, and/or other noxious by-products. May regularly employ hazardous material or produce hazardous by-products, may include outdoor storage areas, and may have activities that take place outside of structures. Includes such uses as outdoor storage yards, junkyards, salvage yards, foundries, steel mills, and asphalt and concrete product manufacturing.

**(A) Standards:**

- (i) A Type 4 buffer, designed per [Section 21-09.01\(o\)](#), shall be provided along the entire side and rear lot lines that abut a lot in any zone other than an I district.
- (ii) Outdoor storage is not permitted within an established front or corner yard.
- (iii) See [Section 21-06.02\(f\)\(25\)](#) for additional outdoor storage regulations.

---

**21-06.01(g): Industrial, Manufacturing, & Processing**

**(1) Industrial, Artisan**

A manufacturing use involving small-scale production, assembly, and/or repair with no noxious by-products. Includes such uses as bakeries, confectioners, breweries, metalworking, woodworking, and maker

---

**21-06.01(g): Industrial, Manufacturing, & Processing (continued)****(3) Industrial, Light**

A facility for the processing or manufacturing of products or parts, including fabrication, assembly, treatment, and packaging of such products, and the incidental storage, sales, and distribution of such products, provided that all manufacturing processes are contained entirely within a fully enclosed building. Any heat, glare, dust, smoke, fumes, odors, or vibration are confined to the building, and little or no external impacts are detectable beyond the lot lines of the property.

**(A) Standards:**

- (i) A Type 3 buffer, designed per [Section 21-09.01\(o\)](#), shall be provided along the entire side and/or rear lot line that abuts a lot in a S1, S2, U1, U2, U3, UF, OS, or U district.
- (ii) Outdoor storage is not permitted within an established front or corner yard.
- (iii) See [Section 21-06.02\(f\)\(25\)](#) for additional outdoor storage regulations. .

**(4) Research/Laboratory Facility**

A facility where testing, research, and development is conducted in industries such as biotechnology, pharmaceuticals, medical instrumentation or supplies, communication and information technology, vehicle components, and electronics and instrumentation. Other than prototype development, excludes the manufacturing, fabrication, processing, or sale of products.

**(5) Warehouse/Distribution**

A facility for the storage, transfer, wholesaling, and distribution of goods. If a warehouse/distribution use is ancillary to another principal use, and has a gross floor area of less than 10,000 square feet, it is considered part of the principal use and is not considered a separate principal use.

**(A) Standards:**

- (i) A Type 3 buffer, designed per [Section 21-09.01\(o\)](#), shall be provided along the entire side

and/or rear lot line that abuts a lot in a S1, S2, U1, U2, U3, UF, OS, or U district.

- (ii) Outdoor storage is not permitted within an established front or corner yard.
- (iii) See [Section 21-06.02\(f\)\(25\)](#) for additional outdoor storage regulations.

**(6) Waste Processing/Recycling Facility**

A facility for the collection, storage, and transfer of solid waste, which may include the collection, storage, processing, and transfer of recyclables, and organic and yard waste. Excludes salvage yards, industrial or sanitary landfills, and waste incineration facilities.

**(A) Standards:**

- (i) A Type 4 buffer, designed per [Section 21-09.01\(o\)](#), shall be provided along the entire side and rear lot lines that abut a lot in any zone other than an I district.
- (ii) Outdoor storage is not permitted within an established front or corner yard.
- (iii) See [Section 21-06.02\(f\)\(25\)](#) for additional outdoor storage regulations.

---

**21-06.01(h) Lodging****(1) Bed & Breakfast**

A dwelling that provides temporary lodging for compensation in guest rooms with no in-room cooking facilities. Includes related ancillary facilities, such as dining and meeting rooms.

**(A) Standards:**

- (i) The dwelling shall be the primary residence of the owner.
- (ii) The bed and breakfast shall not alter the character of the dwelling as a residence.
- (iii) No more than five guest rooms, and no more than ten guests at any one time, are permitted.
- (iv) Occupancy by any one guest shall not exceed 30 cumulative nights within any 3-month period.

---

**21-06.01(h) Lodging (continued)**

**(2) Hotel**

A facility that provides temporary lodging, in one or more buildings, for compensation. Includes related ancillary facilities, such as dining facilities, meeting rooms, and other incidental services.

**(A) Standards:**

- (i) Rooms shall be accessed from the interior of the building, including from interior courtyards, lobbies, or halls.
- (ii) A bathroom shall be provided for each room.
- (iii) In a UF district, hotels shall have no more than 5 guest rooms.

---

**21-06.01(i) Office**

**(1) Professional Offices**

A facility for the processing, manipulation, or application of information or professional expertise, including by businesses, nonprofit organizations, and the government. When such facility offers services to the public, they are typically provided at set appointments or meeting times, not on a walk-in basis.

---

**21-06.01(j) Residential**

**(1) Dwelling, Ancillary**

A dwelling unit that is subordinate and incidental to a primary building on the same lot. An ancillary dwelling unit may be detached or attached to the primary building.

**(A) Standards:**

- (i) Only one ancillary dwelling is allowed per lot.
- (ii) In a S1, U1, or U2 district, the owner(s) of the lot upon which the ancillary dwelling is located shall occupy at least one of the dwelling units on the premises.

- (iii) The finished floor area of an ancillary dwelling shall be no more than 75 percent of the finished floor area of the primary dwelling or 800 square feet, whichever is less. If the ancillary dwelling unit is accessory to a non-residential use, it shall be no more than 1,200 square feet.
- (iv) A detached ancillary dwelling, if located in any standard district, shall comply with the regulations for a carriage house, as defined in [Section 21-08.02\(d\)](#).
- (v) A detached ancillary dwelling shall only be located in an established rear yard and shall comply with all required building setbacks, except that an ancillary dwelling may encroach into a required rear setback up to within 5 feet of the rear lot line.
- (vi) A detached ancillary dwelling shall meet all accessory height requirements of the applicable zoning district.
- (vii) If a separate entrance is provided for an attached ancillary dwelling, it shall be located on the side facade, rear facade, or be setback at least 20 feet if located on a front or corner facade.

**(2) Dwelling, 1 Unit**

A structure that contains only one dwelling unit.

**(A) Standards:**

- (i) In a NC or DT district, a dwelling unit shall not be located directly along the street frontage, except for an existing Detached House building type that has not been converted previously to a non-residential use. The dwelling unit may be on an upper floor of the building or behind another ground floor, non-residential principal use.

---

**21-06.01(j) Residential (continued)****(3) Dwelling, 2 Units**

A primary building that contains two dwelling units on the same lot.

**(A) Standards:**

- (i) In a NC or DT district, a dwelling unit shall not be located directly along the street frontage, except for an existing Detached House building type that has not been converted previously to a non-residential use. Dwellings may be on upper floors of the building or behind another ground floor, non-residential principal use.

**(4) Dwelling, Mobile Home**

A movable or portable dwelling unit that (i) is fabricated in one or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process; (ii) is designed for occupancy by one family; (iii) is erected or located as specified by the City of South Bend Building Code; and, (iv) was either constructed prior to June 15, 1976; or, constructed subsequent to or on June 15, 1976 and bears a seal, certifying that it was built in compliance with the Federal Mobile Home Construction and Safety Standards law.

**(5) Dwelling, Multi-Unit**

A structure that contains three or more dwelling units on the same lot.

**(A) Standards:**

- (i) In a U2 district, a multi-unit dwelling shall have no more than four dwelling units.
- (ii) In a U2 district, a conversion to add one or more dwelling units, other than an ancillary dwelling, to an existing structure shall require a special exception.

**(6) Group Residence**

A residential facility providing any combination of food, shelter, personal care, social services, counseling services, or transportation to residents; or a residential facility providing common living areas such as a kitchen, living room, dining room, or recreation rooms. Includes uses such as boarding houses, domestic

violence shelters, homeless shelters, halfway houses, or any other residential facility for individuals which do not qualify as a family or any other form of residential facility expressly provided for in this Ordinance.

**(7) Group Residence, State Regulated**

A residential facility regulated by IC 12-28-4 et seq.

**(8) Residential Care Facility**

A licensed care facility that provides 24-hour medical or non-medical care to persons in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living. Includes such uses as nursing homes, convalescent homes, independent living, assisted living, continuum of care, and hospice facilities.

**(9) Shared Housing**

A dwelling unit located within a mixed use or multi-unit dwelling occupied by unrelated persons living as a single housekeeping unit, provided that the number of occupants does not exceed twice the number of bedrooms, and that the total number of occupants does not exceed four regardless of the number of bedrooms.

---

**21-06.01(k) Retail & Service****(1) Adult Business**

Businesses including, but not limited to, the following: Adult bookstore, adult cabaret (a.k.a. class B cabaret), adult drive-in theater, adult motion picture theater, adult mini motion picture theater, adult motion picture arcade, adult live entertainment arcade, adult motel or adult service establishment.

**(A) Location.** An adult business shall not be located within 500 feet of any:

- (i) Other adult business;
- (ii) District within the City of South Bend, St. Joseph County, or the City of Mishawaka which allows any residential use as a principal use, other than an ancillary dwelling unit;
- (iii) Lot being legally established for a residential use, religious institution use, school use, or parks and open space use;

---

**21-06.01(k) Retail & Service (continued)**

**(B) Definitions.** For the purposes of this section, the following terms have the following meanings:

- (i) Adult Bookstore.** An establishment having as a preponderance of its stock in trade or its dollar volume in trade, books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.
- (ii) Adult Cabaret (a.k.a. Class B Cabaret).** Any cabaret, nightclub, bar, tavern, restaurant, or similar establishment, which features:
  - i. Persons who appear in a state of semi-nudity;
  - ii. Live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers where such performances are distinguished or characterized by the exposure of specified anatomical areas or by emphasis on specified sexual activities;
  - iii. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons; or,
  - iv. Persons who engage in lewd, lascivious, or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.
- (iii) Adult Business.** An Adult Bookstore, Adult Motion Picture Theater, Adult Mini Motion Picture Theater, Adult Motion Picture Arcade, Adult Cabaret (a.k.a. Class B Cabaret), Adult Drive-in Theater, Adult Live Entertainment Arcade, Adult Motel, or Adult Service Establishment.

- (iv) Adult Drive-In Theater.** An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions, and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats in which a preponderance of the total presentation time is devoted to the showing of materials distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons.
- (v) Adult Live Entertainment Arcade.** Any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee to view from an enclosed or screened area or booth a series of live dance routines, strip performances, or other gyrational choreography which performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas.
- (vi) Adult Mini Motion Picture Theater.** An enclosed building with a capacity of more than 5 but less than 50 persons, used for presenting films, motion pictures, video cassettes, slides, or similar photographic reproductions in which a preponderance of the total presentation time is devoted to the showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
- (vii) Adult Motel.** A hotel, motel, or similar establishment offering public accommodations for any form of consideration which provides patrons, upon request, with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

**21-06.01(k) Retail & Service (continued)**

- (viii) **Adult Motion Picture Arcade.** Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-reducing devices are maintained to show images to 5 or fewer persons per machine at one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.
- (ix) **Adult Motion Picture Theater.** An enclosed building with a capacity of 50 or more persons used for presenting films, motion pictures, video cassettes, slide, or similar photographic reproductions in which a preponderance of the total presentation time is devoted to showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
- (x) **Adult Service Establishment.** Any building, structure, premises, or other facility, or any part thereof, under common ownership or control which provides a preponderance of services involving specified sexual activities or display of specified anatomical areas.
- (xi) **Enlargement Of An Adult Business.** An increase in the size of the building, structure, or premises in which the adult business is conducted by either construction or use of: (1) an adjacent building; (2) an additional building; or, (3) the construction or use of any portion of an adjacent building or additional building, whether located on the same or an adjacent lot or parcel of land.
- (xii) **Establishing An Adult Business.** Any of the following:
- i. The opening or commencement of an adult business as a new business;
  - ii. The conversion of an existing business, whether or not an adult business, to any of the adult businesses defined herein;
  - iii. The addition of any of the features of one or more of the adult businesses defined herein to an existing business;
  - iv. The addition of any of the adult businesses defined herein to any other existing adult business; or,
  - v. The relocation of any adult business
- (xiii) **Nonconforming Adult Use:** Any building, structure, or land legally established as an adult business prior to the effective date of this Ordinance, but which would be prohibited, regulated, or restricted under the provisions of this Ordinance.
- (xiv) **Reconstruction Of An Adult Business.** The rebuilding or restoration of any nonconforming adult business use which was damaged or partially destroyed by an exercise of the power of eminent domain, or by fire, flood, wind, explosion, or other calamity or act of God if the damage or destruction exceeds 50 percent of the fair market value of the building, structure, or the facilities affected.
- (xv) **Resumption:** The reuse or reoccupation of a nonconforming adult business use which has been discontinued for a period of 6 or more consecutive months.
- (xvi) **Services Involving Specified Sexual Activities Or Display Of Specified Anatomical Areas** (as used to define an Adult Service Establishment). Any combination of 2 or more of the following activities:
- i. The sale or display of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas;

**21-06.01(k) Retail & Service (continued)**

- ii. The presentation of films, motion pictures, video cassettes, slides, or similar photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons;
- iii. The operation of coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image producing devices to show images to 5 or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas; or,
- iv. Live performances by topless or bottomless dances, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

**(xvii) Specified Anatomical Areas:** Any of the following:

- i. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or,
- ii. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**(xviii) Specified Sexual Activities:** Any of the following:

- i. Human genitals in a state of sexual stimulation or arousal;

- ii. Acts of human masturbation, sexual intercourse, or sodomy;
- iii. Fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts;
- iv. Flagellation or torture in the context of a sexual relationship;
- v. Masochism, erotic or sexually oriented torture, beating, or the infliction of pain;
- vi. Erotic touching, fondling, or other such contact with an animal by a human being; or,
- vii. Human excretion, urination, menstruation, or vaginal or anal irrigation as part of or in connection with any of the activities set forth in (i) through (vi) above.

**(xix) Structural Alteration Of An Adult Business:**

Any change which would prolong the life of the supporting members of a building or structure such as bearing walls, columns, beams, or girders, except such changes as are ordered made pursuant to the provisions of the Unsafe Building Law, IC 36-7-9-1, and any amendments thereto.

**(C) Exterior Display for Adult Businesses.**

- (i) No adult business shall be conducted in any manner that permits the observation of any material depicting, describing, or relating to specified sexual activities or specified anatomical areas by display, decorations, sign, show window, or other opening from any public right-of-way.
- (ii) Not more than one wall sign shall be permitted for an adult business and such sign shall be permitted only on the front facade of the building. In addition to the one permitted wall sign, an adult business may be permitted not more than one freestanding sign per [Section 21-10.05\(e\)](#). All other sign structures shall be prohibited.

**21-06.01(k) Retail & Service (continued)**

- (iii) The sign surface area of a wall sign for an adult business shall not exceed 16 square feet. The maximum sign surface area of a freestanding sign, where permitted, shall not exceed 48 square feet.
- (iv) Signs and sign structures may be illuminated, provided, however, such illumination shall not be by way of exposed neon, exterior lighting (e.g., spot or flood lights) or any flashing or animated lights (either interior to the sign, on the exterior of the sign, or as a border to the sign).

**(2) Animal Care Establishment**

A business which provides care for domestic animals. Includes such uses as veterinary offices, pet grooming facilities, pet resorts/hotels, animal training facilities, animal rescue shelters, kennels, and pet boarding facilities where animals are boarded during the day or for overnight stays.

**(A) Standards:**

- (i) In a UF, NC, or DT district, no animal care activity shall take place outdoors.
- (ii) Outdoor exercise areas shall not be located in an established front or corner yard.
- (iii) Any outdoor animal care activity, including exercise areas, located within 100 feet from a S1, S2, U1, U2, U3, or UF district shall be screened with a Type 3 buffer designed per [Section 21-09.01\(o\)](#).

**(3) Bar/Tavern**

An establishment primarily engaged in the sale or dispensing of alcoholic beverages by the drink for on-site consumption. May include related ancillary activities, such as the sale of packaged liquor, the availability of food for on-site consumption, and live entertainment that is clearly incidental and subordinate to the bar/tavern use.

**(4) Beer/Wine/Liquor Sales**

An establishment whose primary business, in terms of gross floor area or sales, is the sale of alcoholic beverages for off-site consumption.

**(5) Commercial School**

A school that teaches industrial, vocational, clerical, managerial, commercial, artistic, or other select skills; conducts a commercial enterprise, such as a driving school; or a privately operated school that does not offer a complete educational curriculum.

**(6) Day Care Center**

A business that provides licensed care in a protective setting for children or elderly or disabled adults for less than 24 hours per day. Includes Class II child care homes as defined by IC 12-7-2. Excludes licensed Class I child care homes as defined by IC 12-7-2, which are permitted in all districts.

**(7) Drive-Through Facility**

A facility that dispenses goods through an attendant window or automated machine to persons remaining in or on motor vehicles in a designated drive aisle. A drive-through may or may not be in conjunction with another principal use.

**(A) Standards:**

- (i) A drive-through is determined by the entire length of the operation including the required waiting spaces to the services/pick-up window.
- (ii) No portion of a drive-through facility shall be located between the front facade and front lot line or the corner facade and corner lot line.
- (iii) A drive-through facility shall not cause any interference to a public right-of-way or conflict with safe movement along sidewalks or walkways, to building entrances or exits, or to parking spaces.
- (iv) A drive-through facility shall have a minimum width of 10 feet measured from the farthest point of projection of a drive-through facility from the building or structure.
- (v) Except in a NC or DT district, a drive-through facility shall have a bail out capability for all vehicles which have entered the drive through lane. When provided, a bail out lane shall have a minimum width of 10 feet measured from and running parallel to the full length of the drive through lane. If a bail out lane also serves

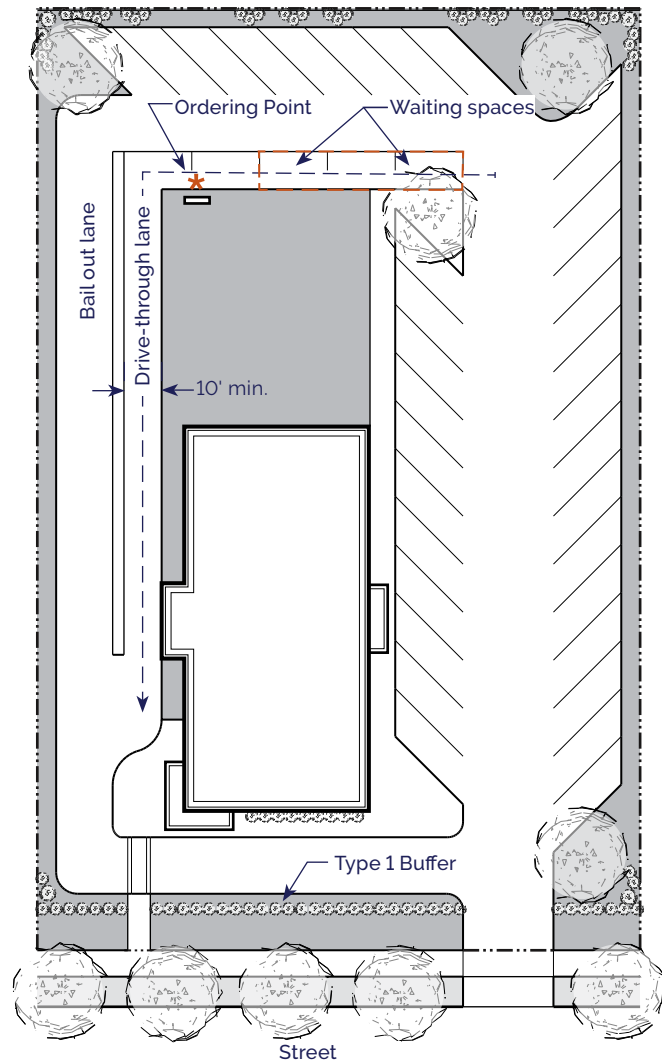
**21-06.01(k) Retail & Service (continued)**

as an interior access drive providing access to parking spaces, the bail out lane / interior access drive shall be limited to a one-way traffic pattern following the direction of the drive through lane.

- (vi) A drive-through facility shall provide at least three waiting spaces, at a minimum depth of 18 feet, prior to the first occurrence of any ordering, pick up or service facility.
- (vii) A Type 1 buffer, designed per [Section 21-09.01\(o\)](#), shall be provided along the entire front and corner yard lot lines not occupied by buildings.
- (viii) In a C or I district, a Type 2 buffer, designed per [Section 21-09.01\(o\)](#), shall be provided along the entire side and rear lot lines that abut a lot in a S1, S2, U1, U2, U3, UF, OS, or U district not separated by an alley.
- (ix) A drive-through canopy shall be consistent in design and materials with the primary building, shall be neutral colored, and shall have masonry support columns.
- (x) A drive-through facility shall serve people on foot, bicycle, or other modes of transportation besides a motor vehicle during all hours of operation. This may be achieved through means such as a carryout counter, walk-up window, pickup outside of the primary building, or allowing non-motor vehicle users to utilize the drive-through lane.

**(8) Entertainment/Recreation Facility, Indoor**

A facility for leisure uses conducted within an enclosed building. Includes such uses as amusement centers, arcades, bowling alleys, casinos, live and movie theaters, music venues, pool halls, skating and roller rinks and facilities, and tumbling centers. Includes related ancillary uses, such as food service. Excludes Assembly uses.



*Drive-Through Layout*

**(9) Entertainment/Recreation Facility, Outdoor**

A facility for leisure uses conducted outdoors or within partially enclosed structures. Includes such uses as amusement parks, batting cages, campgrounds, drive-in movie theaters, fairgrounds, golf courses, miniature golf courses, golf driving ranges, recreational vehicle parks, skating parks, and tennis clubs. Includes related ancillary uses, such as food service. Excludes Assembly uses.

**(10) Funeral Services**

A facility where the deceased are prepared for burial display and for rituals before burial or cremation. Includes such facilities as chapels, funeral homes, crematoriums, and showrooms for the display and sale of caskets, vaults, urns, and other items related to burial services.

## 21-06.01(k) Retail &amp; Service (continued)

**(11) Gas/Fuel Station**

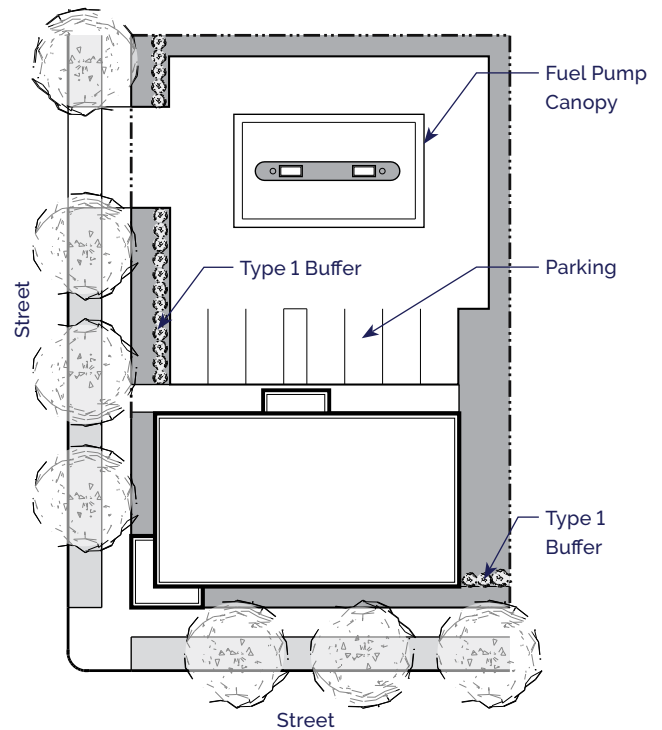
A facility engaged in the retail sales of personal or commercial vehicle fuels.

**(A) Standards:**

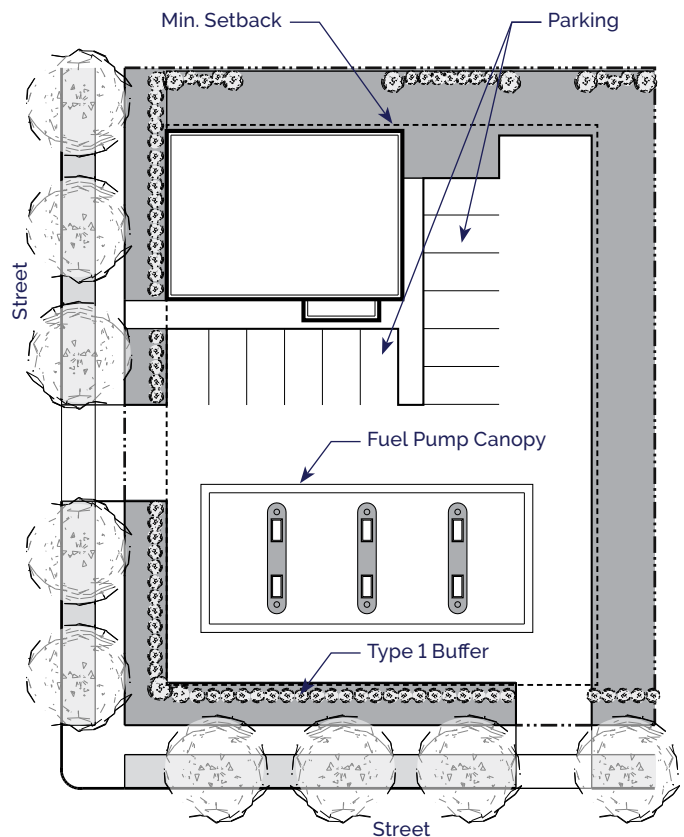
- (i) Fuel dispensers and pump island canopies shall not be located within any minimum required setback. In a NC or DT district, fuel dispensers and pump island canopies shall not be located in an established front or corner yard.
- (ii) Gas/fuel stations shall not cause any interference to a public right-of-way or conflict with safe movement along sidewalks or walkways, to building entrances or exits, or to required parking spaces.
- (iii) The site design of any gas/fuel station shall provide for the safe and efficient ingress and egress to the site for fuel delivery vehicles and an area for such fuel delivery vehicles to park while unloading which does not interfere with or impede ingress or egress to or from any public street, required parking spaces, or any fuel sales area.
- (iv) A Type 1 buffer, designed per [Section 21-09.01\(o\)](#), shall be provided along the entire front and corner yard lot lines not occupied by buildings.
- (v) A Type 2 buffer, designed per [Section 21-09.01\(o\)](#), shall be provided along the entire side and rear lot lines that abut a lot in a S1, S2, U1, U2, U3, UF, OS, or U district not separated by an alley.
- (vi) A gas/fuel station canopy shall be consistent in design and materials with the primary building, shall be neutral colored, and shall have masonry support columns.

**(12) Medical/Dental Clinic**

A facility for physicians, dentists, chiropractors, physical therapists, mental health practitioners, or other licensed healthcare practitioners to examine and treat persons on an outpatient basis.



*Gas/fuel station layout for an urban location*



*Gas/fuel station layout for a suburban location*

**21-06.01(k) Retail & Service (continued)**

**(13) Personal Care & Services**

A business engaged in hairdressing, cosmetology, or other similar services. Includes such uses as barber shops, beauty shops, nail salons, and massage parlors.

**(14) Private Club/Lodge**

A facility for an organization, which does not operate for profit and excludes the general public but is open to people upon invitation, nomination, or payment of annual fees or dues, for social, recreational, political, and/or entertainment activities. A private club/lodge may serve meals and alcohol on the premises for members and their guests only.

**(15) Restaurant**

A business where food and beverages are prepared for and served to patrons for consumption either on-premises or off-premises. Includes such uses as cafes, coffee shops, diners, fast-food establishments, lunch counters, and cafeterias.

**(16) Retail & Service, General**

A business that provides goods or services directly to the consumer, and where such goods or services are available for immediate purchase on the premises by the purchaser. Includes such uses as clothing retailers, convenience stores, grocery stores, financial institutions, fitness centers, and banquet halls.

**(17) Retail & Service, Heavy**

A retail and service business with permanent outdoor display, service, and storage areas. Includes such uses as the sale of lumber and building supplies, garden and landscaping supplies and equipment, industrial equipment, and outdoor structures such as prefabricated sheds, decks and patios, swimming pools, and play equipment. Excludes Vehicle Sales or Rental.

**(A) Standards:**

- (i) A Type 3 buffer, designed per [Section 21-09.01\(o\)](#), shall be provided along the entire side and rear lot lines that abut a lot in any zone other than an I district, whether or not the lot is separated by an alley.

- (ii) Outdoor storage and operations shall be screened from view by a building and/or a Type 2 buffer, designed per [Section 21-09.01\(o\)](#).

- (iii) See [Section 21-06.02\(f\)\(25\)](#) for additional outdoor storage regulations.

**(18) Self-Storage Facility**

A facility where individual spaces, inside or outside of a structure, are leased for the storage of personal property. Includes related ancillary uses such as the retail sales of packing, moving, and storage supplies.

**(A) Standards:**

- (i) In a NC, DT, or C district, no outdoor storage shall be provided on site.
- (ii) In a NC or DT district, access to individual storage units shall be provided from common areas or hallways located indoors. No direct access or outward appearance of direct access to an individual storage space shall be provided from the building exterior.
- (iii) Outdoor storage and operations shall be screened from view by a building and/or a Type 2 buffer, designed per [Section 21-09.01\(o\)](#).
- (iv) See [Section 21-06.02\(f\)\(25\)](#) for additional outdoor storage regulations.

**(19) Tattoo/Piercing Parlor**

A facility required to be licensed under Chapter 13 of the South Bend Municipal Code that provides services including deliberately scarring, burning, or pricking the skin so as to leave a mark or a color that cannot be removed without a surgical procedure. Includes such services as tattooing, permanent coloring, scarifying and branding, and the piercing of the human body to create a permanent hole (excluding ear piercing services which meet all requirements of Section 13-148 of the South Bend Municipal Code).

**(20) Tobacco/Hookah/Vaping Establishment**

An establishment whose primary business, in terms of gross floor area or sales, is related to the sale of tobacco products or related accessories, hookah products or related accessories, other smoking products or related accessories, or electronic nicotine delivery systems or related accessories, for on- or off-premise use.

**21-06.01(k) Retail & Service (continued)****(21) Vehicle Sales or Rental**

A business that sells, leases, or rents automobiles, vans, recreational vehicles, commercial vehicles, trucks, trailers, motorcycles, scooters, watercraft, or other powered personal transportation or conveyance. Includes related ancillary uses, such as on-site facilities for the repair and service of vehicles sold, leased, or rented.

**(A) Standards:**

- (i) In a DT district, vehicle sales or rental shall be located within a fully enclosed building.
- (ii) In a NC district, vehicle sales or rental shall be located:
  - i. Within a fully enclosed building, or
  - ii. In an established rear yard and not visible from a public right-of-way other than an alley.
- (iii) A vehicle sales or rental use shall have a minimum lot size of 120' by 180'.
- (iv) Any repair and service operations shall be performed within a fully enclosed building.
- (v) No partially dismantled, wrecked, or unregistered vehicle shall be stored outdoors on the premises.
- (vi) Each vehicle for sale or rental shall have direct access to an interior access drive.
- (vii) Any outdoor display area shall not be located in any required setback.
- (viii) Any outdoor display area along front and corner lot lines shall be screened by a Type 1 buffer, designed per [Section 21-09.01\(o\)](#).
- (ix) Any outdoor display area along side and rear lot lines that abut a lot in a district other than C or I, whether or not the lot is separated by an alley, shall be screened by a Type 3 buffer, designed per [Section 21-09.01\(o\)](#).
- (x) Any outdoor display area shall be considered a parking area for determining and providing parking landscape islands in compliance with [Section 21-09.01\(p\)](#).

**(22) Vehicle Service, Major**

A business that offers major vehicle repairs such as engine rebuilding; major reconditioning of worn or damaged motor vehicles or trailers; towing and collision service, including body, frame, or fender straightening or repair; painting of motor vehicles; or repair to commercial vehicles, recreational vehicles, or watercraft.

**(A) Standards:**

- (i) Any repair and service operations shall be performed within a fully enclosed building. Bay doors may be open during hours of operation.
- (ii) No partially dismantled, wrecked, or unregistered vehicle shall be stored outdoors for more than 14 days, except in an I district, where the maximum time shall be 30 days.
- (iii) Outdoor storage and operations shall be screened from view by a building and/or a Type 2 buffer, designed per [Section 21-09.01\(o\)](#).
- (iv) See [Section 21-06.02\(f\)\(25\)](#) for additional outdoor storage regulations.

**(23) Vehicle Service, Minor**

A business that offers minor vehicle repairs such as oil changes; repair or replacement of cooling, electrical, fuel, and exhaust systems; brake adjustments, relining, and repairs; wheel servicing, alignment, and balancing; repair and replacement of shock absorbers; detailing; and replacement or adjustment of muffler systems, hoses, belts, fuses, windshield wipers, and the like. Includes repairs to two-wheeled and three-wheeled motor vehicles. Includes car washes, whether mechanical, self-wash, or hand wash. Includes related ancillary uses, such as towing and collision service. Excludes vehicle dismantling.

**(A) Standards:**

- (i) Any repair and service operations shall be performed within a fully enclosed building. Bay doors may be open during hours of operation.
- (ii) No partially dismantled, wrecked, or unregistered vehicle shall be stored on-site.

**21-06.01(l) Transportation****(1) Airport**

A facility for the takeoff, landing, and maintenance of civil

Principal Uses

aircraft. Includes related ancillary uses, such as runways, passenger terminals, hangars, and control towers.

**(2) Freight Terminal/Facility**

A facility for freight pick-up, transfer, or distribution by air, rail, or truck. Excludes Warehouse/Distribution uses.

**(3) Heliport**

A facility for the designated takeoff and landing of helicopter or similar vertical lift aircraft. Includes related ancillary uses, such as terminal facilities for passengers, aircraft servicing, and storage or basing of aircraft.

**(4) Parking Lot**

A non-accessory parking lot for the storage of motor vehicles made available to the general public, with or without a fee. Parking lots serving a permitted use located on an adjacent lot or a lot no greater than 150 feet from the subject lot shall be considered as accessory parking lots. Includes parking structures, whether underground, at ground level, or above ground level, in which more than 50 percent of the gross floor area is used for parking vehicles.

**(A) Standards:**

- (i) A Type 1 buffer, designed per [Section 21-09.01\(o\)](#), shall be provided along all parking lots located along front, corner, side, and rear lot lines not occupied by a building.
- (ii) See [Section 21-07.03\(g\)](#) for parking structure regulations.

**(5) Passenger Terminal**

A facility for handling, receiving, and transferring intercity passenger traffic, including by train and bus.

**(6) Transit Station**

A building or permanent platform with an area for passenger boarding and alighting which is roofed for at least 30 feet, primarily serving intracity bus or train traffic. Includes related ancillary facilities, such as a waiting room, ticket office, ticket machines, restrooms, or concessions.

generators are used to generate and produce electric power for distribution to consumers. Such a facility is typically managed by a single entity.

**(2) Utilities, Major**

A large-scale utility facility that primarily serves a regional need, which because of its scale or method of operation is more likely to produce external impacts detectable beyond the lot lines of the subject property. Includes facilities such as electric or gas generation plants, high voltage transmission lines, sewage treatment plants, water pumping stations, and water towers and tanks.

**(A) Standards:**

- (i) A Type 4 buffer, designed per [Section 21-09.01\(o\)](#), shall be provided along the entire side and rear lot lines, whether or not the lot is separated by an alley.

**(3) Utilities, Minor**

A utility facility or service that primarily serves local distribution needs. Includes facilities such as water and sewer pump stations, electric substations, gas regulating stations, and telephone exchange/switching centers.

**(A) Standards:**

- (i) A Type 3 buffer, designed per [Section 21-09.01\(o\)](#), shall be provided along the entire side and rear lot lines, whether or not the lot is separated by an alley.

**(4) Wireless Communications**

Towers, antennas, and ancillary structures used to transmit and receive radio-frequency signals, microwave signals, or other signals.

**(A) Application Requirements.**

In addition to any other submittal requirements, all applications to erect, construct, or modify any part of a wireless communication tower, antenna, or related structure shall apply for an improvement location permit and include the following items:

- (i) A service plan that demonstrates efforts to minimize the size and number of wireless communication tower locations throughout the geographical area, taking into consideration

---

**21-06.01(m) Utilities**

**(1) Solar Farm**

A site at which ground mounted photovoltaic cells and

**21-06.01(m) Utilities (continued)**

existing technology. The service plan shall include, but not be limited to the following:

- i. A narrative detailing the reason of need (coverage, capacity, new users, etc.) for a wireless communication facility at the requested site;
  - ii. A map identifying all existing wireless communication towers and all structures or buildings within a 1 mile radius of the proposed site that have a height equal to or greater than the height of the proposed wireless communication tower minus 30 feet.
  - iii. If the applicant is a licensed provider of wireless communication services, the applicant shall supply individual coverage maps which identify all existing locations utilized by the licensed provider's network and reflects the current coverage levels to the City of South Bend; and identify the proposed coverage levels of the licensed provider's network after the installation of the proposed wireless communication facility.
- (ii) A certification from the owner of the wireless communication tower or the property on which it is located, that the tower is available for use by another wireless provider on a reasonable and non-discriminatory basis and at a cost not exceeding the Fair Market Value for the use of the facilities. The owner shall demonstrate a designation of an area on the tower or property which is set aside for the equipment of future users and is located:
- i. Within the proposed compound area; or,
  - ii. Within a separate compound area located on the same lot and located no further from the wireless communication tower than the distance from the telecommunications tower to the proposed compound area plus 50 feet.
- (iii) Color photo simulations showing the site of proposed tower or antenna with a photo-realistic representation of the proposed tower or antenna as it would appear viewed from the closest residential use and from adjacent public right-of-way, and photographs of the same views as in the photo simulations showing the current appearance of the site or existing structure without the proposed tower or antenna.
- (iv) Certification by a licensed and registered professional engineer showing that the design meets or exceeds the most recent EIA-222 standards, including the fall zone and manner in which the proposed structure could fail.
- (B) Compliance with Other Laws.** A wireless tower or facility shall be erected and operated in compliance with the most current Federal Communication Commission and Federal Aviation Administration rules and regulations and other applicable federal and state standards. All wireless communications towers shall comply with all ordinances of the City of South Bend not in conflict with this section. This section shall not apply to Amateur Radio Operators who are licensed to operate by the Federal Communications Commission.
- (C) Co-Location.** The placement of two or more antenna or antenna arrays by wireless communication service providers on a common support structure.
- (i) The placement of new wireless communication antennas, including associated equipment, upon existing towers are permitted uses in all districts and may be issued a building permit provided all requirements of this section are met.
  - (ii) The applicant for a wireless communication facility special exception shall demonstrate that they have exhausted all efforts to locate the proposed antennas upon existing communication towers, buildings, or structures in the geographical area of the proposed antennas.
- (D) Wireless Communication Tower.** Any structure that is designed and constructed for the purpose of supporting one or more antennas intended for

**21-06.01(m) Utilities (continued)**

transmitting or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication, including without limit freestanding towers, guyed towers, lattice towers, monopole towers, self-supporting towers, and similar structures. The term includes the structure, equipment, and any supporting elements, such as guy wires.

- (i) Wireless communication towers shall be designed to provide for co-location by additional providers.
  - i. A tower less than 80 feet in height shall be capable of use by at least two wireless communication providers.
  - ii. A tower 80 feet or greater in height shall be capable of use by three or more wireless communication providers.
  - iii. A tower shall accommodate antenna arrays consisting of 9 to 12 antennas for each antenna array, provided, however, this regulation shall not apply to slick antenna applications. Antenna arrays shall be located within 15 vertical feet of each other and have no more than 3 degrees of twist and sway at the top elevation.
- (ii) No new wireless tower shall be located within 500 feet of a residential use unless the applicant can demonstrate that there are no other locations, buildings, or structures beyond 500 feet of a residential use which are available to provide the necessary wireless telecommunications services.
- (iii) The maximum height of a wireless communication tower, including antenna array, shall be less than 200 feet above grade.
- (iv) All new wireless communication towers shall be of a tapering monopole construction, provided with internal cable routing, unless an alternative design that would better blend into the surrounding environment is approved through the special exception request.

- (v) A wireless communication tower shall be white or off-white, galvanized silver, or gray in color or be finished or painted so as to reduce visual obtrusiveness, unless otherwise required by the Federal Aviation Administration (FAA) or any other governmental authority.
- (vi) A Type 3 buffer, designed per [Section 21-09.01\(o\)](#), shall be provided surrounding the base of a ground-mounted wireless communications tower.
- (vii) The compound area and all guy anchors shall be secured with a board-on-board or chain link fence of not less than 6 feet in height nor more than 10 feet in height. A security wire (barbed, razor, etc.) may be located on the tower-side of the fence but shall not extend above the top of the fence. A chain link fence, if used, shall be black vinyl coated.
- (viii) No signs or advertising materials of any nature may be allowed on any communication tower, except for warning signs or other notifications designed to alert the public to safety concerns.
- (ix) Wireless communication towers shall not be artificially lighted unless otherwise required by the Federal Aviation Administration (FAA) or another governmental authority. If lighting is required, the lighting shall, to the greatest extent feasible, cause the least disturbance to the surrounding areas.

**(E) Wireless Communication Antenna.** Any device or exterior apparatus mounted on a tower, building, utility pole, light pole, or other structure to transmit or receive communication signals or electromagnetic waves for the purpose of telephonic, radio, data, Internet, or television communication, and its attendant base station. If the following standards are met, a wireless communication antenna does not require an improvement location permit:

- (i) The antennas are enclosed, camouflaged, or screened to mitigate possible visual impacts; or
- (ii) The antennas are mounted on or in a structure that is already allowed within the district, such as a water tower, belfry, elevator penthouse,

**21-06.01(m) Utilities (continued)**

steeple, or existing wireless communication tower, and do not increase the overall height of the structure by more than 10 feet.

- (iii) Prior to installation of a roof-mounted antenna or equipment, the Zoning Administrator shall be provided with an engineer's certification that the roof will support the proposed antenna or associated roof-mounted equipment.

**(F) Termination of Use and Removal.** A wireless communication tower or antenna that has reached the end of its useful life shall be removed within six months of such determination. A wireless communication tower or antenna is considered to have reached the end of its useful life when it has not operated for a period of one year.

- (i) Time extensions may be granted by the Zoning Administrator when good faith efforts to repair the wireless communication tower or antenna are demonstrated.
- (ii) Foundations and support structures shall be removed, unless granted an exception. The City may ensure and enforce removal by means of its existing regulatory authority.
- (iii) The owner of the wireless communication tower and the last service provider shall notify the Zoning Administrator within 30 days that use of a telecommunications tower has been discontinued.

**(G) Security.** Every wireless communication tower owner and all service providers shall establish a cash security fund, bond or irrevocable letter of credit to secure the payment of removing the wireless communication towers, antenna arrays, associated equipment, and buildings that have been determined to be abandoned, or found to be in non-compliance with this Ordinance, and to provide the City of South Bend a fund from which to deduct fines and penalties for non-compliance with this Ordinance or other applicable laws in the following amounts:

- (i) The amount to be provided for each wireless communication tower shall be 125 percent of the cost of construction based upon a licensed engineers estimate.

- (ii) The amount for each antenna array on the wireless communication tower shall be 125 percent of the cost of construction based upon a licensed engineers estimate of the cost of installation of the antenna array;
- (iii) Any reduction in the security fund provided, because of deductions of fines, penalties, or removal costs, shall be replenished to the total of the required amount within thirty (30) days after notice from the City of South Bend of the amount deducted and the deficiency created hereby.
- (iv) Within a reasonable period of time, not to exceed 3 months after the wireless communications tower and/or antenna array is removed, any remaining funds on deposit with the City of South Bend pursuant to this section, after application and above all expenses provided for herein, shall be refunded to the appropriate owner or provider who created the security fund.

**Section 21-06.02: Accessory Uses and Structures**

**(a) Intent**

This section provides additional regulations for the use of a subordinate structure, building, or use that is customarily associated with, and clearly incidental to, the primary structure, building, or use that is located on the same lot.

**(b) Applicability**

- (1) Unless otherwise specified, the development of an accessory structure requires the submittal of a permit application as required by [Section 21-12.07](#).
- (2) Accessory structures may not be constructed prior to the construction of a primary building.
- (3) The Zoning Administrator shall determine when a structure is accessory to the primary building of a lot. To determine that a structure or use is accessory, it must meet the following criteria:
  - (A) customarily found in association with a permitted principal use;
  - (B) clearly incidental and subordinate to the primary building in terms of area, size, function, and location; and
  - (C) operated and maintained under the same ownership and on the same site as the primary building.
- (4) Any structure that is less than 4 square feet in area and 9 feet in height, including, but not limited to, little free libraries and electric vehicle charging stations, shall not be considered an accessory structure.

**(c) General Provisions**

- (1) Accessory uses, buildings, or structures shall comply with all development standards of the applicable zoning district unless otherwise specifically provided for in this section.
- (2) The total area of all detached accessory structures shall not exceed the main floor area of the primary building or 720 square feet, whichever is greater.

- (3) All accessory uses and structures shall meet any applicable federal, state, and local requirements, including, but not limited to, licensing, health, safety, and building and fire code requirements.

**(d) Location**

- (1) Unless otherwise specified, accessory structures shall not be located in any established front or corner yard.
- (2) Unless otherwise specified, accessory structures shall comply with all required front, corner, and side building setbacks but may encroach into a required rear setback up to within 5 feet of the rear lot line.
- (3) Accessory uses, buildings, or structures shall not encroach upon any platted or recorded easements unless specifically authorized by the terms of the easement or by written consent of the agency in whose favor the easement is granted.

**(e) Maximum Number of Accessory Buildings**

A lot in a S1, S2, U1, U2, U3, or UF district shall not have more than one detached accessory building; however, the following structures shall not count for the purposes of this calculation.

- (1) One additional storage shed, chicken coop, or chicken pen with a gross floor area of 120 square feet or less.
- (2) A Carriage House as defined by [Section 21-08.02\(d\)](#).
- (3) A pergola of 200 square feet or less that is no taller than the eave of the primary structure or 18', whichever is less.

### 21-06.02(f) Accessory Use Definitions and Standards

The accessory uses listed below provided a definition of the accessory use followed by any standards that apply to the specific use.

#### (1) Accessory Structure

A subordinate structure that is located on the same lot as the primary building or use but is clearly incidental and subordinate in use, size, area, and height. In addition to the uses listed within this section, accessory structures include, but are not limited to, storage sheds, mini-barns, outdoor fireplaces, bathhouses, cabanas, children's playhouses, swings, arbors, pergolas and gazebos.

#### (2) Automated Teller Machine (ATM)

A computerized, self-service machine used by bank customers for financial transactions, including deposits, withdrawals, and fund transfers, without contact with financial institution personnel.

#### (3) Carport

A covered structure that provides protection to motor vehicles from the elements with at least one side open to the weather.

##### (A) Standards:

- (i) A carport shall comply with all garage standards found at [Section 21-08.01\(g\)\(11\)](#), except a carport in a S1 district shall not be located in an established front or corner yard.

#### (4) Chickens, Chicken Coops, and Chicken Pens

A structure for the keeping of chickens intended to enable residents to responsibly keep a small number of chickens while limiting the potential adverse impacts on the surrounding properties.

##### (A) General Provisions

- (i) The keeping of chickens shall be allowed only on lots with 1 unit or 2 unit dwellings.
- (ii) The maximum number of chickens allowed is 6 per lot.
- (iii) Only female chickens are allowed. Roosters are prohibited.
- (iv) The keeping of chickens authorized under this section shall be limited to non-commercial uses

only. Chickens authorized under this section shall be kept as pets or for personal use only. Eggs or chicken manure shall not be sold.

- (v) On site slaughtering of chickens is prohibited.
- (vi) Additional requirements for the keeping of chickens shall be found in Chapter 5 of the South Bend Municipal Code.

##### (B) Location of Chicken Coops

- (i) Chicken coops shall be located at least 15 feet from any lot line, and at least 20 feet from any residential dwelling.
- (ii) Chicken coops and chicken pens shall be located in an established rear yard.

**(C) Construction.** A chicken coop and chicken pen shall be provided per the following standards. During daylight hours, chickens may be located in the chicken pen.

- (i) The chicken coop shall be enclosed with solid material on all sides and have a solid roof and door(s). The coop shall be at least 18 inches high, and provide at least 2 square foot of floor area per chicken. Traditional building materials shall be used. Doors shall be constructed so that they can shut and lock. Vents, covered with wire, will be placed as necessary for adequate ventilation. The coop shall be impermeable to rodents, wild birds, and predators, including dogs and cats.
- (ii) The chicken pen shall be constructed of traditional building materials and be predator-proof. The pen shall provide at least 2 square feet of area per chicken. The fence shall rise no more than 6 feet above the ground. The pen shall be covered with wire, aviary netting, or solid roofing.

**(D) Sanitation.** The chicken coop, chicken pens, and surrounding area shall be kept clean, dry,

odor-free, and in a neat and sanitary condition at all times. All manure, uneaten feed, and other trash shall be removed daily, and disposed of in a sanitary manner. The property owner shall take all necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites.

**(E) Permits**

- (i) A building permit is required for a chicken coop or chicken pen that exceeds 120 square feet.
- (ii) A permit for the keeping of chickens shall be required through the Department of Code Enforcement. Compliance with the requirements of this section shall create a presumption that the permitted use does not create a nuisance or threat to public health or safety. The permit shall, however, be revoked if the Code Enforcement Administrator determines that the permitted use does create a nuisance or detriment to public health or safety.
- (iii) Violation of ordinance standards shall result in permit revocation, and possible enforcement under [Section 21-13.02](#), including civil penalties. Misrepresentation by a permittee shall result in the voiding and revocation of an issued permit. In the case of the voiding and revocation of an issued permit, all chickens, chicken coops, chicken pens and associated equipment shall be removed from the property.

**(5) Deck**

See [Section 21-08.01\(g\)\(7\)](#) for all regulations relating to decks.

**(6) Donation Box**

A container used for the purpose of collecting donated items for resale or for use by a charitable organization or institution.

**(A) Standards:**

- (i) Donation boxes are permitted only in a UF, NC, DT, U, C, or I district.
- (ii) No more than one donation box shall be permitted per lot.

- (iii) Donation boxes shall be located a minimum of 20 feet from any residential dwelling.
- (iv) Donation boxes shall contain the following contact information on the front of each donation box: the name, address, email, and phone number of the operator.
- (v) Donation boxes are limited to 6 feet in height and 150 cubic feet in volume.

**(7) Fences / Freestanding Walls**

All fences or free-standing walls shall comply with all regulations of [Section 21-09.02](#).

**(8) Fire Escape, Exterior**

See [Section 21-08.01\(g\)\(8\)](#) for all regulations relating to fire escapes.

**(9) Game Courts**

A type of recreation facility which consists of an unpaved or paved surface area of ground open and essentially unobstructed to the sky, designed and intended for the playing of a recognized sport as a recreational activity by the occupants and guests of the primary building, which may include fencing, screening, nets, goals, or other necessary items required for recreational use.

**(A) Standards:**

- (i) A permanent or temporary basketball goal may be located in a minimum required setback provided it is adjacent to a driveway or interior access drive of a residential use.
- (ii) An open fence enclosing the game court may be erected to a maximum of 12 feet in height.

**(10) Garage**

See [Section 21-08.01\(g\)\(11\)](#) for all attached and detached garage regulations.

**(11) Greenhouse**

A temporary or permanent structure, typically made of glass, plastic, or fiberglass, in which plants are cultivated.

**(A) Standards:**

- (i) Roof-mounted greenhouses shall be located a minimum of 5 feet from any roof edge and are limited to a maximum height of 18 feet above the surface of the roof.

**(12) Home Occupations**

An occupation carried on by the resident of a dwelling unit, where such use is secondary to the use of the dwelling unit for residential purposes.

**(A) Standards:**

- (i) The home occupation shall be located within a fully enclosed building owned or occupied by the resident of the site.
- (ii) The use of the dwelling unit for the home occupation shall be incidental and subordinate to the use for residential purposes by the occupants.
- (iii) No more than one client may be served or instructed at a time. Clients may not be served or instructed before 7:00 a.m. or after 9:00 p.m.
- (iv) There shall be no structural alterations to the interior of the dwelling to accommodate a home occupation which would render the dwelling undesirable for residential use.
- (v) There shall be no structural additions, enlargements or exterior alterations changing the residential appearance of the dwelling or the lot or other visible indications of the conduct of the home occupation.
- (vi) There shall be no additional or separate entrance to the primary dwelling facing the street for the purpose of conducting the home occupation.

- (vii) There shall be no internal or external alterations, construction features, or use of electrical or mechanical equipment which would change the fire rating of the structure.
- (viii) There shall be no outdoor storage of any kind related to the home occupation.
- (ix) There shall be no vehicular or pedestrian traffic generated by a home occupation which is greater in volume than that which would be normally expected in the residential area in which the home occupation is located.
- (x) There shall be no equipment or process used in the home occupation which creates noise, vibration, glare, smoke, fumes, odors, or electrical interference detectable to the normal senses at any point beyond the lot line in such a manner as to annoy, disturb, frighten, or otherwise interfere with the use and quiet enjoyment of adjacent properties, or which creates water usage or the production of sewage other than domestic in nature.
- (xi) There shall be no electrical or mechanical equipment utilized in the home occupation which will create any visual or audible interference with radio or television reception or which will cause fluctuations in line voltage off the premises.
- (xii) The home occupation shall not involve the use of commercial vehicles for delivery of materials to or from the premises other than vehicles normally associated with residential home delivery (i.e., postal or united parcel vehicles).

**(B) Prohibited Home Occupations.** The following uses, by the nature of the investment or operation, have a pronounced tendency, once started, to rapidly increase beyond the limits specified above for home occupations and impair the use, value and quiet enjoyment of adjacent residential properties. Therefore, the following uses and other similar or comparable uses shall not be permitted as home occupations: Bar/Tavern/Restaurant; Beer/Wine/Liquor Sales; Industrial (any); Medical/Dental Clinic; Tobacco/Hookah/Vaping; Transportation (any); Vehicle Service (any); and Veterinary Clinic, Kennel, or Stable.

**(C) Permitted Home Occupations.** By way of example, the following uses, when conducted in compliance with the conditions set forth above, qualify as permitted home occupations: Animal Care Establishment (Pet Grooming); Childcare Home as defined by IC 12-7-2-28.6; Food Preparation as defined in IC 16-42-5.3; Personal Care & Services, including Barber/Beauty Shop; Professional Offices; and Teaching/Tutoring (including musical instruments, dance, yoga).

**(13) Hoop House**

A temporary structure typically made of, but not limited to, piping or other material covered with a translucent material in a half-round or hoop shape for the purpose of growing food or ornamental crops.

**(A) Standards:**

- (i) The covering of a hoop house shall be removed and stored when plant cultivation is not in process.

**(14) Mechanical Equipment**

Equipment necessary for the heating, cooling, ventilation, electric generating, and similar mechanical functions of a building. Excludes solar energy systems.

**(A) Standards:**

- (i) Ground-mounted mechanical equipment shall be screened with a Type 1 buffer, designed per [Section 21-09.01\(o\)](#), so that no portion is readily visible from any public right-of-way or open space, with the exception of alleys. If ground based mechanical equipment is screened by a structure or fence, this requirement is deemed to have been met.
- (ii) Rooftop mechanical equipment shall be fully screened by the roof form or hidden from view from the street with a solid screen constructed of materials similar to those of the building facade.
- (iii) Vents, air conditioners, and utility meters, except where such elements are enclosed, camouflaged, screened, obscured, or otherwise not visible from the street, are prohibited as part of a front or corner facade.
- (iv) An air conditioner window unit may encroach a maximum of 18 inches into any required setback unless otherwise prohibited in the district in which it is located.
- (v) Any existing mechanical equipment which was lawfully established prior to the adoption of this Ordinance will be considered conforming and may be repaired and replaced in kind.

**(15) Neighborhood Recycling Collection Points**

A site where individuals bring household recyclable materials to either drop off without compensation, or, to redeem the materials for monetary compensation. Beyond any limited sorting, no other processing of the materials takes place at the site. All materials are stored completely within the structure while awaiting periodic shipment to the processing facilities. These collection points may be developed as freestanding sites, but typically share the site of a larger principal use.

**(A) Standards:**

- (i) No more than one neighborhood recycling collection points shall be permitted per lot.
- (ii) Neighborhood recycling collection points shall be located a minimum of 20 feet from any residential dwelling.
- (iii) Neighborhood recycling collection points shall contain the following contact information on the front of each station: the name, address, email, and phone number of the operator.
- (iv) Neighborhood recycling collection points are limited to 6 feet in height and 150 cubic feet in volume.

**(16) Outdoor Dining**

An outdoor seating area for a restaurant.

**(A) Standards:**

- (i) Outdoor dining may be located within a required minimum front or corner setback.
- (ii) In the DT district, outdoor seating may be located in the waterway setback.
- (iii) Outdoor dining shall not be located in any street right-of-way except as permitted by the Board of Public Works.
- (iv) Outdoor dining shall not block an entrance or exit to or from the business or building or conflict with Americans with Disabilities Act standards. A minimum of 5 feet sidewalk clearance shall be maintained at all times.

**(17) Outdoor Display**

The outdoor display of products actively available for sale. Outdoor display does not include vehicle sales, which is considered a principal use.

**(A) Standards:**

- (i) Outdoor display may be located within an established front or corner yard.
- (ii) Outdoor display shall not be located in any street right-of-way except as permitted by the Board of Public Works.
- (iii) Outdoor display shall not block an entrance or exit to or from the business or building or conflict with Americans with Disabilities Act standards.
- (iv) Outdoor display shall not exceed 10 percent of the gross floor area of each non-related and separately operated use.
- (v) Outdoor display shall be permitted only during the hours of operation of the business and shall be removed at the close of each business day.
- (vi) Outdoor display shall be merchandise normally found within the on-premise business.

**(18) Parking or Loading Areas**

All parking or loading areas shall comply with the provisions of [Section 21-07](#).

**(19) Patio**

See [Section 21-08.01\(g\)\(12\)](#) for all regulations relating to patios.

**(20) Porte-Cochere**

See [Section 21-08.01\(g\)\(14\)](#) for all regulations relating to a porte-cochere.

**(21) Ramps/Wheelchair Lifts**

See [Section 21-08.01\(g\)\(15\)](#) for all regulations relating to accessibility ramps and wheelchair lifts.

**(22) Satellite Dishes**

**(A) Standards:**

- (i) Satellite television dishes shall not be visible from primary and secondary street frontages or located within an established front or corner yard, unless documentation is provided to the Zoning Administrator to demonstrate a lack of reception. If such documentation is provided, satellite television dish shall be located as discretely as possible.
- (ii) Ground mounted satellite dishes shall not be located in any minimum required setback.
- (iii) Ground mounted satellite dishes shall not exceed the maximum accessory building height.
- (iv) Roof-mounted satellite dishes shall not exceed the lesser of 5 feet above the peak of the roof or the maximum building height limit allowed for a primary building.
- (v) Roof-mounted satellite dishes shall not extend beyond the horizontal limits of the roof area; and shall be installed in accordance with the Building Code of the City of South Bend. Written documentation of such compliance, including load distribution within the building's support structure, may be required.

**(23) Signs**

All signs shall comply with the provisions of [Section 21-10](#).

**(24) Solar Energy System**

An energy system that uses the power of the sun to capture, store, and transmit energy.

**(A) Standards:**

- (i) To the maximum extent feasible, solar panels shall not obscure architectural details or features.
- (ii) No grid-tied solar energy system may be installed until the applicant has submitted evidence that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.

- (iii) Roof-mounted solar panels may be mounted on a flat roof, may project no more than 12 feet above the roof surface, and shall be set back in compliance with the fire code. Solar panels may also be mounted on a sloped roof, and shall be set back in compliance with the fire code. Roof-mounted solar panels shall not exceed the maximum building height limit allowed for a primary building.
- (iv) Facade-mounted solar panels may be applied flat against a building facade, or project off a building facade up to 3 feet.
- (v) Ground-mounted solar energy systems are limited to a maximum height of 18 feet. Power transmission lines from a ground mounted solar energy system to any structure shall be located underground, if possible, and shall be completely shielded against shock hazard.

**(25) Storage, Outdoor**

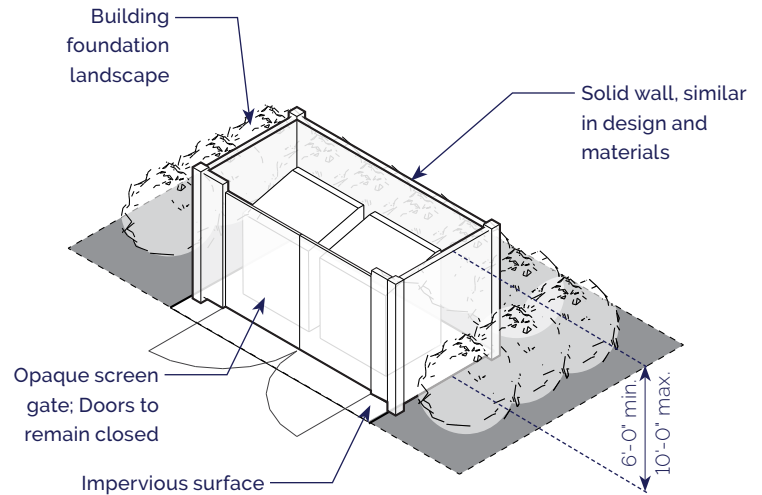
The storage of any product, goods, equipment, machinery, vehicles, boats, supplies, building materials or commodities, including raw, semi-finished and finished materials for a period of time in excess of one week, the storage of which is not accessory to a residential use. Vehicular parking and the display of automobiles, boats, truck, or farm equipment associated with a legally established vehicle sales use shall not be deemed outdoor storage.

**(A) Standards:**

- (i) Outdoor storage shall be screened on all sides by a building or a Type 2 buffer, designed per [Section 21-09.01\(o\)](#), except when such storage abuts an I district.
- (ii) Storage of materials that exceed the height of the required fence or wall shall be located at least 25 feet behind the fence or wall.
- (iii) Outdoor storage areas shall be surfaced with a durable dust free surface.
- (iv) Outdoor storage in excess of 50 percent of the lot shall require special exception approval.

**(26) Swimming Pools or Hot Tubs****(A) Standards:**

- (i) A swimming pool or hot tub, either above or below ground, shall comply with the applicable requirements of Chapter 14, Article 3 of the South Bend Municipal Code or the Indiana Administrative Code for residential pools at 675 IAC 14-4.3-270 through 296, as amended; and for commercial pools at 675 IAC 20, as amended, as adopted by Chapter 6 of the Municipal Code. Refer to Section 14-12 of the Municipal Code to determine applicable requirements.
- (ii) No pool or hot tub shall be erected or constructed unless adequate distance from overhead electrical wires is provided in accordance with the National Safety Code and the National Electrical Code, current editions.
- (iii) Abandoned or unused swimming pools or hot tubs, situated on a premises which are not occupied for periods of 30 days or more, shall be drained or equipped with a cover adequate to prevent persons, children or animals from danger or harm.
- (iv) All swimming pools or hot tubs, including associated decking and aprons over 30 inches above grade, shall be included in the calculation of maximum building coverage.

*Trash enclosure design***(27) Trash and Recycling Containers**

Designated outdoor storage areas and equipment used to collect refuse and recyclables.

**(A) Standards:**

- (i) Any trash or recycling container or combination of containers exceeding 36 cubic feet in capacity shall be placed on an impervious surface and screened on all sides by a building or a solid-walled enclosure not less than 6 feet in height nor more than 10 feet in height above grade and equipped with an opaque screen gate.
- (ii) The solid-walled portion of the enclosure shall be similar in design and materials to those of the building façade and shall be built to grade. Fences shall not be considered as a solid wall, and chain link fences with slats shall not be used as gate material.
- (iii) Gates or doors of the enclosure shall be kept completely closed except when refuse is being added or removed.

- (iv) Building foundation landscape, designed per Section 21-09.01(n), shall be installed along any sides of the enclosure not screened by a building.
- (v) The Zoning Administrator, upon request by an applicant, shall have the authority to approve an alternate design subject to the provisions below, as long as the intent of the ordinance is met.
  - a. Enclosure, material, and landscaping requirements may be reduced or waived if the enclosure is adjacent to and accessed from an alley and is not visible from a street.
  - b. An opaque fence may be used in place of a solid wall if the enclosure is located in an established rear yard or in a side yard not visible from a street and is designed so that refuse cannot leak or blow under it.
  - c. Landscaping may be reduced or waived if the enclosure is located in an established rear yard or in a side yard not visible from a street.

**(28) Vending Machines**

A machine that dispenses small merchandise or beverages when a coin, bill, or card is inserted.

**(A) Standards:**

- (i) Vending machines shall abut the exterior wall of the building and shall not be located in a required minimum setback.

## Section 21-06.03: Temporary Uses and Structures

### (a) Intent

This section includes regulations for short term activities that might not meet the normal development or use standards of the applicable zone but may otherwise be acceptable because of their temporary nature.

### (b) Applicability

All temporary uses and structures shall comply with the standards of this section.

### (c) Permits Required

A temporary use, structure, or building which will be removed from the site upon cessation of the temporary use shall comply with the regulations contained in this section and shall obtain an improvement location permit. If the temporary use, structure, or building is converted to a permanent primary use, it shall obtain approvals as if it were a new development.

### (d) Permitted Temporary Uses, Buildings, and Structures

A temporary use, building, or structure which is in compliance with the provisions of this section shall be allowed in any applicable zoning district. By way of example only, permitted temporary uses, buildings, and structures include:

- (1) Construction trailers, sales offices, temporary seasonal retail sales, and garage sales
- (2) Temporary Signs (See [Section 21-10.01\(l\)](#) for additional regulations)

### (e) Duration

Except as specifically provided otherwise in this section, a temporary use, building or structure shall be permitted for a period not to exceed one year. Except as specifically provided otherwise in this section, the improvement location permit, if required, may be renewed one or more times by the Zoning Administrator, for good cause shown, for an additional period(s) not to exceed a total of three years beyond the original expiration date.

### (f) Cessation of Use

All buildings, structures, or debris associated with the temporary use shall be removed from the site immediately upon completion or cessation of the

temporary use or expiration of the time period set forth above.

### (g) Compliance with Development Standards

In addition to the regulations of this section, any temporary use, building, or structure shall comply with all applicable development standards in the district in which the temporary use, building, or structure is located. Temporary construction trailers, temporary freestanding sales offices, and other temporary uses which will not be converted into a permanent primary or accessory use shall be exempt from the requirement to provide a hard surfaced parking area.

### (h) Regulations for Temporary Construction Trailers or Sales Offices

Construction Trailers and sales offices shall only be permitted as a temporary use in compliance with the following requirements:

- (1) Under-skirting shall be installed around the entire perimeter of the building or structure;
- (2) In the case of a new subdivision, shall be located on an approved lot, as shown on the primary plat; and
- (3) Shall serve only lots or dwelling units within the project.

### (i) Regulations for Garage Sales / Yard Sales

Notwithstanding any regulations above to the contrary, a garage sale may be conducted on a premises which includes a dwelling unit subject to the following regulations:

- (1) A garage sale / yard sale shall only be permitted as a temporary use on a lot which includes a dwelling unit.
- (2) A garage sale / yard sale may be conducted 3 times each calendar year per lot and shall not exceed 3 consecutive days in duration;
- (3) A garage sale / yard sale shall only be conducted during the hours from sunrise to sunset;

Temporary Uses and Structures

- (4) All personal property exhibited outdoors during a garage sale / yard sale shall be placed within a building or structure or otherwise removed from the premises immediately following the end of the garage sale;
- (5) Garage sale / yard sale signs shall comply with the applicable provisions of [Section 21-10.02\(a\)\(8\)](#);
- (6) Nothing in this section shall be construed to prohibit one or more owners or occupants from conducting a combined garage sale / yard sale on one of the lots owned or occupied by the participants, provided that all other provisions of this section are complied with;
- (7) Personal property exhibited outdoors during a garage sale / yard sale may be located in any minimum required setback or established yard, provided, however, such personal property shall not be located in any public right-of-way.
- (8) A garage sale / yard sale use shall not require an improvement location permit.

**(j) Regulations for Mobile Classrooms**

Mobile classrooms shall only be permitted as a temporary use in compliance with the following requirements:

- (1) Mobile classrooms shall be for use within the following Civic & Institutional Use types: College/ University, Religious Institutions; and School, Pre-K/Primary/Secondary; and
- (2) Mobile classrooms may be permitted for a period not to exceed 5 years from the date of issuance of an improvement location permit.

**(k) Regulations for Temporary Seasonal Retail Sales**

Any temporary seasonal retail sales use, structure, or building shall also comply with the following regulations:

- (1) The use or structure shall comply with all setback requirements applicable to off-street parking spaces on the site;

- (2) The location of the temporary seasonal retail sales use and its required amount of parking spaces shall not interfere with any required parking spaces or safe and efficient flow of vehicular and pedestrian traffic around the parking area for the permanent principal use of the site;
- (3) Signs for the temporary seasonal retail sales shall comply with the provisions of [Section 21-10.01\(l\)](#); and
- (4) Notwithstanding the provisions above to the contrary, seasonal retail sales uses shall not exceed 45 consecutive days per occurrence nor a total of 120 days during any calendar year.

**(l) Regulations for Emergency Shelters**

A shelter that provides temporary short-term housing for individuals displaced as a result of extreme weather, natural disaster, or catastrophic event under the declaration of the Zoning Administrator or the Mayor.

- (1) The maximum length of stay is 14 days, unless otherwise limited or extended by the Zoning Administrator or Mayor.
- (2) Where a temporary emergency shelter is operated to accommodate a longer length of stay, a temporary use permit is required. The maximum length of stay for a temporary emergency shelter operated to accommodate a longer length of stay is limited to 90 days within any calendar year. This time period may be further extended or restricted as part of the temporary use permit.
- (3) On-site supervision shall be provided at all times. Security personnel shall be provided during the hours of operation, unless exempted from this requirement by the Zoning Administrator.

*This page intentionally left blank*