



**1.1 TITLE**

These regulations shall be known and cited as the Unified Zoning & Subdivision Control Ordinance of Ashley, Indiana.

**1.2 PURPOSE**

This Ordinance is intended to encourage the growth and development of the Town in accordance with the Comprehensive Plan for the Town of Ashley. The Comprehensive Plan and all amendments thereto are incorporated herein by reference with copies of the same maintained in the Office of the Clerk-Treasurer and being open for public inspection during regular business hours.

**1.3 JURISDICTION**

This Ordinance shall apply to all lands within the corporate limits of the Town of Ashley, Indiana, or as other agreements may allow.

**1.4 INTERPRETATION**

The provisions of this Ordinance shall be held as the minimum requirements for the protection of the health, safety, comfort, morals, convenience, and general welfare of the people at large, and are designed to encourage the establishment and maintenance of reasonable community standards for the physical environment.

**1.5 APPLICATION**

It is not intended by this Ordinance to interfere with, abrogate or amend any existing easements, covenants, or other agreements between parties, nor is it intended by this Ordinance to repeal, abrogate, annul, or in any way interfere with any existing provisions of laws or ordinances (other than previous zoning and subdivision control ordinances), or any rules, regulations, or permits previously adopted or issued pursuant to law relating to the use of building or premises provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises than is imposed or required by such existing provisions of law or by such rules, regulations, agreements, covenants, or permits, the provisions of this Ordinance shall control; but where private covenants, permits, agreements, rules or regulations impose a greater restriction than is imposed by this Ordinance, the greater restriction shall control. Such greater restrictions as may be imposed shall not be the responsibility of the Town of Ashley for enforcement.

**1.6 SAVING PROVISION**

This Ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing zoning and/or subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue.

1.7 COMPLIANCE

No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, or enlarged; nor shall any structure or land be used, unless in full compliance with all provisions of this Ordinance and under the lawful issue of all permits and certificates required by this Ordinance.

1.8 SEVERABILITY

If any provision of this Ordinance is held unconstitutional or invalid by the courts, the remainder of the Ordinance shall not be affected.

1.9 REPEALER

This Ordinance repeals all prior zoning and subdivision control ordinances and zoning maps.

1.10 AMENDMENTS

In accordance with I.C. 36-7-4-602, the legislative body may amend or partially repeal the text of this Ordinance or they may amend the zoning maps of this Ordinance as follows:

- A. The Plan Commission may initiate a proposal to amend or partially repeal the text according to the procedure of I.C. 36-7-4-602(b) and I.C. 36-7-4-607 and according to the Commission Rules and Procedures.
- B. The Plan Commission, or at least fifty percent of the affected property owners may initiate a petition to change the zoning maps according to the procedure of I.C. 36-7-4-602(c) and I.C. 36-7-4-608 and according to the Commission rules.
- C. In its review of the text and zoning map amendments, the Plan Commission shall pay reasonable regard to:
  - 1. The most recently adopted Comprehensive Plan.
  - 2. Current conditions and the character of structure and uses in each district.
  - 3. The most desirable use for which the land in each district is adapted.
  - 4. The conservation of property values throughout the jurisdiction.
  - 5. Responsible development and growth.

1.11 ENFORCEMENT, VIOLATION, AND PENALTIES

- A. It shall be the duty of the Administrator or designated agent to enforce these regulations and to bring any violations or lack of compliance to the attention of the Town Attorney who may file a complaint against the person and prosecute the alleged violation.
- B. The Board of Zoning Appeals by mandatory injunction in the circuit court of the County against the owner or possessor of the real estate, may require the removal of a structure erected in violation of this Ordinance, or the removal of any use or condition permitted in violation of this Ordinance.

- C. A use that violates this Ordinance shall be treated as if it were a common nuisance, and the owner or possessor of the structure, land, or premises upon which the use is maintained shall be liable for such nuisance.
- D. Any person whether owner or possessor, who shall violate, or who permits or allows a violation, of any of the provisions of this Ordinance, or who fails to comply therewith or with any requirements thereunder, or who shall build, reconstruct, or structurally alter any building in violation of any detailed statement or plan submitted upon which an approval or grant is given under this Ordinance, shall upon complaint filed in any court of the county and upon judgment finding such violation, be fined not less than ten dollars (\$10.00) and not more than two thousand five hundred dollars (\$2,500.00), and each day that such violation or noncompliance shall be permitted to exist, shall constitute a separate violation.
- E. No Improvement Location Permit or Building Permit required under the Uniform Building Code or this Ordinance shall be issued on any property subject to this Ordinance in violation of the provisions of this Ordinance.
- F. Notwithstanding anything contained in this Ordinance to the contrary or appearing to be to contrary, and in addition and supplementary to other provisions of this Ordinance, if the Board of Zoning Appeals or the Town is required to utilize the services of the Town Attorney or any other attorney in investigating a possible violation of this ordinance or enforcing the provisions of this Ordinance pursuant to Section 1.11C, 1.11D, or 1.11E, or any other Section, before any board or court (including appeals), and such investigation results in a determination that a violation has occurred or if the Board of Zoning Appeals or Town is successful in its enforcement of the Ordinance by way of suit, appeal or other appropriate proceeding, the respondent, defendant, or party investigated for a violation shall pay the Town's reasonable attorney fees and all costs related to the investigation of the violation and/or the enforcement of this Ordinance, unless such attorney fees or costs are specifically waived by the Ashley Town Council.
- G. As to any appeal from a decision of the Board of Zoning Appeals, costs may not be allowed against the Board of Zoning Appeals unless it appears to the court that the Board acted with gross negligence or in bad faith in making the decision brought up for review.
- H. The Administrator or designated agent, his or her staff, or any person or persons assisting the Administrator or designated agent in the application and enforcement of this Ordinance is hereby authorized to go onto private property for the purpose of conducting inspections required by the Ordinance or any order of the Plan Commission and Board of Zoning Appeals, or required to determine if this Ordinance is being violated, or required to enforce this Ordinance. Such inspection or inspections shall occur at reasonable times and shall be conducted in a manner not to disturb the peace.

## 1.12 ADMINISTRATIVE OFFICER

The Town of Ashley's appointed Zoning Administrator or designated agent shall have the principal responsibility for implementation and enforcement of this Ordinance.

