

Article

9



Processes

*City of Shelbyville
Unified Development
Ordinance*

Introduction to Processes

9.01 Introduction to Processes

The following process are allowed.

- A. **Permanent Construction, Installation, Addition, Alteration, or Relocation of a Structure:** A project that involves constructing, installing, adding onto, altering, or relocating a permanent building or structure, including primary and accessory structures, shall utilized the following applicable process for approval.
1. **Improvement Location Permits:** Projects that are in full compliance with the applicable regulations shall be issued an Improvement Location Permit authorizing the project to begin. See *Section 9.02: Improvement Location Permit* for details about this process. This process section applies to the following zoning districts:

 2. **Site Development Plans:** Projects that are in full compliance with the applicable regulations and that meet the Site Development Plan requirements as determined by the Plan Commission shall be issued an Improvement Location Permit authorizing the project to begin. See *Section 9.05: Site Development Plan* for details about this process. This process section applies to the following zoning districts:

- B. **Permanent Alteration to the Land:** A project that involves permanently altering the topography, drainage, floodplain, or environmental features shall have the project reviewed for compliance with the Unified Development Ordinance. Projects determined to be in full compliance with the applicable regulations will be issued an Improvement Location Permit authorizing the project to begin. See *Section 9.02: Improvement Location Permit* for details about this process. This process section applies to all zoning districts:
- C. **Temporary Use of Land or Structure:** A project that involves establishing a temporary use or installing a temporary structure shall have the project reviewed for compliance with the Unified Development Ordinance.
1. **Residential:** Projects determined to be in full compliance with the applicable regulations shall be issued an improvement location permit authorizing the project to begin. See *Section 9.03: Temporary Improvement Location Permit* for details about this process.
 2. **Non-residential:** Projects shall be subject to the Site Development Plan process as described in *Section 9.01(A)(2): Site Development Plans*.
- D. **Special Exception Use:** An application for a Special Exception Use may be filed for a land use classified as a Special Exception Use in *Article 2: Zoning Districts* for the subject zoning district. The Board of Zoning Appeals shall utilize a specific public hearing and procedural findings to determine whether the land use is appropriate for the specific parcel named in the petition. See *Section 9.07: Special Exception Use* for details about this process.
- E. **Change to a Different Zoning District:** An application for a Rezoning may be filed for a lot to be changed from its existing zoning district to a different zoning district. The Plan Commission shall utilize a specific public hearing to review the proposed change in zoning. The Plan Commission shall then forward a recommendation to the Shelbyville Common Council for final action. Approval or denial is the full discretion of the Shelbyville Common Council. See *Section 9.10: Zoning Map Amendment* for details about this process.
- F. **Planned Development:** An elective approval process for developments that include one (1) or more of the following:
1. **Mixed Use:** Involve vertical or horizontal mixed-use,
 2. **Unique Development:** Significantly unique development designs, or
 3. **Unique Geological Features:** For land that has significantly unique geologic features.

This process allows the developer to propose a site-specific regulatory ordinance that partially replaces the Unified Development Ordinance to allow greater design flexibility, and that rezones the lot. Applications for Planned Development are reviewed and approved by a combination of the Plan Commission and Common Council, and approval or denial is the full discretion of the Plan Commission and Common Council. See *Section 9.06: Planned Development* for details about this process. This process section only applies to the following zoning districts:



Introduction to Processes

- G. **Processes for Relief from Regulations and Administrative Decisions:** This process section applies to all zoning districts, except a Planned Development District:
 1. **Administrative Appeal:** An application for Administrative Appeal of a decision, interpretation, order, determination, or action of the Zoning Administrator to be overturned or corrected shall be reviewed by the Board of Zoning Appeals. The Board of Zoning Appeals may allow the Zoning Administrator’s interpretation to stand or may overturn or correct any Zoning Administrator’s decision, interpretation, order, determination, or action. See *Section 9.04: Administrative Appeal* for details about this process.
 2. **Variance from Development Standards:** An application for a Variance from Development Standards may be filed so that an applicable development standard may be partially or fully waived by the Board of Zoning Appeals. The Board of Zoning Appeals may grant a Variance from Development Standard upon making specific findings of fact, with or without, conditions or commitments. See *Section 9.08: Development Standards Variance* for details about this process.
 3. **Variance of Use:** An application for a Variance of Use may be filed so that a use that is not permitted in a district be permitted by the Board of Zoning Appeals. The Board of Zoning Appeals may grant a Variance of Use upon making specific findings of fact, with or without conditions or commitments. See *Section 9.09: Use Variance* for details about this process.
 4. **Administrative Interpretation:** An application for an Administrative Interpretation may be filed with the Zoning Administrator requesting an interpretation of a permitted use or special exception use when a very similar land use is being proposed, but is not specifically listed as either permitted or a special exception use.
- H. **Subdivision of Land:** An Application for a Subdivision of Land is necessary to divide a lot into additional buildable lots shall be required to be reviewed and approved by the Plan Commission. Divisions of a lot recorded at the Office of the Shelby County Recorder without being approved by the Plan Commission shall not result in buildable lots. See *Section 9.11: Subdivision of Land* for applicability and applicable standards.

| Section Name | Page Number | Section Name | Page Number |
|---------------------------------------|--------------------|--------------------------|--------------------|
| Improvement Location Permit | 9-4 | UDO Text Amendment | 9-43 |
| Temporary Improvement Location Permit | 9-6 | Notice of Public Hearing | 9-44 |
| Administrative Appeal | 9-8 | Certificate of Occupancy | 9-45 |
| Site Development Plan | 9-9 | | |
| Planned Development | 9-15 | | |
| Special Exception | 9-23 | | |
| Development Standards Variance | 9-25 | | |
| Use Variance | 9-26 | | |
| Rezoning | 9-28 | | |
| Subdivision of Land | 9-31 | | |



Improvement Location Permit

9.02 Improvement Location Permit

This process applies to the following zoning districts:



The following procedure applies to Improvement Location Permit applications:

- A. **General Requirements:** No structure or major infrastructure shall be erected, moved, or added to, without an Improvement Location Permit issued by the Zoning Administrator. No Improvement Location Permit shall be issued unless the project is in conformity with the provisions of the Unified Development Ordinance and other applicable regulations of the City of Shelbyville. When applicable, consistent with *Section 9.05: Site Development Plan* review and approval shall be completed prior to the receipt of an Improvement Location Permit.
- B. **Permit Required:** The City of Shelbyville requires that an Improvement Location Permit be obtained for any of the following actions and a single Improvement Location Permit may be issued for a combination of these actions, if they occur together:
 1. Construction, removal, or placement of any structure, for any use that exceeds 200 square feet in area and/or has a permanent foundation (including structures other than buildings such as towers, storage tanks, antennas, and satellite dishes),
 2. Any temporary use of land or temporary structure,
 3. Swimming pools (in ground or above ground),
 4. Additions to all structures,
 5. Surface and sub-surface drainage work and/or grading (including land alteration) excluding agricultural uses,
 6. Adding or subtracting dwelling units or leased space in multiple-family or commercial structures,
 7. Placement or replacement of manufactured or mobile homes,
 8. Parking lot construction or alteration,
 9. Telecommunication towers, buildings, and antennas, and
 10. Any exterior construction that adds to or alters the height of an existing structure.
- C. **Exemptions:** No Improvement Location Permit shall be required for the following types of improvements. However, any such improvement shall comply with any applicable requirements of the Unified Development Ordinance and any other adopted standards of the City of Shelbyville.
 1. Fences under eight (8) feet in height, walls, and hedges placed outside of the public right-of-way,
 2. Residential driveways and sidewalks that are located entirely on private property, and
 3. Cosmetic (non-structural) changes to any structure including the replacement of windows in existing openings, re-roofing, the installation of siding material, and repainting.
- D. **Application Requirements:** All applications for an Improvement Location Permit shall be accompanied by the following:
 1. *Site Location Map:* a site location map showing the subject property and the general features of the adjacent property.
 2. *Site Plan (if applicable):* a detailed site plan, drawn to scale with the dimensions indicated showing the following:
 - a. The entire property and the features of the property including all rights-of-way, easements, property lines, required buffer yards, and setbacks;
 - b. All existing and proposed structures or other site improvements with the dimensions of such improvements;
 - c. The distances from all existing and proposed improvements to the property lines;
 - d. The location of any existing or proposed septic field;
 - e. The location of any existing or proposed driveway and/or parking areas;
 - f. Natural, physical, or hazardous conditions existing on the lot;
 - g. The location of any required landscaping, labeled according to size and species;
 - h. The location, type, and dimensions of any storm water structures, conduits, or detention/retention ponds that cross or adjoin the subject property; and
 - i. Finished floor elevations (if required by the Zoning Administrator).

Improvement Location Permit

3. *Waste Disposal Verification (if applicable)*: Either a septic permit from the Shelby County Health Department or a sewer access (tap-on) permit from the City of Shelbyville.
 4. *Driveway Approval (if applicable)*: A driveway permit from the Street Department.
 5. *Use Description*: A detailed description of the existing or proposed uses of the property and any structures.
 6. *Dwelling Units/Tenant Spaces (if applicable)*: An indication of the number of dwelling units, or tenant spaces the building is designed to accommodate.
- E. **Copies**: A copy of all submitted plans and application materials shall be retained by the Zoning Administrator for the permanent records of the Plan Commission.
- F. **Expiration of Permits**: If the work described in any Improvement Location Permit has not been completed within one (1) year for residential or two (2) years for all nonresidential projects from the date of its issuance, the permit shall expire. The City shall not be required to issue written notice to the persons affected.
1. The Zoning Administrator may grant extensions for up to one (1) year each for work completion. Requests for extensions must be received within one (1) month of the expiration.
 2. No extension shall be granted unless any appropriate fees, as defined by the adopted fee schedule, are paid to the City and the project continues to conform with all applicable requirements of the City of Shelbyville.
- G. **Construction According to Permits and Permit Application**: Improvement Location Permit issued on the basis of plans and applications only authorize the use, arrangement, and construction set forth in such approved plans and applications. Any other use, arrangement, or construction not authorized shall be deemed a violation of this Ordinance and subject to the provisions of *Article 10: Enforcement*.

Temporary Improvement Location Permit

9.03 Temporary Improvement Location Permit

This process applies to the following zoning districts:



- A. Applicability: A Temporary Improvement Location Permit shall be required prior to temporary construction, installation, addition, alteration, or relocation of a structure and prior to establishment of a temporary land use, except when the language in the ordinance clearly exempts the improvement.
- B. Cross Reference:
 1. Building Permit: A Temporary Improvement Location Permit does not indicate compliance with building codes. Concurrent to having a project reviewed for compliance with the Unified Development Ordinance some projects with a temporary structure will also have to be reviewed for compliance with the Building Code. The review for compliance with the Building Code is conducted by the Building Commissioner and is a separate process from the Improvement Location Permit.
- C. Filing Requirements: Application for a Temporary Improvement Location Permit shall be made on a form provided by the Zoning Administrator and shall be submitted to the Zoning Administrator during normal business hours. The applicant shall submit multiple copies of the application and materials if requested by the Zoning Administrator. Plans or illustrations filed as part of an application shall be drawn to a scale sufficient to permit a clear and precise understanding of the contents of the plans and of the proposal being made.
- D. Permit Procedure:
 1. Substantially Complete Application: An application for a Temporary Improvement Location Permit shall not be reviewed for approval until it is determined to be substantially complete by the Zoning Administrator. The Zoning Administrator shall first verify that the application form and any required supplemental information has been submitted correctly, and the applicable application fee is paid.
 2. Review the Project’s Compliance: After the application is verified as being substantially complete, the Zoning Administrator shall review the project to determine whether it complies with the Unified Development Ordinance. The Zoning Administrator may consult with any other person, department, or group to determine if the project complies with all of the provisions of the Unified Development Ordinance. During the review process, the Zoning Administrator may:
 - a. Request Additional Information: During the process of rendering a decision, the Zoning Administrator may request additional information deemed necessary to determine whether the project complies with the Unified Development Ordinance.
 - b. Exercise Discretion: Some provisions within the Unified Development Ordinance allow the Zoning Administrator to apply discretion to a decision. If such discretion is exercised, the Zoning Administrator shall describe the decision and cite the authority for that discretion.
 - c. Interpret the Unified Development Ordinance: Because the Unified Development Ordinance cannot address every possible unique situation, project features, or land use, the Zoning Administrator shall interpret the intent of the Unified Development Ordinance when a situation is not specifically addressed.
 3. Render a Decision: The Zoning Administrator shall render a “decision to deny” or “decision to approve” based on the information submitted, project review, discretion exercised, and interpretations made.
 4. Issuing a Temporary Improvement Location Permit: If the proposed project complies with the Unified Development Ordinance the Zoning Administrator shall render a decision to approve, document the terms of the approval on the permit, and then issue a Temporary Improvement Location Permit. The Zoning Administrator shall also issue a placard to the applicant. The placard is to be posted in a conspicuous place on the subject property for the duration of the temporary use or structure.
 5. Decision to Deny: If the proposed project does not comply with the Unified Development Ordinance, the Zoning Administrator shall not issue a Temporary Improvement Location Permit. The Zoning Administrator shall document the reasons for not issuing a Temporary Improvement Location Permit and send that information to the applicant by e-mail, U.S. Mail, or telephone. If an e-mail is used to communicate denial, documentation that the e-mail was received shall be included in the file. Similarly, if a phone call is used to communicate denial, documentation of the phone call shall be included in the file. If the Zoning Administrator renders a decision to deny an Improvement Location Permit the applicant may promptly revise the application, or may promptly pursue relief from the Unified Development Ordinance.
 6. Allowance for Revision Prior to a Decision: Not applicable.

Temporary Improvement Location Permit

7. **Allowance for Revision After a Decision to Deny:** After a decision to deny, the applicant may promptly revise the site plan, application form, or attachment in order to comply with the Unified Development Ordinance without terminating the process.
 8. **Pursuit of Relief:** After a decision to deny, the applicant may promptly pursue an administrative appeal or Variance from Development Standards. During an appeal for relief, the application for Improvement Location Permit shall be suspended until the Board of Zoning Appeals rules on the matter.
- E. **Duration:** When a Temporary Improvement Location Permit is issued, the following duration standards apply:
1. **Procedural Expiration:** An application shall expire and be void after the applicant is notified of a decision to deny unless the applicant makes revisions to the application or files and appeal with the Board of Zoning Appeals within thirty (30) days from notification.
 2. **Commencement:** After a Temporary Improvement Location Permit is issued, the permit shall expire after the last approved date for the temporary use and/or structure.
 3. **Permit Expiration:** A Temporary Improvement Location Permit shall be issued for the dates requested by the applicant and within the ordinance limits as described. The permitted dates shall be displayed on the Temporary Improvement Location Permit and placard.
 4. **Extensions:** Not applicable.
- F. **Modification After Issuance of a Temporary Improvement Location Permit:** Not applicable.
- G. **Record of Temporary Improvement Location Permit:** Records of Temporary Improvement Location Permits shall be kept on file in the Plan Commission Office for the period as specified by the Indiana State Code and shall be available as public record.

Administrative Appeal

9.04 Administrative Appeal

- A. Applicability: An Administrative Appeal applies to an applicant or interested party that wants a decision, interpretation, order, determination, or action of the Zoning Administrator to be overturned or corrected by the Board of Zoning Appeals. Any decision, interpretation, order, determination, or action of the Plan Commission shall not be the subject of an Administrative Appeal.
- B. Stay of Other Actions: The filing of an appeal shall stay all proceedings in furtherance of the action being appealed.
- C. Filing Requirements: An Administrative Appeal shall be made on a form provided by the Zoning Administrator. Applicable fees shall be paid at the time the Administrative Appeal is filed.
- D. Appeal Procedure:
 1. Assignment: Once an Administrative Appeal has been submitted, the Zoning Administrator shall assign a case number and place the appeal on the agenda of the Board of Zoning Appeals. The Zoning Administrator shall inform the petitioner, in writing, of the date and time of the Board of Zoning Appeals meeting at which the appeal is to be heard.
 2. Interested Party Notice: A notice to interested parties shall be made in accordance with the Board of Zoning Appeals Rules of Procedure.
 3. Transfer of Information:
 - a. The Zoning Administrator shall provide the appellant any additional information which is being conveyed to the Board of Zoning Appeals in preparation for the meeting.
 - b. The Zoning Administrator that is the subject of the appeal shall transmit the documents, plans, and papers constituting the record regarding the case to the Board of Zoning Appeals.
 - c. The Zoning Administrator that is the subject of the appeal may provide a written report explaining the final decision or action on the case.
 4. Review: The Board of Zoning Appeals shall hear the Administrative Appeal at a regularly scheduled public meeting according to their Rules of Procedure. The Board of Zoning Appeals may consider information conveyed to them in writing and testimony during the hearing in making a decision.
 5. Decision: Following the hearing and review, the Board of Zoning Appeals may affirm or modify the decision, interpretation, order, determination, or action from which the appeal stems. The Board of Zoning Appeals may also add conditions to its decision when warranted.
 6. Appeal: Any person aggrieved by the decision of the Board of Zoning Appeals may appeal such decision to a court of jurisdiction.

Site Development Plan

9.05 Site Development Plan

- A. **Intent:** The intent of this Section is to provide for the adequate, consistent review of new development to ensure consistency with the *City of Shelbyville Comprehensive Plan*; accommodate traffic and utility systems; and address the unique characteristics of certain areas of development. Site Development Plan review is provided for by the *IC 36-7-4-1400* series. The site development plan review process is not intended to provide an alternative to rezoning, variance, special exception, platting, or other established procedures; but rather to allow for the administrative review of site conditions and plans for consistency with applicable requirements prior to the issuance of Improvement Location Permits.

Generally, Site Development Plan review shall involve individual lots and shall occur after rezoning and plat approvals. Site Development Plan review may occur before any necessary Board of Zoning Appeals applications based on the characteristics of each application.

- B. **Applicability:** Site Development Plan approval shall be required for all developments for which an Improvement Location Permit is required by this Ordinance and that are located in any of the following zoning districts:



A Site Development Plan is also required for any development in the following overlay districts:

1. *AR-OL - Airport Overlay*
2. *RT-OL - Race Track Overlay*

- C. **Exemptions:** The following types of development shall be exempt from the requirements of this Article, but shall be required to obtain an Improvement Location Permit and/or any other permit or approval otherwise required by this Ordinance:
1. *Sign Installation:* The replacement or installation of any sign(s) not occurring as part of an improvement to any other aspect of the property;
 2. *Parking Lot Expansion:* The expansion of an original parking lot that does not result in a greater than twenty-five percent (25%) or 2,000 square foot (whichever is greater) increase in the surface area of the parking previously available on the property, the demolition of any structure, or the need for modifications to street accesses; or
 3. *Structural Expansion:* The expansion of the original structure or the construction of an accessory structure that does not result in a greater than twenty-five percent (25%) increase in the floor area of the structures that were previously existing on the property and does not require the provision of additional landscaping, parking, or other improvements regulated by this Ordinance.
- D. **Review and Approval Authority:** The Technical Review Committee, in its role as staff for the Plan Commission, shall have the authority to review Site Development Plans required by this Section.
1. *Waiver of Requirements:* Neither the Technical Review Committee nor the Plan Commission shall have the authority to waive any requirement of this Ordinance in the review of a Site Development Plan. All variances from the terms of this Ordinance shall be subject to the approval of the Board of Zoning Appeals.
 2. *Revision Process:* The procedure for the review of proposed amendments or revisions to previously approved Site Development Plans shall follow the process for the initial approval of Site Development Plans.
- E. **Application:**
1. *General Requirements:* All applications may be obtained from the Zoning Administrator. Fees shall be paid to the Zoning Administrator at the time the application is submitted.
 - a. *Application Forms:* All applications shall be made on forms provided by the Zoning Administrator. All applicants shall submit original applications that are completed in their entirety either in ink or typed.
 - b. *Copies Required:* All applicants shall submit copies of applications and necessary attachments as required by the adopted policies of the City and the applicable Plan Commission Rules and Procedures.
 - c. *Review Schedule:* All applications shall be assigned reference and/or docket numbers by the Zoning Administrator. Applications shall be scheduled by the Zoning Administrator for the appropriate meetings and/or public hearings based on the completeness of the application consistent with the requirements of this Article and the appropriate adopted Calendar of Filing and Meeting Dates for the Plan Commission.
 2. *Application:* The applicant shall submit an application for Site Development Plan review, an affidavit and consent of property owner (if the property owner is someone other than the applicant), a copy of the deed for the property involved, the required filing fee, and required supporting information to the Zoning Administrator.

Site Development Plan

- a. **Application Material Format:** All drawings shall be provided in both hard copy and electronic format in a manner specified by the Zoning Administrator (the Zoning Administrator may waive the requirement that an electronic version of any or all drawings be provided).
- b. **Supporting Information:** Supporting information shall include, but not be limited to, that described in *Section 9.05(E)(3): Required Materials* (the Zoning Administrator, City Engineer, Technical Review Committee, and/or Plan Commission may request additional supporting information, which shall be provided by the applicant).
3. **Required Materials:** The following materials shall be submitted with all Site Development Plan applications, unless otherwise waived by the Zoning Administrator. All material shall be submitted in paper and pdf electronic format, unless waived by the Zoning Administrator.
 - a. **Summary Statement:** A summary statement of the characteristics and operation of the development, including the population densities, presence of any adult uses, and number of potential employees. The statement shall include any written commitments being made regarding the Site Development Plan.
 - b. **Site Description:** A general description of the site and its ownership including:
 - i. The name, street address, e-mail address, and telephone number of the applicant,
 - ii. The name, street address, e-mail address, and telephone number of any land surveyors, engineers, or other professionals responsible for the Site Development Plan design,
 - iii. The name, street address, e-mail address, and telephone number of the primary contact individual for the application (it shall be indicated if the primary contact person is the applicant or a contracted design professional),
 - iv. The legal description of the subject property and common address of the site, and
 - v. The proposed name of the development (if applicable).
 - c. **Vicinity Map:** A vicinity map showing and clearly identifying the subject property and identifying the current zoning and use of all property within 500 feet of the subject property.
 - i. The vicinity map shall also show all property that is contiguous to the subject property that is owned and/or otherwise controlled by the owner or developer of the subject property.
 - ii. A conceptual drawing describing the future development of all contiguous holdings described above shall be provided by the applicant upon the request of the Zoning Administrator, City Engineer, Technical Review Committee, and/or Plan Commission. At a minimum the conceptual drawings shall include a description of the general street access points, general land uses, and general drainage conditions and plans.
 - d. **Property Survey:** A property survey, drawn to an appropriate scale, bearing the seal of a land surveyor registered in the State of Indiana, and showing the following existing features for the subject property and all land within 100 feet of the property lines of the subject property:
 - i. The boundary lines and dimensions of the subject property;
 - ii. All structures (specifically indicating any structures recognized as outstanding, notable, or contributing in the *Indiana Historic Sites and Structures Inventory - Shelby County Interim Report*; and those listed in the *National Register of Historic Places*; and/or the *Indiana Register of Historic Sites and Structures*);
 - iii. Topography interpolated from USGS sources and/or otherwise meeting the requirements of the City Engineer (topographic information shall tie into horizontal and vertical control points);
 - iv. Significant wooded areas and other isolated trees and wetlands;
 - v. 100-year floodplain and 100-year floodway boundaries (including elevations);
 - vi. Public and private streets (including street names), sidewalks and other pedestrian paths, rights-of-way, and easements;
 - vii. Required building setbacks and any build-to lines and buffer yards;
 - viii. All known drainage areas, tiles, pipes and structures;
 - ix. Utility services (including fire hydrants) and easements;
 - x. Street accesses; and
 - xi. Any other paved or otherwise improved areas.

- e. Site Plan: A site plan, drawn to an appropriate scale, bearing the seal of a professional engineer or land surveyor registered in the State of Indiana, clearly showing all proposed aspects of the property and all features relevant to the Site Development Plan, including:
 - i. All setbacks and buffer yards;
 - ii. Topography (including elevation contour lines at two-foot (2') intervals, or otherwise meeting the requirements of the City Engineer);
 - iii. Preserved wooded areas and isolated trees and wetlands;
 - iv. Structures (including buildings, fences, and walls);
 - v. All structure heights, dimensions, and floor areas;
 - vi. Areas of outdoor storage;
 - vii. Permanent dumpster and trash areas;
 - viii. Locations, dimensions, and design features (including all curb radii, tapers, and parking space dimensions) of road accesses, interior drives, parking lots, loading docks or areas, intersection sight visibility triangles, and interior sidewalks;
 - ix. Open spaces and specific landscaped areas;
 - x. Locations and capacities of public and private utilities;
 - xi. The location, width, and purpose of all easements;
 - xii. The use of each structure and the amount of parking allocated for the use(s);
 - xiii. Any public improvements including sidewalks, street trees, and right-of-way dedications; and
 - xiv. Locations for temporary uses, such as seasonal sales areas.
- f. Landscaping Plan: A landscaping plan, drawn to an appropriate scale, showing the following:
 - i. Proposed landscaping, buffer yards, and street trees;
 - ii. Topography (including elevation contour lines at two-foot (2') intervals, or otherwise meeting the requirements of the City Engineer);
 - iii. 100-year floodplain and 100-year floodway boundaries (including elevations);
 - iv. Existing and proposed public and internal sidewalks and other pedestrian ways;
 - v. The size and spacing of the plantings at the time of installation and the species proposed to be used to meet the requirements of this Ordinance; and
 - vi. All existing trees and vegetation to be preserved, and the driplines for such trees (in which no construction activity shall occur).
- g. Sign Concept Plan: A conceptual sign plan showing the approximate location, height, method of illumination (if any) and dimensions of all permanent signs and indications of approximate locations, heights, and sizes of any temporary signs. The inclusion of a Sign Concept Plan is for conceptual and review purposes only in order to assist the applicant with becoming familiar with the sign regulations. Signs require a separate permit and approval of the Site Development Plan does not constitute approval or denial of any signs contained in the Sign Concept Plan.
- h. Drainage Plan: A site drainage plan, bearing the seal of a professional engineer or land surveyor registered in the State of Indiana, including all calculations required by the City Engineer. The drainage plan shall include the location of the following:
 - i. All natural streams, regulated drains, and watercourses,
 - ii. 100-year floodways and 100-year floodplains (including elevations),
 - iii. All marshes, wetlands, and wooded areas, and
 - iv. All drainage area features as described in the drainage calculations.
- i. Access Plan: A site access plan showing both internal circulation between structures/lots as well as ingress/egress to existing rights-of-way.
- j. Lighting Plan: A site lighting plan, drawn to an appropriate scale, showing the type and location of all exterior lighting fixtures with a photometric plan.

Site Development Plan

- k. Construction Plan: A site construction plan, drawn to an appropriate scale, showing:
 - i. Proposed street cross sections;
 - ii. Proposed utility cross sections and location drawings;
 - iii. Proposed erosion and sediment control measures;
 - iv. The location of any proposed construction trailer and worker parking;
 - v. The location, height, and dimensions of any temporary construction-related signs;
 - vi. Any temporary site accesses to be used during construction;
 - vii. All traffic control signs and devices (subject to the approval of the City Engineer and consistent with the Manual of Uniform Traffic Control Devices);
 - viii. Any temporary utility connections; and
 - ix. The location of any stockpiles of dirt, construction materials, and construction waste dumpsters, and storage areas.
 - l. Traffic Studies as may be deemed necessary by the Technical Review Committee to determine the extent of public improvements required to accommodate traffic generated by the proposed development.
- F. Review Process:
1. *Technical Review Committee Review:* The Technical Review Committee shall review the Site Development Plan, including all supporting information on the date established by the adopted Calendar of Meeting and Filing Dates.
 - a. Representation: The applicant and/or a representative of the applicant must be present at the meeting to present the Site Development Plan and address any questions the Committee may have.
 - b. Considerations: In reviewing the Site Development Plan, the Committee shall consider whether or not the proposed Site Development Plan is consistent with the requirements and intent of this Ordinance, any other applicable adopted requirements of the City of Shelbyville, and the standards of the local utility providers.
 - c. Action: The Committee shall review the Site Development Plan and make comments prior to consideration by the Plan Commission.
 - i. Recommend Modifications: The Committee may recommend that minor modifications be made to the Plan in order to be completely in compliance with the requirements and intent of this Ordinance. The applicant shall revise the Site Development Plan proposal consistent with the Committee comments and supply revisions for review by the Zoning Administrator prior consideration by the Plan Commission and to the release of any Improvement Location Permit.
 - ii. Additional Review: If a determination has been made by the Zoning Administrator that sufficient information has not been provided, or if the applicant or an appropriate representative of the applicant fails to appear at the Committee meeting, the Committee may require that revised plan come back before the Committee for additional review. Site Development Plan applications that require additional review shall be automatically docketed for the next Committee meeting.
 - iii. Forward to Plan Commission: The Committee shall forward Site Development Plans that are generally consistent with the requirements and intent of this Ordinance to the Plan Commission for a public hearing if the proposal:
 - [a] includes any improvement to be dedicated to the public (if that improvement has not previously been shown on a recorded plat or otherwise dedicated),
 - [b] includes proposed written commitments, or
 - [c] requires the imposition of conditions in order to be completely consistent with the considerations for approval.
 2. *Plan Commission Preparation:* If Plan Commission review is required, the Site Development Plan shall be placed on the agenda for the next meeting of the Plan Commission consistent with the adopted Calendar of Meeting and Filing Dates. The applicant shall revise the Site Development Plan proposal consistent with any Committee comments prior to review by the Plan Commission and shall provide such revision for review.
 3. *Public Meeting Notification (if necessary):* Notification for the scheduled public hearing regarding the Site Development Plan shall be completed consistent with the requirements of Indiana Code, the Plan Commission Rules and Procedures, and the provisions of *Section 9.13: Notice of Public Hearing*.
 4. *Plan Commission Review (if necessary):* The Plan Commission shall review the Site Development Plan and any supporting information.
 - a. Representation: The applicant and/or a representative of the applicant must be present at the public hearing to present the Site Development Plan and address any questions from the Plan Commission.

- b. Presentations: The Plan Commission shall consider a report from the Zoning Administrator describing the findings of the Technical Review Committee and any testimony from the applicant and any interested parties in making its decision.
- c. Possible Action: The Plan Commission shall approve, approve with modifications, deny, or continue the Site Development Plan application.
 - i. Approve: The Plan Commission shall approve the Site Development Plan if it is consistent with all applicable requirements of this Ordinance.
 - ii. Approve with Modifications: The Plan Commission shall approve the Site Development Plan with modifications if it is generally consistent with all applicable requirements of this Ordinance. The Plan Commission may impose conditions on the approval of a Site Development Plan if the conditions are necessary to satisfy the requirements and intent of this Ordinance. Any accepted conditions shall become written commitments of the applicant.
 - iii. Deny: The Plan Commission shall deny the Site Development Plan if it is not consistent with the applicable requirements of this Ordinance. Site Development Plan applications that have been denied shall not be re-filed for a period of one (1) year from the date of the denial, unless a different design, that addresses the reasons for denial, is submitted.
 - iv. Continue: The application may be continued based on a request by the Zoning Administrator, the applicant, a remonstrator, or an interested party; an indecisive vote; a determination by the Plan Commission that additional information is required prior to action being taken on the request; or if the applicant or an appropriate representative of the applicant fails to appear at the public hearing.
 - [a] Additional legal notice shall not be required unless specified by the Plan Commission.
 - [b] The continuing of all applications shall be consistent with the adopted Plan Commission Rules and Procedures.
- d. Assurance of Completion of Improvements: The Plan Commission may approve a Site Development Plan with the condition that a surety be provided that guarantees the timely completion of any proposed public improvements included in the development. The surety shall be in a form acceptable to the Plan Commission, the Zoning Administrator, the City Engineer, and the City Attorney, and consistent with *Article 7: Surety Standards*.
5. *Findings of Fact*: The Plan Commission shall make written findings concerning each decision to approve or disapprove a Site Development Plan. A Site Development Plan shall be approved by the Plan Commission only upon making written findings that the Site Development Plan:
 - a. Is consistent with the *City of Shelbyville Comprehensive Plan*;
 - b. Meets the Technical Review Committee's expectations for best practices and quality design;
 - c. Satisfies the applicable requirements of *Article 2: Zoning Districts*;
 - d. Satisfies the applicable requirements of *Article 5: Development Standards*;
 - e. Satisfies the applicable requirements of *Article 6: Design Standards*; and
 - f. Satisfies any other applicable provisions of the Unified Development Ordinance.
6. *Documenting Findings of Fact*:
 - a. Technical Review Committee: The Zoning Administrator shall prepare and sign the meeting minutes documenting the review by the Technical Review Committee.
 - b. Plan Commission: The Zoning Administrator shall prepare and sign the written findings of fact documenting the action taken by the Plan Commission (if Plan Commission review is necessary). The Zoning Administrator shall make copies of the written findings of fact available, if requested, to the applicant within five (5) business days of the date of the decision.
7. *Permits*: Prior to any construction activity, the applicant shall be required to obtain the appropriate Improvement Location Permit and any other required permits specified by this Ordinance. If required, bonds shall be in place prior to issuance of an Improvement Location Permit.
8. *Expiration of Approval*: Site Development Plan approval shall be valid for a period of two (2) years from the date of Plan Commission Approval. The applicant shall obtain an Improvement Location Permit prior to the conclusion of this two (2) year period and start construction.

- G. Written Commitments: Written Commitments: The applicant in any Site Development Plan application may make written commitments regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence on, the subject property consistent with *IC 36-7-4-613*.
1. *Origin of Commitments*: Written commitments may be proposed by the applicant as an element of the initial submittal of application materials, as a response to comments made by the Technical Review Committee, or in response to any modifications requested by the Plan Commission.
 2. *Consideration of Commitments*: Any commitments shall be considered by the Technical Review Committee and/or the Plan Commission at the time of their review of the application.
 3. *Filing of Commitments*: Following final action being taken on the Site Development Plan application, the written commitments shall be documented by the Zoning Administrator. A copy of the commitments shall be maintained by the Zoning Administrator for the records of the Plan Commission.
 4. *Enforcement of Commitments*: The written commitments shall be considered part of the Unified Development Ordinance binding on the subject property.
 - a. *Successors in Interest*: The written commitments shall be binding on the owner of the subject property, any subsequent owners of the subject property, and any person or entity that acquires an interest in the subject property or any portion of the subject property.
 - b. *Enforcement*: The written commitments shall be enforceable by the Plan Commission as if they are a part of this Ordinance, consistent with the provisions of *Article 10: Enforcement*.
 - c. *Modification*: The written commitments may be modified by the Plan Commission only through the Site Development Plan process described by this Article.
- H. Appeals: Any applicant or interested party may appeal a determination made by the Technical Review Committee to the Plan Commission through the procedure described below.
1. *Application*: The person making the appeal shall submit to the Zoning Administrator a letter giving notice of the appeal and required supportive information within 30 days of the decision that is subject to the appeal. Supportive information shall include, but not be limited to, the following:
 - a. *Findings of Fact*: Copies of any written decisions or findings of fact that are the subject of the appeal.
 - b. *Description*: A letter describing the reasons for the appeal noting specific sections of this Ordinance, Indiana Code, or other standards applicable to the City of Shelbyville and the application upon which the appeal is based.
 2. *Public Meeting Notification*: Notification for a scheduled public hearing regarding the Site Development Plan shall be completed consistent with the requirements of *Article 9.13: Notice of Public Hearing*.
 3. *Plan Commission Meeting*: The Plan Commission will then, in a public hearing scheduled consistent with the adopted Calender of Filing and Meeting Dates, review the appeal and supportive information.
 - a. *Representation*: Either the entity initiating the appeal or their representative must be present at the public hearing to present the appeal and address any questions from the Plan Commission.
 - b. *Presentations*: The Plan Commission shall consider a report from the Zoning Administrator, testimony from the entity making the appeal, and testimony from any interested parties at the public hearing.
 - c. *Proceedings*: The presentation of reports and testimony and all other aspects of the meeting shall be consistent with the requirements of the Plan Commission Rules and Procedures.
 - d. *Possible Actions*: Upon hearing the appeal, the Plan Commission may approve, approve with modifications, deny, or continue the Site Development Plan application consistent with the approval procedure for applications referred to the Plan Commission by the Technical Review Committee as described in *Section 9.05(F)(4)(c): Possible Action*.

Planned Development

9.06 Planned Development

- A. **General:** There are three (3) steps for completing a Planned Development approval process. These steps are explained in detail in the following Sections:
1. *Section 9.06(D): Conceptual Plan*, and
 2. *Section 9.06(E): Detailed Plan and Rezoning*.
- B. **Cross Reference:** In addition the following process regulations, a proposed Planned Developments shall also meet the standards in *Article 4: Planned Development District*.
- C. **Prerequisites:**
1. **Ownership:** Planned Developments shall be initiated by the owners of the land involved in the development or the owner's authorized agent. If an authorized agent files an application, a signed and notarized consent form from all owners shall accompany the application.
 2. **Pre-application Meeting:** Prior to submitting an application for a Planned Development, the applicant shall meet with the Zoning Administrator to review the zoning classification of the site, review regulatory ordinances and materials, review the procedures and examine the proposed use and development of the property.
 3. **Base Zoning:** The property shall be zoned R1, R2, MP, BH, IL, and IG prior to applying for a Planned Development.
- D. **Conceptual Plan:** A conceptual plan is required as described below and is the first step in a Planned Development. A conceptual plan is not an official regulating or governing document.
1. **Conceptual Plan Review:** Prior to filing a Planned Development Conceptual Plan application, the applicant shall submit a Conceptual Plan to the Zoning Administrator. The Zoning Administrator shall make a cursory review of the Conceptual Plan and provide the applicant with written comments within thirty (30) days of the date of Conceptual Plan submittal. The Conceptual Plan may include any materials that relate basic information, such as location, size, and potential use of the property involved.
 2. **Conceptual Plan Application:** The applicant shall submit a Conceptual Plan review application, affidavit and consent of property owner (if the owner is someone other than the applicant), a copy of the deed(s) for the property involved, the required filing fee, the Conceptual Plan, and any other supporting information.
 3. **Conceptual Plan Data:** The Conceptual Plan may take the form of a booklet of letter and/or tabloid sized paper, a set of large scale drawing sheets, or a combination of these formats. The Conceptual Plan may include any graphics that will explain the features of the development. The following, at a minimum, shall be included in the Conceptual Plan submission.
 - a. **Cover Page and Index:** The cover sheet shall indicate that it is the Conceptual Plan for that particular development and include the date of submittal, an index identifying all sections included in the Conceptual Plan document, and references to any separate sheets of information.
 - b. **Site Description:** A description of the property and applicants involved, including:
 - i. The name, mailing address, e-mail address, and telephone number of the applicant,
 - ii. The name, mailing address, e-mail address, and telephone number of any land surveyors, engineers, or other professionals responsible for the Conceptual Plan design,
 - iii. The legal description of the subject property and common address of the site, and
 - iv. The proposed name of the development (if applicable).
 - c. **Vicinity Map:** A vicinity map showing the use and zoning of all properties within 1,320 feet (¼ mile) of the property subject to the Conceptual Plan.
 - d. **Common Holdings Map:** A map of any property adjacent to the property subject to the Conceptual Plan that is owned or otherwise controlled by any or all of the applicants. The Common Holdings Map shall be accompanied by a general description of the future development of that property and its relationship to the area included in the Conceptual Plan. The general description may be in either text or map form and shall include, at a minimum, general land uses, general street patterns and access points, and general drainage designs.

Planned Development

- e. Existing Site Conditions: A description of all existing conditions on the subject property including:
 - i. Built Features: All existing streets (including travel lanes, sidewalks, street trees, rights-of-way, etc.), established open spaces, structures, wells, utility lines and facilities, fire hydrants, and street lights;
 - ii. Easements: All existing easements and an indication of their purpose;
 - iii. Topography: A topographic survey of the area with contour lines a maximum of ten (10) feet apart;
 - iv. Natural Features: The location of natural streams, regulated drains, 100-year floodplains and floodways, water courses, wetlands (general locations as indicated by the National Wetlands Inventory), wooded areas, and isolated preservable trees (with greater than an 8 inch DCH);
 - v. Historic Features: An identification of any historic features, specifically those listed as Outstanding, Notable, or Contributing on the Indiana Historic Sites and Structures Inventory - Shelby County Interim Report or listed in the National Register of Historic Places and/or Indiana Register of Historic Sites and Structures; and
 - vi. Other Features: Any other significant feature(s) that may influence the design of the development.
 - f. Proposed Development: A description of the proposed development of the property, including:
 - i. Street Systems: The general layout and description of proposed street systems (including travel lanes, street lighting, on-street parking, sidewalks, tree lawns, street trees, and curbs/swales);
 - ii. Land Uses: The general land use categories and areas within the development (including proposed densities of residential uses);
 - iii. Open Space: The general location, improvement, and use of open space (including park facilities, natural areas, trail systems, and other common areas);
 - iv. Landscaping: The general description of any landscaping, buffering, and/or screening proposed for the development;
 - v. Natural Features: A description of the general accommodation of natural streams, regulated drains, 100-year floodplains and floodways, water courses, wetlands (as indicated by the National Wetlands Inventory), wooded areas, and isolated preservable trees (with greater than an 8 inch DCH);
 - vi. Historic Features: A description of the general accommodation of historic features, specifically those listed as Outstanding, Notable, or Contributing on the Indiana Historic Sites and Structures Inventory - Shelby County Interim Report or listed in the National Register of Historic Places and/or Indiana Register of Historic Sites and Structures;
 - vii. Development Requirements: A general statement of the types of development requirements that will be made a part of the Planned Development Detailed Plan (including general lot areas, building setbacks, off-street parking requirements, lighting standards, sign standards, and landscaping requirements). The petitioner shall include a comparison (e.g. a chart) showing the Unified Development Organization regulations verses the proposed regulations;
 - viii. Written Commitments: A description of any written commitments that are being proposed as part of the development;
 - ix. Covenants: A general description of any private covenants and restrictions that will be established for the development;
 - x. Utilities: A general utilities plan (including sanitary sewer, water, electricity, natural gas, and data transmission);
 - xi. Drainage: A general drainage plan meeting the requirements of the City Engineer; and
 - xii. Project Phasing: A statement of the proposed order of development of the major elements of the project, including phasing, if applicable, and the order and content of each phase.
 - g. Supplemental Information: Any other information requested by the Zoning Administrator, Technical Review Committee, or Plan Commission to aid in the review of the Conceptual Plan.
4. *Technical Review*: The application materials shall be reviewed by the Technical Review Committee in a meeting scheduled based on the adopted Calendar of Meeting and Filing Dates.
 - a. Representation: Either the applicant(s) or a representative of the applicant(s) shall be present during the review to answer questions regarding the application. If neither is present no action or discussion shall be taken on the application and it shall be rescheduled for the next meeting of the Technical Review Committee.
 - b. Revisions: Any revisions to the application materials or the proposal requested by the Committee shall either be addressed during the review meeting and/or through revised application materials submitted prior to the Plan Commission hearing.

5. *Public Hearing Notification:* Notification for the scheduled public hearing regarding the Conceptual Plan shall be completed consistent with the requirements of *Section 9.13: Notice of Public Hearing* and the Rules and Procedures of the Plan Commission.
 6. *Plan Commission Public Hearing:* The Plan Commission will, in a public hearing scheduled consistent with the adopted Calendar of Filing and Meeting dates, but no later than sixty (60) days following the receipt of the application, review the application and required supporting information.
 - a. *Representation:* Either the applicant or a representative of the applicant shall be present at the public hearing to present the application and address any questions the Plan Commission may have.
 - b. *Presentations:* The Plan Commission shall consider a report from the Zoning Administrator, describing the findings of the Technical Review Committee, and testimony from the applicant, remonstrators, and interested parties at the hearing. The presentation of reports and testimony and all other aspects at the public hearing shall be consistent with the Rules and Procedures of the Plan Commission.
 - c. *Possible Action:* Upon review, the Plan Commission shall approve, approve with modifications, deny, or continue the Conceptual Plan application.
 - i. *Approve:* The application may be approved if it is found to be consistent with all applicable requirements and the intent of this Ordinance and the Comprehensive Plan. The Plan Commission may accept or require written commitments from the applicant as part of the approval.
 - ii. *Approve with Modifications:* The application may be approved with modifications if it is generally consistent with all applicable requirements of this Ordinance and the Comprehensive Plan. The Plan Commission may impose conditions on the approval of the Conceptual Plan, which shall become written commitments of the applicant.
 - iii. *Deny:* The application may be denied if it is found to be inconsistent with any applicable requirements and/or the intent of this Ordinance and/or the Comprehensive Plan.
 - iv. *Continue:* The application may be continued based on a request by the Zoning Administrator, the applicant, a remonstrator, or an interested party. The application shall be continued in the case of an indecisive vote, a determination by the Plan Commission that additional information is required prior to action being taken on the request, or if an appropriate representative of the application fails to appear at the public hearing.
 - [a] Additional legal notice shall not be required unless specified by the Plan Commission.
 - [b] The continuing of all applications shall be consistent with the adopted Rules and Procedures of the Plan Commission.
 - d. *Re-Filing Following Denial:* If the Plan Commission denies the application, the applicant may re-file a revised Conceptual Plan within ninety (90) days of the date of denial. The revised Conceptual Plan shall be reviewed by the Technical Review Committee and the Plan Commission as if it were a new application.
 - i. The applicant shall provide notice within thirty (30) days of the Plan Commission decision of their intentions to re-file.
 - ii. Conceptual Plan applications that have been denied and not re-filed within the specified deadline shall not be re-filed for a period of one (1) year from the date of the denial.
 7. *Findings of Fact:* The Zoning Administrator shall prepare and sign written findings of fact documenting the comments of the Technical Review Committee and the action taken by the Plan Commission. Upon request, the Zoning Administrator shall make copies of the written findings of fact available to the applicant within five (5) business days.
- E. *Detailed Plan and Rezoning:*
1. *Application:* The applicant shall submit a Planned Development Detailed Plan review application, an affidavit and consent of property owner (if the owner is someone other than the applicant), a copy of the deed(s) for the property involved, the required filing fee, the Detailed Plan, and any other supporting information. The Zoning Administrator shall submit the application to the Common Council, which shall conduct a First Reading of the Planned Development district ordinance (rezoning) and forward the matter to the Plan Commission.
 2. *Time Limit:* The Detailed Plan filing shall occur within one (1) year of the date of Conceptual Plan approval. If no Detailed Plan filing has occurred within that year, the Conceptual Plan approval shall expire.

Planned Development

3. *Detailed Plan Data*: The Detailed Plan may take the form of a booklet of letter or legal sized paper, a set of large scale sheets, electronically in pdf format, or a combination of these formats. The following shall be included in the Detailed Plan submission:
 - a. *Cover Page and Index*: The cover sheet shall indicate that it is the Detailed Plan for that particular development and include the date of submittal, an index identifying all sections included in the Detailed Plan document, and references to any separate sheets of information.
 - b. *Site Description*: A description of the property and applicants involved, including:
 - i. The name, mailing address, e-mail address, and telephone number of the applicant;
 - ii. The name, mailing address, e-mail address, and telephone number of any land surveyors, engineers, or other professionals responsible for the Detailed Plan design;
 - iii. The legal description of the subject property and common address of the site; and
 - iv. The proposed name of the development (if applicable).
 - c. *Common Holdings Map*: A map of any property adjacent to the property subject to the Detailed Plan owned or otherwise controlled by any or all of the applicants. The Common Holdings Map shall be accompanied by a general description of the future development of that property and its relationship to the area included in the Detailed Plan. The general description shall be in map form and shall include, at a minimum, general land uses, general street patterns and access points, and general drainage designs.
 - d. *Existing Site Conditions*: A description of all existing conditions on the subject property, including:
 - i. *Built Features*: All existing streets (including travel lanes, sidewalks, street trees, rights-of-way, etc.), established open spaces, structures, wells, utility lines and facilities, fire hydrants, and street lights;
 - ii. *Easements*: All existing easements and an indication of their purpose;
 - iii. *Topography*: A topographic survey of the area with contour lines a maximum of ten (10) feet apart;
 - iv. *Natural Features*: The location of natural streams, regulated drains, 100-year floodplains and floodways, water courses, wetlands (as identified by IDNR, IDEM, or an individual with a U.S. Army Corps of Engineers Regulation 4 Jurisdictional Wetland Certification), wooded areas, and isolated preservable trees (with greater than an 8 inch DCH);
 - v. *Historic Features*: An identification of any historic features, specifically those listed as Outstanding, Notable, or Contributing on the Indiana Historic Sites and Structures Inventory - Shelby County Interim Report or listed in the National Register of Historic Places and/or Indiana Register of Historic Sites and Structures; and
 - vi. *Other Features*: Any other significant feature(s) that may influence the design of the development.
 - e. *Proposed Development*: A description of the proposed development of the property including:
 - i. *Street Systems*: The layout and design of proposed street systems (including travel lanes, street lighting, on-street parking, sidewalks, tree lawns, street trees, and curbs/swales);
 - ii. *Land Uses*: The land use areas within the development (including a specific list of the individual land uses permitted in each area);
 - iii. *Open Space*: The location, improvement, design, and use of open space (including park facilities, natural areas, trail systems, and other common areas);
 - iv. *Landscaping*: The design of any landscaping, buffering, and/or screening proposed for the development;
 - v. *Natural Features*: A description of the accommodation of natural streams, regulated drains, 100-year floodplains and floodways, water courses, wetlands (as identified by IDNR, IDEM, or an individual with a U.S. Army Corps of Engineers Regulation 4 Jurisdictional Wetland Certification), wooded areas, and isolated preservable trees (with greater than an 8 inch DCH);
 - vi. *Historic Features*: A description of the accommodation of historic features, specifically those listed as Outstanding, Notable, or Contributing on the Indiana Historic Sites and Structures Inventory - Shelby County Interim Report or listed in the National Register of Historic Places and/or Indiana Register of Historic Sites and Structures;
 - vii. *Development Requirements*: Detailed text documenting the development requirements that will apply to development (including general lot size and dimensions, building setbacks, off-street parking requirements, lighting standards, sign standards, landscaping requirements, etc.) and that will serve as the replacement for *Articles 2: Zoning Districts and Article 5: Development Standards* of this Ordinance. The petitioner shall include a comparison (e.g. a chart) showing the Unified Development Organization regulations verses the proposed regulations;

Planned Development

- viii. Written Commitments: A description of any written commitments that are being proposed as part of the development;
 - ix. Covenants: A description of any private covenants and restrictions that will be established for the development;
 - x. Utilities: A utilities plan (including sanitary sewer, water, electricity, natural gas, and data transmission);
 - xi. Drainage: A detailed drainage plan meeting the requirements of the City Engineer; and
 - xii. Project Phasing: A statement of the proposed order of development of the major elements of the project, including phasing, if applicable, and the order and content of each phase.
- f. Supplemental Information: Any other information requested by the Zoning Administrator, Technical Review Committee, or Plan Commission to aid in the review of the Detailed Plan.
4. *Preliminary Plat and Final Plat Requirement*: Planned Developments shall be required to comply with the subdivision control regulations within the Unified Development Ordinance (per IC 36-7-4-1513). In no instance shall the approval of a Planned Development be interpreted as waiving or modifying any subdivision control regulations requirement or processes. If a subdivision of land is required for the development, the Preliminary Plat shall be filed simultaneously as the Detailed Plan for review by the Plan Commission. The Plan Commission shall consider the requirements of the subdivision control regulations in reviewing the Preliminary Plat and Final Plat application.
5. *Technical Review*: The application materials shall be reviewed by the Technical Review Committee in a meeting scheduled based on the adopted Calendar of Meeting and Filing Dates.
- a. Representation: Either the applicant(s) or a representative of the applicant(s) shall be present during the review to answer questions regarding the application.
 - b. Revisions: Any revisions to the application materials or the proposal requested by the Technical Review Committee shall either be addressed during the review meeting and/or through revised application materials submitted prior to the Plan Commission hearing.
6. *Public Hearing Notification*: Notification for the scheduled public hearing regarding the Detailed Plan shall be completed consistent with the requirements of *Section 9.13: Notice of Public Hearing* of the Unified Development Ordinance and the Rules and Procedures of the Plan Commission.
7. *Plan Commission Public Hearing*: The Plan Commission will, in a public hearing scheduled consistent with the adopted Calendar of Filing and Meeting Dates, but no later than sixty (60) days following the receipt of the Detailed Plan application, review the application and required supporting information.
- a. Representation: Either the applicant or a representative of the applicant shall be present at the public hearing to present the application and address any questions the Plan Commission may have.
 - b. Presentations: The Plan Commission shall consider a report from the Zoning Administrator and testimony from the applicant, remonstrators, and other interested parties at the hearing. The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the Rules and Procedures of the Plan Commission.
 - c. Possible Action: The Detailed Plan shall be forwarded to the Common Council with a favorable recommendation, forwarded with an unfavorable recommendation, or continued by the Plan Commission. Per IC 36-7-4-1512 the Plan Commission may impose conditions or require written commitments from the applicant.
 - i. Favorable Recommendation: The Detailed Plan application shall be forwarded with a favorable recommendation if it is found to be consistent with the decision criteria listed in Section 9.06(E)(11): Detailed Plan Decision Criteria.
 - ii. Unfavorable Recommendation: The application shall be forwarded with an unfavorable recommendation if it is found to be inconsistent with the decision criteria listed in Section 9.06(E)(11): Detailed Plan Decision Criteria.
 - iii. Continued: The application may be continued based on a request by the Zoning Administrator, the applicant, a remonstrator, or an interested party. The application shall be continued in the case of an indecisive vote, a determination by the Plan Commission that additional information is required prior to action being taken on the request, or if an appropriate representative of the application fails to appear at the public hearing.
 - [a] Additional legal notice shall not be required unless specified by the Plan Commission.
 - [b] The continuing of all applications shall be consistent with the adopted Rules and Procedures of the Plan Commission.

Planned Development

- d. **Re-Filing Following an Unfavorable Recommendation:** If the Plan Commission gives an unfavorable recommendation, the applicant may re-file a revised Detailed Plan within ninety (90) days to be reviewed and reconsidered by the Technical Review Committee and the Plan Commission following the process specified beginning with *Section 9.06(E)(1): Application*.
 - i. The applicant shall provide written notice within fifteen (15) business days of the Plan Commission decision of their intentions to re-file, withdraw, or proceed with the hearing by the Common Council.
 - ii. If a Planned Development Detailed Plan has been withdrawn, there shall be no waiting period before which a new Conceptual Plan application may be filed.
- e. **Certification of Recommendation:** The Plan Commission shall certify its recommendation by resolution to the Common Council within 5 business days of its decision. The Zoning Administrator shall forward to the Council appropriate copies of the Plan Commission resolution, the original application and all supporting information, any staff reports regarding the application, and a Planned Development district ordinance (rezoning) meeting the requirements of *IC 36-7-4-1503* for the Council's consideration.
8. **Common Council Meeting (2nd Reading):** The Common Council shall hold a meeting and vote on the proposed Planned Development district ordinance (rezoning) within ninety (90) days of its certification by the Plan Commission.
 - a. **Legal Notice:** Legal Notice of action on the ordinance shall be provided consistent with Indiana law.
 - b. **Possible Action:** The Council may either approve or deny the Planned Development district ordinance (rezoning) consistent with the decision criteria provided by *Section 9.06(E)(11): Detailed Plan Decision Criteria*. Per *IC 36-7-4-1512* the Common Council may impose conditions, require written commitments from the applicant, and/or condition the release of Improvement Location Permits on the provision of adequate surety for any public improvements.
 - i. **Failure to Act:** If the Council fails to act within the ninety (90) day time frame the ordinance shall become effective or be defeated consistent with the recommendation of the Plan Commission and the provisions for rezoning applications of *IC 36-7-4-608*.
 - ii. **Denial:** If a Planned Development district ordinance (rezoning) is denied by the Common Council a 1-year waiting period shall be imposed prior to the filing of a new Conceptual Plan for the same development.
 - iii. **Approval:** If the Council approves the rezoning, the land is officially re-zoned. The Zoning Map shall be amended to reflect the change, the date of approval by the Council, and the ordinance number.
9. **Detailed Plan Signatures and Filing:** The implementation of an approved Detailed Plan shall be consistent with the following provisions:
 - a. **Detailed Plan Signatures:** When approved, the Detailed Plan shall be signed by the Plan Commission President and Secretary.
 - b. **Detailed Plan Filing:** The approved Detailed Plan, including all development requirements serving as the zoning requirements on the subject property shall be filed with the Zoning Administrator by the applicant. The documents shall clearly state that the development requirements and any written commitments are enforceable by the Plan Commission.
 - c. **Covenant Recording:** Any covenants for the development shall be recorded with the Shelby County Recorder. The documents shall (a) clearly distinguish covenants for development requirements and written commitments and (b) indicate that covenants are private agreements that are not enforceable by the Plan Commission. The applicant shall provide 1 copy of the recorded documents to the Zoning Administrator for the records of the Plan Commission.
10. **Improvement Location Permit:** Detailed Plan approval is required prior to the issuance of an Improvement Location Permit. An Improvement Location Permit (consistent with *Section 9.02: Improvement Location Permits*) is required prior to any construction activity occurring on the subject property.
 - a. **Plat Approval Required:** If a subdivision plat is required, plat approval consistent with the Unified Development Ordinance shall also be obtained prior to the receipt of any Improvement Location Permits.
 - b. **Supporting Information:** The Plan Commission may require any additional supporting information not already stated by this Article to be provided prior to the issuance of an Improvement Location Permit.

Planned Development

11. *Detailed Plan Decision Criteria*: In reviewing the Planned Development Detailed Plan petition, the Plan Commission and Common Council shall pay reasonable regard to the following, consistent with *IC 36-7-4-603*:
 - a. *Requirements and Intent*: The extent to which the proposal fulfills the requirements and intent of *Section 9.06: Planned Development*, and the subdivision control regulation in the Unified Development Ordinance.
 - b. *Planning Documents*: The Comprehensive Plan and any other applicable, adopted planning studies or reports;
 - c. *Characteristics*: The current conditions and the character of current structures and uses in each zoning district;
 - d. *Desired Use*: The most desirable use of which the land in each district is adapted;
 - e. *Property Values*: The conservation of collective property values throughout the City of Shelbyville's jurisdiction as a whole; and
 - f. *Growth Management*: Responsible growth and development.
- F. Written Commitments:
 The applicant in any Planned Development may make written commitments regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence on, the subject property consistent with *IC 36-7-4-1015*. Commitments made by the applicant and conditions of approval established by the Plan Commission or Common Council shall be considered written commitments.
 1. *Commitment Proposals*: Written commitments may be proposed by the applicant as an element of the initial submittal of application materials, as a response to comments made by the Technical Review Committee, or in response to any modifications requested by the Plan Commission or Common Council.
 2. *Consideration of Commitments*: Any commitments shall be considered by the Technical Review Committee, Plan Commission, and Common Council if they have been established at the time of the review. Written Commitments shall be included as an element of the Planned Development district ordinance (rezoning) establishing the Planned Development zoning.
 3. *Enforcement of Commitments*: The written commitments shall be considered part of this Ordinance binding on the subject property.
 - a. *Applicability*: The written commitments shall be binding on the owner of the subject property, any subsequent owners of the subject property, and any person or entity that acquires an interest in any portion of the subject property.
 - b. *Enforcement*: The written commitments shall be enforceable by the Plan Commission consistent with the adopted provisions for the enforcement of the Unified Development Ordinance.
 - c. *Modification*: The recorded written commitments may be modified only through the Planned Development process described by *Section 9.06: Planned Development*.
- G. Covenants: Covenants shall be set forth in detail. The Plan Commission may review covenants that pertain to any written commitments; development requirements; and/or common areas, swales, or drainage systems. A copy of the recorded covenants shall be provided to the Zoning Administrator by the applicant for the records of the Plan Commission.
 1. *Lot Owner's Association*: Adequate provision shall be made for a private organization (i.e. Lot Owner's Association) with direct responsibility to, and control of, the lot owners involved. The lot owner's association shall provide for the operation and maintenance of all common facilities, such as any common areas and ponds, in the best possible manner. Legal assurances shall be provided that show that the private organization is self-perpetuating.
 2. *Service Access to Common Areas*: The covenants shall state that all common facilities and drainage systems not dedicated to the public shall be maintained by the private lot owner's organization in such a manner that adequate access is provided for fire, police, health, sanitation, and public utility vehicles to service them.

Planned Development

H. Minor Modifications:

1. *Administration:* The Zoning Administrator may from time to time approve minor modifications of the Detailed Plan without a public hearing consistent with *IC 36-7-4-1511(i)*. The modifications shall be consistent with the purpose and intent of the overall development. Such modifications shall not include any change in type of use or any alteration of the development requirements.
 - a. *Procedure:* To request a minor modification, the property owner, developer, or applicant shall provide the Zoning Administrator with a letter that identifies the Planned Development and the requested minor modification. The letter shall be accompanied by any necessary supporting drawings or other materials. The Zoning Administrator shall provide a written response within fifteen (15) business days informing the applicant if the minor modification has been approved. All materials relating to the minor modification shall be kept on file with the other Planned Development materials in the office of the Plan Commission.
 - b. *Public Notice:* No notice, in addition to that which may be required by the Rules and Procedures of the Plan Commission, shall be required for the review or approval of minor modifications.
2. *Appeal:* Any affected party may appeal any minor modification decision by the Zoning Administrator to the Plan Commission within thirty (30) days of the determination.
3. *Rules and Procedures:* The Plan Commission may, through its Rules and Procedures, establish rules governing the nature of proceedings and notice required to make a minor modification under this Section per *IC 36-7-4-1511(j)*.

I. Expiration, Abandonment, and Extensions:

1. *Expiration:* Detailed Plans shall expire two (2) years from the date of adoption of the Planned Development district ordinance (rezoning) by the Common Council if, in the opinion of the Zoning Administrator, no construction activity has begun. Any corresponding Preliminary Plat approval shall also expire at the time of Detailed Plan expiration.
2. *Abandonment:* The Planned Development may be considered officially abandoned if, in the opinion of the Zoning Administrator, the development is incomplete and no, or minimal, construction activity has occurred for a period of five (5) consecutive years. Any outstanding surety for the project may be used by the City consistent with the Unified Development Ordinance provisions for surety.
3. *Extensions:* An extension, not to exceed six (6) months, for accomplishing any processes required by this Article, or for resuming construction activity in an abandoned development, may be granted by the Plan Commission upon a written request from the applicant. All requests for extensions shall occur a minimum of 30 days prior to the applicable deadline.
4. *Plan Commission Rezoning:* The Plan Commission may initiate a rezoning for any property included in a Planned Development that has been abandoned or for which the Detailed Plan approval has expired. Any rezoning by the Plan Commission shall meet all applicable requirements for the rezoning process provided by *Section 9.10: Zoning Map Amendment (Rezoning)*.

Special Exception Use

9.07 Special Exception Use

- A. **Purpose and Intent:** A Special Exception Use is a use for which certain criteria shall be met before it can be established on the subject lot. The Special Exception Use shall only be permitted by the Board of Zoning Appeals.
- B. **Applicability:** Only uses listed as “Special Exception Use” in the two-page layouts in *Article 2: Zoning Districts* for the applicable zoning district shall be considered for approval by the Board of Zoning Appeals.
- C. **Prerequisites:** An application for a Special Exception Use shall be filed by the owner, the owner’s agent, or any person having a legal or equitable interest in the subject property.
- D. **Limitations:** An application for a denied Special Exception Use shall not be considered by the Board of Zoning Appeals within the duration of one (1) year from the date of denial, unless the applicant submits a letter to the Zoning Administrator within sixty (60) days after the denial indicating that they intend to resubmit an amended application that addresses the finding that were the cause of denial.
- E. **Filing Requirements:** An application for a Special Exception Use shall be made on forms provided by the Zoning Administrator. Applicable fees shall be paid at the time the application for a Special Exception Use is filed.
- F. **Formal Procedure:** The process for Special Exception, including filing, public notice, public hearing, and review, shall be per the Board of Zoning Appeal’s Rules of Procedure.
- G. **Decision:**
1. **Special Exception Findings of Fact:** The Board of Zoning Appeals shall make findings of fact on the following criteria. Approval of findings may be in the form of a general statement. Disapproval of findings shall specify the reason for non-compliance.
 - a. Zoning District and Comprehensive Plan; The proposed Special Exception Use is consistent with the intent of the zoning district and the goals and objectives within the Comprehensive Plan.
 - b. General Welfare: The proposed Special Exception Use will not be injurious to the public health, safety, morals and general welfare of the community.
 - c. Compatibility: The proposed Special Exception Use is in harmony with adjacent land uses.
 - d. Character: The proposed Special Exception Use will not adversely alter the character of the district.
 - e. Impact to Adjacent Area: The use and property value of the area adjacent to the subject property seeking a Special Exception will not be affected in a substantially adverse manner.
 2. **Final Action:**
 - a. If the Board of Zoning Appeals finds all of the findings of fact in the affirmative, it shall approve or approve with conditions and/or commitments the application for a Special Exception Use.
 - b. If the Board of Zoning Appeals does not find all of the findings of fact in the affirmative, it shall deny the application for a Special Exception Use.
 3. **Commitments and Conditions:**
 - a. The Board of Zoning Appeals may require the owner to make a written commitment. Any such commitment shall be recorded in the Shelby County Recorder's Office. A copy of any recorded commitments shall be provided to the Zoning Administrator for inclusion in the application file prior to the issuance of any Improvement Location Permit. No Improvement Location Permit shall be issued for permit application which does not comply with the written commitments.
 - b. Conditions: The Board of Zoning Appeals may impose reasonable conditions upon its approval as deemed necessary to assure compliance with *Section 9.07(G)(1)*. No Improvement Location Permit shall be issued for permit application which does not comply with the required conditions.
- H. **Duration:**
1. **Special Exception:** The granting of a Special Exception Use authorizes the use to run with the land until such time as the use conforms with the Unified Development Ordinance; unless a condition or commitment to the contrary is associated with the approval.
 2. **Commitment or Condition:** A commitment or condition shall be binding on the owner of the land, any subsequent owner of the land, and any person who acquires interest in the land.
- I. **Special Exception Use Expansion:** A structure or the area on a lot approved to be used by the special exception use shall not be expanded, extended, or enlarged unless reauthorized by the Board of Zoning Appeals under the procedures set forth in *Section 9.07: Special Exception Use* for granting a special exception.
- J. **Expiration of Special Exception:** If special exception use has not been established within two (2) years from the date the Special Exception Use was granted by the Board of Zoning Appeals, the approval shall be null and void.

Special Exception Use

- K. **Termination:** A Special Exception Use may be terminated by the Board of Zoning Appeals under the following procedure:
1. *Notice to Affected Party and Public Hearing:* Upon determination by the Zoning Administrator that possible grounds for termination exist, the matter shall be placed on the Board of Zoning Appeals agenda for a public hearing. The Zoning Administrator shall notify the affected party of the hearing via Certified Mail a minimum of ten (10) days prior to the public hearing at which the case will be heard.
 2. *Grounds for Termination:* At the public hearing the Special Exception Use shall be revoked if a finding is made by the Board of Zoning Appeals that one (1) or more of the following is true:
 - a. The execution of the approval is not consistent with any requirement of Unified Development Ordinance,
 - b. The execution of the approval is not consistent with a condition of approval,
 - c. The execution of the approval is not consistent with a written commitment, or
 - d. The approved was the result of fraud or the misrepresentation of facts.

Development Standards Variance

9.08 Development Standards Variance

- A. **Purpose and Intent:** The Board of Zoning Appeals may grant a waiver from the development standards within the Unified Development Ordinance for projects that meet the criteria set forth in this section. A Development Standards Variance can grant relief from a required standard such as height, bulk, or area.
- B. **Prerequisites:**
 - 1. **Eligible Applicants:** An application for a Development Standards Variance may be filed by the owner, his agent, or any person having a legal or equitable interest in the subject property.
 - 2. **Pre-application Meeting:** Prior to submitting an application for a Development Standards Variance, the applicant may meet with the Zoning Administrator to review the zoning classification of the site, ordinance provisions, the application packet, and the procedure involved.
- C. **Limitations:** An application for a denied Development Standards Variance shall not be considered by the Board of Zoning Appeals within the duration of one (1) year from the date of denial, unless the applicant submits a letter to the Zoning Administrator within sixty (60) days after the denial indicating that they intend to resubmit an amended application that addresses the finding that were the cause of denial.
- D. **Filing Requirements:** An application for a Development Standards Variance shall be made on a form provided by the Zoning Administrator. Applicable fees shall be paid at the time the application for a Development Standards Variance is filed.
- E. **Formal Procedure:** The process for a variance, including filing, public notice, public hearing, and review, shall be per the Board of Zoning Appeal's Rules of Procedure.
- F. **Decision:**
 - 1. *Development Standards Variance Findings of Fact:* The Board of Zoning Appeals shall make findings of fact for a Development Standards Variance on the following criteria:
 - a. **General Welfare:** The approval of the Development Standards Variance will not be injurious to the public health, safety, morals and general welfare of the community.
 - b. **Impact to Adjacent Area:** The use and value of the area adjacent to the subject property seeking a Development Standards Variance will not be affected in a substantially adverse manner.
 - c. **Practical Difficulty:** The strict application of the terms of the ordinance will result in practical difficulties in the use of the property. The practical difficulty shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain.
 - 2. *Final Action:*
 - a. If the Board of Zoning Appeals finds all of the findings of fact in the affirmative, it shall approve or approve with conditions and/or commitments the application for a Development Standards Variance.
 - b. If the Board of Zoning Appeals does not find all of the findings of fact in the affirmative, it shall deny the application for a Development Standards Variance.
 - 3. *Commitments and Conditions:*
 - a. **Commitments:** The Board of Zoning Appeals may require the owner to make a written commitment. Any such commitment shall be recorded in the Shelby County Recorder's Office. A copy of any recorded commitments shall be provided to the Zoning Administrator for inclusion in the application file prior to the issuance of any Improvement Location Permit. No Improvement Location Permit shall be issued for permit application which does not comply with the written commitments.
 - b. **Conditions:** The Board of Zoning Appeals may impose reasonable conditions upon its approval as deemed necessary to assure compliance with *Section 9.08(F)(1)*. No Improvement Location Permit shall be issued for permit application which does not comply with the required conditions.
- G. **Duration:**
 - 1. *Development Standards Variance:* A Development Standards Variance granted by the Board of Zoning Appeals shall run with the land until such time as the property conforms with the Unified Development Ordinance.
 - 2. *Commitment or Condition:* A commitment or condition shall be binding on the owner of the land, any subsequent owner of the land, and any person who acquires interest in the land.
- H. **Expiration of Development Standards Variance:** If a building permit, Improvement Location Permit, or approved improvement has not commenced within three (3) years from the date the Development Standards Variance was granted by the Board of Zoning Appeals, the approval shall be null and void.

Use Variance

9.09 Use Variance

- A. **Purpose and Intent:** The Board of Zoning Appeals may grant a waiver from the development standards within the Unified Development Ordinance for projects that meet the criteria set forth in this section. A Use Variance can allow a use that is not specifically listed as either a permitted or special exception use in the applicable zoning district.
- B. **Prerequisites:**
1. *Eligible Applicants:* An application for a Use Variance may be filed by the owner, his agent, or any person having a legal or equitable interest in the subject property.
 2. *Pre-application Meeting:* Prior to submitting an application for a Use Variance, the applicant may meet with the Zoning Administrator to review the zoning classification of the site, ordinance provisions, the application packet, and the procedure involved.
- C. **Limitations:** An application for a denied Use Variance shall not be considered by the Board of Zoning Appeals within the duration of one (1) year from the date of denial, unless the applicant submits a letter to the Zoning Administrator within sixty (60) days after the denial indicating that they intend to resubmit an amended application that addresses the finding that were the cause of denial.
- D. **Filing Requirements:** An application for a Use Variance shall be made on a form provided by the Zoning Administrator. Applicable fees shall be paid at the time the application for a Use Variance is filed.
- E. **Formal Procedure:** The process for a variance, including filing, public notice, public hearing, and review, shall be per the Board of Zoning Appeal's Rules of Procedure.
- F. **Decision:**
1. *Use Variance Findings of Fact:* The Board of Zoning Appeals shall make findings of fact for a Use Variance on the following criteria:
 - a. *General Welfare:* The approval of the Use Variance will not be injurious to the public health, safety, morals and general welfare of the community.
 - b. *Impact to Adjacent Area:* The use and value of the area adjacent to the property included in the Use Variance will not be affected in a substantially adverse manner.
 - c. *Unique Condition:* That the need for the Use Variance arises from some condition peculiar to the property involved.
 - d. *Hardship:* The strict application of the terms of the ordinance will constitute an unnecessary hardship if applied to the property for which the Use Variance is sought.
 - e. *Comprehensive Plan:* The approval does not interfere or contradict substantially with the Comprehensive Plan.
 2. *Final Action:*
 - a. If the Board of Zoning Appeals finds all of the findings of fact in the affirmative, it shall approve or approve with conditions and/or commitments the application for a Use Variance.
 - b. If the Board of Zoning Appeals does not find all of the findings of fact in the affirmative, it shall deny the application for a Use Variance.
 3. *Commitments and Conditions:*
 - a. *Commitments:* The Board of Zoning Appeals may require the owner to make a written commitment. Any such commitment shall be recorded in the Shelby County Recorder's Office. A copy of any recorded commitments shall be provided to the Zoning Administrator for inclusion in the application file prior to the issuance of any Improvement Location Permit. No Improvement Location Permit shall be issued for permit application which does not comply with the written commitments.
 - b. *Conditions:* The Board of Zoning Appeals may impose reasonable conditions upon its approval as deemed necessary to assure compliance with *Section 9.09(F)(1)*. No Improvement Location Permit shall be issued for permit application which does not comply with the required conditions.
- G. **Duration:**
1. *Use Variance:* A Use Variance granted by the Board of Zoning Appeals shall run with the land is a condition or commitment to the contrary has not been imposed, accepted, or required by the Board of Zoning Appeals.
 2. *Commitment or Condition:* A commitment or condition shall be binding on the owner of the land, any subsequent owner of the land, and any person who acquires interest in the land.
- H. **Expiration of Use Variance:** If approved use has not been established within three (3) years from the date the Use Variance was granted by the Board of Zoning Appeals, the approval shall be null and void.

Use Variance

- I. Termination: A Use Variance may be terminated by the Board of Zoning Appeals under the following procedure:
 1. *Notice to Affected Party and Public Hearing*: Upon determination by the Zoning Administrator that possible grounds for termination exist, the matter shall be placed on the Board of Zoning Appeals agenda for a public hearing. The Zoning Administrator shall notify the affected party of the hearing via Certified Mail a minimum of ten (10) days prior to the public hearing at which the case will be heard.
 2. *Grounds for Termination*: At the public hearing the Use Variance shall be revoked if a finding is made by the Board of Zoning Appeals that one (1) or more of the following is true:
 - a. The execution of the approval is not consistent with any requirement of Unified Development Ordinance,
 - b. The execution of the approval is not consistent with a condition of approval,
 - c. The execution of the approval is not consistent with a written commitment, or
 - d. The approved was the result of fraud or the misrepresentation of facts.

Zoning Map Amendment (Rezoning)

9.10 Zoning Map Amendment (Rezoning)

- A. **Purpose and Intent:** It may become necessary to change the zoning district of an area or a lot, thereby amending the Official Zoning Map. The Plan Commission has the authority to hear a proposal to amend the Official Zoning Map. This process is typically known as a “rezoning”. The Plan Commission shall make a recommendation to the Shelbyville Common Council concerning a proposal to amend the Official Zoning Map. The Common Council has the power to approve or deny a proposal to amend the Official Zoning Map.
- B. **Applicability:**
1. *Previously Denied Applications:* The Zoning Administrator shall refuse to accept an application for a Rezoning that has been denied by the Shelbyville Common Council within the last twelve (12) months. However, the Zoning Administrator shall have the authority and discretion to determine that an application for a Rezoning containing major changes may justify re-filing within the aforementioned twelve (12) month period.
- C. **Prerequisites:**
1. *Eligible Applicants:* An application for a Rezoning may be filed by the owner, his agent, or any person having a legal or equitable interest in the subject property. Also, the Plan Commission or Common Council may act as an applicant and initiate a zoning map amendment.
 2. *Pre-application Meeting:* Prior to submitting an application for a Rezoning the applicant may meet with the Zoning Administrator to review the current zoning district, the proposed zoning district, adjacent zoning districts and land uses, applicable ordinance provisions, the application packet, and the procedure involved.
- D. **Application Initiation:** Proposals for Zoning Map Amendments may be initiated by either the Plan Commission, the Common Council, or by the property owner(s) of the land involved.
1. *City Initiation:* The Plan Commission shall prepare the application for zoning map amendment if either the Plan Commission or the Common Council has initiated the application. The Zoning Administrator shall serve as the representative of the applicant for such proposals.
 2. *Property Owner Initiation:* The property owner(s) requesting a zoning map amendment shall be the applicant(s) and assume responsibility for preparing application materials.
- E. **Application:** The applicant shall submit a rezoning application, affidavit and consent of property owner (if the owner is someone other than the applicant, and the City is not the applicant), a copy of the deed for the property involved, the required filing fee, and required supporting information. Supporting information shall include, but not be limited to the following:
1. *Site Plan:* A site plan drawn to scale showing, at a minimum, all existing and proposed structures, setbacks, easements, rights-of-way, and any other feature relevant to the application.
 2. *Vicinity Map:* A vicinity map showing the use and zoning of all properties within 500 feet of the property subject to the rezoning request.
 3. *Letter of Intent:* A letter of intent to the Plan Commission stating the reasons for the rezoning, including a detailed description of any proposed development for which the rezoning is sought. The letter should include any written commitments being made by the applicant.
- F. **Common Council First Reading:** The Common Council will review the Zoning Map Amendment application and required supportive information. The Common Council will then forward the Zoning Map Amendment application to the Plan Commission for review and recommendation.
- G. **Notification:** Notification for the scheduled Plan Commission public hearing regarding the Zoning Map Amendment request shall be completed consistent with the requirements of *Section 9.13: Notice of Public Hearing* and the Plan Commission Rules and Procedures.
- H. **Plan Commission Public Hearing:** The Plan Commission will then, in a public hearing scheduled consistent with the adopted calendar of filing and meeting dates, but no later than sixty (60) days following the receipt of the application per *IC 36-7-4-608*, review the Zoning Map Amendment application and required supportive information.
1. *Representation:* The applicant and/or any representative of the applicant shall be present at the public hearing to present the application and address any questions the Plan Commission might have.
 2. *Testimony:* The Plan Commission shall consider a report from the Zoning Administrator and testimony from the applicant, remonstrators, the public, and interested parties at the hearing.
 3. *Procedures:* The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the Plan Commission Rules and Procedures.

Zoning Map Amendment (Rezoning)

4. *Possible Action:* The Plan Commission shall either forward the application to the Common Council with a favorable recommendation, an unfavorable recommendation, or no recommendation; or continue the request to a future meeting.
 - a. *Favorable Recommendation:* The Zoning Map Amendment application shall be forwarded with a favorable recommendation if it is found to be consistent with the decision criteria listed in *Section 9.10(K): Decision Criteria*. The recommendation may include commitments requested by the Plan Commission.
 - b. *Unfavorable Recommendation:* The Zoning Map Amendment application shall be forwarded with an unfavorable recommendation if it is found to be inconsistent with the decision criteria listed in *Section 9.10(K): Decision Criteria*.
 - c. *No Recommendation:* The Zoning Map Amendment application may be forwarded with no recommendation if, by a majority vote of the Plan Commission, it is determined that the application includes aspects that the Plan Commission is not able to evaluate.
 - d. *Continued:* The Zoning Map Amendment application may be continued by the Plan Commission based on a request by the Zoning Administrator, applicant, remonstrator, or interested party; an indecisive vote; or a determination by the Plan Commission that additional information is required prior to action being taken on the request.
 - i. Additional legal notice shall not be required unless specified by the Plan Commission.
 - ii. The continuing of all applications shall be consistent with the adopted Plan Commission Rules and Procedures.
- I. **Certification:** The Plan Commission shall certify its recommendation by resolution to the Common Council within ten (10) business days of its determination (per *IC 36-7-4-608*). The Plan Commission staff shall forward to the Common Council appropriate copies of the Plan Commission resolution, the original application and all supporting information, any staff reports regarding the application, and an ordinance for the Common Council's consideration.
- J. **Common Council Second Reading:** The Common Council shall vote on the proposed Zoning Map Amendment ordinance within ninety (90) days of its certification by the Plan Commission (per *IC 36-7-4-608*).
 1. *Notification:* The Common Council shall provide notification of action on the ordinance consistent with Indiana Code.
 2. *Possible Action:* The Common Council may either approve or deny the ordinance. If the Common Council fails to act within the ninety (90) day time frame specified above the Zoning Map Amendment ordinance shall become effective or be defeated consistent with the provisions of *IC 36-7-4-608*. The Common Council may also seek modifications or additions to any written commitments as described in *Section 9.10(L): Written Commitments*.
- K. **Decision Criteria:** In reviewing the Zoning Map Amendment application, the Plan Commission and Common Council shall pay reasonable regard to the following:
 1. *Comprehensive Plan:* The Comprehensive Plan and any other applicable, adopted planning studies or reports;
 2. *Current Conditions:* The current conditions and the character of current structures and uses in each district;
 3. *Desired Use:* The most desirable use for which the land in each district is adapted;
 4. *Property Values:* The conservation of property values throughout the City of Shelbyville's planning jurisdiction; and
 5. *Responsible Growth:* Responsible growth and development.
- L. **Written Commitments:** The applicant in any Zoning Map Amendment application may make written commitments regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence on, the subject property consistent with *IC 36-7-4-1015*.
 1. *Origin of Commitments:* Written commitments may be proposed by the applicant as an element of the initial submittal of application materials or in response to any modifications requested by the Plan Commission or Common Council.
 2. *Consideration of Commitments:* All commitments shall be considered by the Plan Commission and the Common Council in the review of the application.
 - a. Commitments shall be included as an element of the Zoning Map Amendment ordinance prepared by the Plan Commission following action taken at the public hearing.

Zoning Map Amendment (Rezoning)

- b. Any deletion, addition, or alteration of the written commitments proposed by the Common Council may be referred back to the Plan Commission for consideration and included in a revised or affirmed recommendation regarding the application.
3. *Recording of Commitments*: Following final action being taken on the Zoning Map Amendment application, the Zoning Map Amendment ordinance, with any written commitments included, may be recorded in the office of the Shelby County Recorder. A copy of any recorded commitments shall be provided to the Zoning Administrator for inclusion in the application file prior to the issuance of any Improvement Location Permit. No Improvement Location Permit shall be issued for a permit application that does not comply with the written commitments.
4. *Enforcement of Commitments*: The written commitments shall be considered part of the Unified Development Ordinance binding on the subject property.
 - a. The written commitments shall be binding on the owner of the subject property, any subsequent owners of the subject property, and any person or entity that acquires an interest in the subject property or portion thereof.
 - b. The written commitments shall be enforceable by the Zoning Administrator consistent with the adopted provisions for the enforcement of any other aspect of the Unified Development Ordinance, as described in *Article 10: Enforcement*.
 - c. The written commitments may be modified only through the Zoning Map Amendment process.
- M. Effective Date: A rezoning shall be effective from the date of its final approval by the Shelbyville Common Council.
- N. Modification: Modification to an approved Zoning Map Amendment shall not be permitted. The only means to modify a Zoning Map Amendment is through a new application for Zoning Map Amendment.

9.11 Subdivision of Land

- A. **General:** There are four (4) components for completing a Subdivision of Land. These steps are explained in detail in the following Sections:
1. *Section 9.11(C): Sketch Plan,*
 2. *Section 9.11(D): Preliminary Plat,*
 3. *Section 9.11(E): Primary Plat and Construction Plans,* and
 4. *Section 9.11(F): Construction of Public Improvements.*
- B. **Application and Review Process**
1. **General Application Requirements:** All applications may be obtained through the Zoning Administrator's office. Fees shall be paid at the Zoning Administrator's office at the time the applications are submitted.
 - a. **Application Forms:** All applications shall be made on forms provided by the Zoning Administrator. All applicants shall submit original applications that are completed in their entirety in ink or typed.
 - b. **Copies Required:** All applicants shall submit copies of applications and necessary attachments as required by the adopted policies of the Zoning Administrator and the applicable Rules and Procedures of the Plan Commission.
 2. **Review Schedule:** All applications shall be assigned reference and/or docket numbers by the Zoning Administrator. Applications shall be scheduled by the Zoning Administrator for the appropriate public hearings based on the completeness of the application consistent with the requirements of *Section 9.11: Subdivision of Land* and the adopted Calendar of Filing and Meeting dates for the Plan Commission.
- C. **Sketch Plan:** [Note: Sketch Plans are not a formal review and are not binding. Therefore, a Sketch Plan does not result in vesting or begin a formal application process. By its nature a Sketch Plan review is limited to material submitted.]
1. **Sketch Plan:** Sketch Plan review is recommended, but not required. The Sketch Plan review is a process that provides early guidance and recommendations to the applicant. Sketch plan review is especially encouraged for those applicants that are unfamiliar with the Shelbyville subdivision processes and procedures.
 2. **Sketch Plan Review:** At his/her discretion, the applicant may meet with the Zoning Administrator to discuss the proposed subdivision. The applicant should provide a sketch of the proposed subdivision and the parcel(s) involved.
 - a. The Zoning Administrator shall provide the applicant with comments regarding the proposed subdivision.
 - b. The Zoning Administrator may invite the City Engineer, Street Commissioner, or other persons to also comment on the Sketch Plan at his/her discretion.
 - c. The Zoning Administrator shall advise the applicant to contact any other official or agencies that shall approve certain aspects of the subdivision and communicate to them the review procedure, schedule, and standards that shall apply to the subdivision.
 3. **Sketch Plan Documents:** Sketch Plan application materials shall be prepared in pen, pencil, or electronic media and shall include the following:
 - a. **Sketch Plan:** The Sketch Plan shall be at an appropriate scale and shall include the following:
 - i. **Property Name:**
 - [a] The name of the subdivision (if the subject property is within a previously platted subdivision); or
 - [b] A proposed name (if the property is not within a previously platted subdivision). The proposed name shall not duplicate the name of any subdivision in Shelby County that has been previously recorded; or
 - [c] The common name of the property if no subdivision name has been chosen (the name by which the property is locally known).
 - ii. **Property Description:**
 - [a] A written description of the location of the property, including both street address and legal description. The legal description shall state the total area of the subdivision in acres.
 - [b] The size of all existing properties included in the proposed subdivision in acres. If any properties to be included in the subdivision are less than one (1) acre, they shall also be described in terms of square footage.

- iii. Property Ownership:
 - [a] The name, street address, e-mail address, and telephone number of the legal property owner and the developer of the property or his/her agent.
 - [b] An indication of any existing covenants, rights-of-way, and/or easements affecting the property.
 - [c] The name, street address, e-mail address, and telephone number of any professional person(s) responsible for the Sketch Plan application materials.
- iv. Subdivision Drawing:
 - [a] The location any existing property lines, structures, streets, easements, and rights-of-way within or immediately adjacent to the property.
 - [b] A description of the topography of the property, including streams, suspected wetlands (based on the National Wetlands Inventory), wooded areas, and 100-year floodplains and floodways. The topographic details may be based on USGS data, a field survey, and/or other suitable data sources (as determined by the Zoning Administrator).
 - [c] The current zoning of the property.
 - [d] The general layout of sidewalks and any other pedestrian pathways.
 - [e] Preliminary proposals for connection with existing sanitary sewage and drainage systems.
 - [f] A general description of the size, dimensions, and number of lots to be created in the subdivision.
- b. Contiguous Holdings Map: Whenever the Sketch Plan covers only a part of an applicant's contiguous property holdings, the applicant shall also submit a map of all contiguous holdings, drawn at a convenient scale. The map shall include a sketch of the proposed subdivision area and an indication of the likely future street and drainage system serving the remaining portion of the property.

D. Preliminary Plat

- 1. *Application Requirements*: In order to begin the subdivision process the applicant shall file an application for Preliminary Plat Review with the Zoning Administrator.
 - a. Application Materials: Required application materials shall include the following:
 - i. Application Form: Application shall be made on forms available at the Plan Commission office, be typed or completed in ink, and be signed by the owner and subdivider.
 - ii. Document Copies: The application shall be accompanied by the required copies of a Preliminary Plat, Vicinity Map, and Contiguous Holdings Map (if necessary) meeting the requirements provided by *Section 9.11(D)(2): Preliminary Plat Documents*.
 - iii. Fee: The application shall be accompanied by a fee in the amount established by the City's adopted Fee Schedule.
 - b. Processing Standards: No application shall be processed, and no docket number shall be assigned, until the application is filled out correctly, and all required attachments, including the fee, are presented to the Zoning Administrator.
 - c. Meeting Dates Established: In accordance with *IC 36-7-4-705*, the Zoning Administrator shall announce the date of a hearing before the Plan Commission within thirty (30) days after receipt of a final and complete application. The dates of all hearings regarding the application shall be based on the adopted Calendar of Meeting and Filing Dates and the date on which the application for Preliminary Plat review is filed with the Zoning Administrator.
- 2. *Preliminary Plat Documents*: Preliminary Plat application materials shall be prepared and certified by a land surveyor or engineer registered by the State of Indiana. They shall include the following:
 - a. Preliminary Plat: The Preliminary Plat shall be at an appropriate scale; shall be prepared in pen or electronic media; and shall include the following:
 - i. Property Name:
 - [a] The name of the subdivision (if the subject property is within a previously platted subdivision); or
 - [b] A proposed name (if the property is not within a previously platted subdivision). The proposed name shall not duplicate the name of any subdivision in Shelby County which has been previously recorded.

- ii. Property Description:
 - [a] A written description of the location of the property, including current zoning, street address and a legal description. The legal description shall state the total area included in the subdivision in acres.
 - [b] A dimensioned drawing of the parcel of land that is being subdivided, including any remaining tract. The drawing shall show the subdivision boundary with benchmarks, the legal description point of beginning, and all dimensions, including the size of all existing properties included in the proposed subdivision, in acres. If any properties to be included in the subdivision are less than one (1) acre, they shall also be described in terms of square footage.
- iii. Property Ownership:
 - [a] The name, street address, e-mail address, and telephone number of the legal property owner and the developer of the property or his/her agent. The ownership information shall include the citation of the last instrument conveying titles to each parcel of property involved in the proposed subdivision, giving grantee, date, and book and page or instrument number reference.
 - [b] An indication of any existing covenants, rights-of-way, or easements affecting the property.
 - [c] The name, street address, e-mail address, and phone number of the professional person(s) responsible for the Preliminary Plat application materials.
- iv. Preliminary Plat Drawing:
 - [a] A legend and notes, including a graphic scale, north arrow, and date.
 - [b] The location of existing burial grounds, watercourses, 100-year floodplains and floodways (including elevations), wooded areas, wetlands (certified by a professional possessing a U.S. Army Corps of Engineers Regulation 4 Jurisdictional Wetland Certification), and other natural features.
 - [c] The location(s) of any existing structure(s) on the site and a description of their future demolition or incorporation into the proposed subdivision.
 - [d] Topographic contours consistent with the requirements of the City Engineer, referenced to sea level and an established bench mark.
 - [e] The location, area (indicated in square feet and acres), and dimensions of each lot. The location of all monuments and the buildable area of each lot per applicable zoning district setback requirements and any other regulatory or natural limitations, shall also be indicated.
 - [f] All existing and proposed easements and rights-of-way, including the location, width, and purpose of each.
 - [g] All existing and proposed street systems on and adjoining the site of the proposed subdivision showing the proposed names, functional classifications, right-of-way widths, approximate gradients, types and widths of pavements, curbs, sidewalks, on-street parking areas, street signs, street trees, and streetlights.
 - [h] All proposed sidewalks and/or pedestrian pathways.
 - [i] Any parcels of land proposed to be dedicated or reserved for common areas, natural areas, schools, parks, playgrounds, or other public, semi-public, or community purposes (including common areas and linear open space surrounding pedestrian paths).
 - [j] The location, size, slope, and invert elevation of utilities existing and proposed adjacent to and on the site, including storm and sanitary sewers; water mains (including fire hydrants); electrical, telephone, and cable television lines.
 - [k] The location of any temporary stakes to enable the Zoning Administrator and City Engineer to find and appraise features of the Preliminary Plat by visiting the property.
 - [l] All proposals for connecting to the sanitary sewer and storm water systems.
 - [m] A form indicating the approval of the Plat and providing a place for the signature of the Plan Commission President and Secretary and the date of Preliminary Plat approval.
- b. Vicinity Map: On a separate sheet, at a convenient scale, a vicinity map shall be submitted that includes the following information:
 - i. Property Location: The location of the proposed subdivision within the City, referencing surrounding streets and subdivisions.
 - ii. Adjacent Property Owners: Existing subdivisions and lots adjacent to or within 250 feet of the proposed subdivision. The owners of each of these properties shall be identified on the drawing with the date and book and page (or instrument number) of the last conveyance of ownership.
 - iii. Related Facilities: Existing schools, parks, playgrounds, neighborhood commercial businesses, or other similar facilities that will serve the proposed subdivision.

Subdivision of Land

- iv. Utilities: Location and size of all utilities adjacent to or within 250 feet of the subdivision site, including sanitary and storm sewers, gas lines, electric lines, telephone lines, water mains, fire hydrants, and cable television lines.
- v. Thoroughfares: All public thoroughfares/rights-of-way adjacent to or within 250 feet of the site.
- vi. Street and Pedestrian Systems: Existing streets and rights-of-way on and adjoining the site of the proposed subdivision showing the names, functional classifications, roadway widths, surface types, widths of pavement, and presence of curbs, street trees, sidewalks, on-street parking, and street lights.
- vii. Boundaries: Any municipal, fire district, school district, utility service, or other boundaries lying within or contiguous to the subdivision property.
- c. Contiguous Holdings Map: Whenever the Preliminary Plat covers only a part of an applicant's contiguous property holdings, the applicant shall also submit a map of all contiguous holdings, drawn at a convenient scale. The map shall include a sketch of the proposed subdivision area, with its proposed street and drainage system, and indication of the likely future street and drainage system serving the remaining portion of the property.
- d. Subdivision Phasing Description: If the Preliminary Plat is to be divided into sections for the phasing of development, the preliminary boundaries and numbers of such sections shall be shown.
- e. Subdivision Covenants: Any protective covenants applicable to the subdivision shall be prepared by the applicant and be legally sound. Either the covenants, or a reference to the covenants shall be incorporated on the plat.
 - i. Drainage Maintenance: At a minimum, covenants or other plat documentation shall provide a means for the maintenance and upkeep of drainage swales and other drainage facilities and any common areas or entry features. The covenants shall specifically provide that the maintenance of drainage swales and other drainage features be the responsibility of a lot owner's association and that the proper function and maintenance of the drainage system may be enforced by the Board of Public Works and Safety and the City Engineer.
 - ii. Consistency: All covenants shall be consistent between all subdivision phases that result from a single Preliminary Plat.
- f. Access Plan: A site access plan showing both internal circulation between structures/lots as well as ingress/egress to existing rights-of-way.
- g. Drainage Plan and Report: The subdivider shall provide a drainage report describing the existing and proposed drainage conditions and evaluating the ability of the proposed water courses, channels, drainage tiles, farm tiles, storm sewers, culverts, and other improvements to accommodate the additional run-off generated by the proposed subdivision.
 - i. Drainage Report: A registered professional engineer or land surveyor shall prepare the report, which shall include:
 - [a] The conditions of the watershed that may affect run-off, such as subsoil type, positive drainage, and obstructions.
 - [b] The location of all subsurface drainage tiles and a plan to preserve or relocate the tiles.
 - [c] Estimates of the water entering the subdivision.
 - [d] A description of minor and major drainage systems. The minor drainage system shall consist of storm sewers, drainage ditches, grassed swales, and storm inlets or infiltration structures. The major system shall consist of roadways, culverts, bridges, and drainage flow-ways.
 - ii. Watershed Map: On a separate sheet, a watershed map complementing the Drainage Report using USGS contour information shall be provided, showing:
 - [a] The delineation of the drainage area in which the subdivision is located.
 - [b] The location of drainage courses and the existing direction of surface water flow within the drainage area.
 - iii. Drainage Plan Description: On a separate sheet in the same scale and media as the Preliminary Plat, a description of drainage/topography/natural environment complementing the Drainage Report shall be provided that includes the following information:
 - [a] The location of natural streams, regulated drains, 100-year floodplains and floodways (including elevations).
 - [b] The location of any existing or proposed subsurface drain tile, structures, culverts, or swales.

- [c] A map noting significant physical and topographical features of the tract. This map shall also show the proposed direction of the flow of surface water runoff from the site.
 - [d] A preliminary drainage plan showing the proposed storm water drainage system to an improved outlet. The plan shall include surface drainage system, storm sewer systems, subsurface drainage systems, and storm water detention facilities. Arrows designating the general drainage of all streets and lots shall be included.
- h. Engineering Capacity Report: A report prepared by a professional engineer or land surveyor registered in the State of Indiana covering sewage, street, and drainage facilities for the subdivision shall be provided which includes, but is not limited to, the following:
 - i. Utility Systems: A description of the feasibility of connecting to existing storm and sanitary sewers. This portion of the report shall include the distance from the nearest public sewer and the capacity of the existing system intended to handle the additional waste load.
 - ii. Street Construction: A preliminary report on the anticipated street construction based on the specifications provided by this Ordinance and any additional requirements of the City Engineer.
 - i. Traffic Studies as may be deemed necessary by the Technical Review Committee to determine the extent of public improvements required to accommodate traffic generated by the proposed development.
3. *Agency Coordination*: The applicant corresponds with all applicable regulatory agencies for all other necessary approvals. These may include, but are not limited to the following:
- a. The Indiana Department of Transportation;
 - b. The Indiana Department of Environmental Management; and
 - c. The Indiana Department of Natural Resources.
4. *Technical Review*: The Zoning Administrator shall place the application for Preliminary Plat review on the agenda of the Technical Review Committee.
- a. Review Criteria: In reviewing the application, the Technical Review Committee shall consider the provisions of the Unified Development Ordinance, and other applicable requirements.
 - b. Possible Action: The Committee shall make comments regarding the application. Based on those comments, the Zoning Administrator may either forward the application to the Plan Commission or recommend further review.
 - i. Forward to Plan Commission: The Zoning Administrator shall forward the application for Preliminary Plat review to the Plan Commission if addressing the Committee comments will not require the applicant to significantly alter the layout of streets, lots, utility systems, topography, or other proposed subdivision features. The applicant shall revise the Preliminary Plat consistent with the comments received from the Committee and supply revised application materials to the Zoning Administrator in preparation for the Plan Commission hearing.
 - ii. Recommend Re-submittal: The Zoning Administrator may recommend further review of the Preliminary Plat application if addressing the comments will require significant alterations to the layout of streets, lots, utility systems, topography, drainage ways, or other proposed subdivision features. If the applicant agrees to further review, the application shall be placed on the agenda for the next Technical Review Committee meeting. The applicant shall revise the Preliminary Plat consistent with the comments received from the Committee and supply revised application materials to the Zoning Administrator in preparation for either review by the Technical Review Committee, or the Plan Commission hearing.
 - [a] No additional fees shall be required for the re-submittal, however the Zoning Administrator shall announce an updated Plan Commission hearing date.
 - [b] There shall be no limit to the number of times the Zoning Administrator may recommend the re-submittal of any application.
5. *Public Hearing*: Notice of Public Hearing shall be given in accordance with the requirements of *Section 9.13: Notice of Public Hearing* prior to the Plan Commission meeting when the Preliminary Plat application is to be heard.

Subdivision of Land

6. *Plan Commission Hearing:* The Plan Commission shall hold a public hearing on the application, considering the Preliminary Plat application materials, a report from the Zoning Administrator, and testimony from the applicant and any interested parties.
 - a. Possible Action: At the public hearing, the Plan Commission shall approve, approve with conditions, continue, or deny the Preliminary Plat.
 - i. Approve: The Plan Commission shall approve the Preliminary Plat if it is found to be completely consistent with the decision criteria listed in *Section 9.11(D)(6)(b): Decision Criteria*.
 - ii. Approve with Conditions: The Plan Commission shall approve the Preliminary Plat with conditions if it is generally consistent with the decision criteria, but specific minor modifications are required to meet all of the applicable requirements.
 - iii. Continue: The application may be continued based on a request by the Zoning Administrator, the applicant, a remonstrator, or an interested party. The application shall be continued in the case of an indecisive vote, a determination by the Plan Commission that additional information is required prior to action being taken on the request, or if an appropriate representative of the application fails to appear at the public hearing.
 - [a] Additional legal notice shall not be required unless specified by the Plan Commission.
 - [b] The continuing of all applications shall be consistent with the Rules and Procedures of the Plan Commission.
 - iv. Deny: The Plan Commission shall deny the Preliminary Plat if it is found to be inconsistent with the decision criteria and requires modifications that would result in significant changes to the characteristics of the subdivision. If the Preliminary Plat application is denied, the applicant may not resubmit the same application for one (1) year from the date of disapproval. Fees and procedures for a resubmitted Preliminary Plat application shall be the same as if it were an original submittal.
 - b. Decision Criteria: In reviewing applications for Preliminary Plat approval, the Plan Commission shall consider the following criteria.
 - i. Unified Development Ordinance Requirements: The proposed Preliminary Plat shall be consistent with the subdivision control regulations and the development standards for the applicable zoning district; and
 - ii. Other Requirements: The consistency of the proposed Preliminary Plat with any other applicable standards.
 - c. Documentation of Findings: The Plan Commission shall make written findings documenting its decision. These written findings shall be signed by the Plan Commission President and Secretary. The Zoning Administrator shall provide the applicant with a signed copy of the written findings of the Plan Commission that indicate the date of the Plan Commission's decision within ten (10) business days of the decision. The Zoning Administrator shall maintain one (1) file copy of the proposed Preliminary Plat, all application materials, and the signed and dated findings letter.
7. *Sectionalized Plats:* For the purpose of phased construction, Preliminary Plats may be divided into sections. Construction Plans and Final Plats may be developed based on these sections. In no case shall any one (1) section of a residential Preliminary Plat contain less than ten percent (10%) of the total number of lots approved on that plat.
8. *Expiration of Approval:* The approval of the Preliminary Plat shall expire one (1) year from the date of the Plan Commission's decision if the applicant has not proceeded with the development by applying to the Zoning Administrator for Construction Plan and Final Plat review.
 - a. Sectionalized Preliminary Plats: In the case of Preliminary Plats that are divided into sections for the purpose of a phased construction, the Preliminary Plat shall expire five (5) years after the date of approval of the Construction Plans and Final Plat for the most recently developed section if Construction Plans and Final Plat for the subsequent section have not been approved and the installation of public improvements in that section commenced.
 - b. Extensions: Extensions of time may be granted by the Plan Commission upon the request of the applicant.

E. Final Plat and Construction Plans

1. *Application Requirements*: It shall be the responsibility of the applicant to prepare and have certified, by a land surveyor or professional engineer licensed in the State of Indiana, a Final Plat and a complete set of Construction Plans, including profiles, cross-sections, specifications, and other supporting data for all required public streets, utilities, and other subdivision facilities. These materials shall either be prepared for the entire area included in the Preliminary Plat or for each section of that plat. The applicant shall file an application for Final Plat and Construction Plan review with the Zoning Administrator. This application shall:
 - a. *Application Form*: Be made on forms available at the Plan Commission office, be completed in ink or typed, and be signed by the owner and developer;
 - b. *Document Copies*: Be accompanied by the required copies of the Final Plat and Construction Plans meeting the requirements provided by *Section 9.11(E)(2): Final Plat Drawing* and *Section 9.11(E)(3): Construction Plan Documents*.
 - c. *Electronic Data*: Be accompanied by a computer disk containing an electronic version of the documents (if available) in a format specified by the Zoning Administrator.
 - d. *Fee*: Be accompanied by a fee in the amount established by the adopted City Fee Schedule.
2. *Final Plat Drawing*: All Final Plats shall substantially comply with the Preliminary Plat and Construction Plans for the subdivision. The Final Plat shall be prepared by a land surveyor or engineer registered in the State of Indiana, shall be shown at an appropriate scale, shall be drawn on reproducible mylar, and shall include the following information on a sheet meeting the size and clarity requirements of the Shelby County Recorder:
 - a. *Property Name*: The name of the subdivision followed by the words "Subdivision Final Plat" (the name shall not duplicate the name of any subdivision in Shelby County that has previously been recorded).
 - b. *Property Description*:
 - i. *Legal Description*: An accurate metes and bounds description of the property boundary.
 - ii. *Boundary Lines*: An accurate property boundary line expressed in feet and hundredths of a foot, with dimensions and angles, and the bearings of all lines to a minimum of one-half (½) minute.
 - iii. *Benchmark*: Accurate distances and directions to the nearest official monument, including reference corners.
 - c. *Property Ownership*:
 - i. *Owner/Developer*: The name, street address, e-mail address, and telephone number of the legal property owner and the developer of the property or his/her agent. The ownership information shall include the citation of the last instrument conveying titles to each parcel of property involved in the proposed subdivision, giving grantee, date, and book and page or instrument number reference.
 - ii. *Professionals Involved*: The name, address, and telephone number of the professional land surveyor or engineer responsible for the Final Plat.
 - d. *Subdivision Description*:
 - i. *Legend and Notes*: A complete legend and notes, including north arrow, graphic scale, and date.
 - ii. *Existing Features*: Accurate locations of all preexisting easements, rights-of-way, and other pertinent features on the property and/or intersecting the boundaries of the tract; including a description of their future use or abandonment.
 - iii. *Public Ways*: The location, width, and other dimensions of the existing and proposed rights-of-way and easements for all streets, alleys, and pedestrian pathways. Street rights-of-way shall include street names and setbacks or build-to lines.
 - iv. *Curve Table*: A complete curve table for all curves included in the plat.
 - v. *Lots*: The location, dimensions (expressed in feet and hundredths of a foot), area (expressed in acres and square feet), and the bearing of all lines to one-half (½) minute for every lot and/or block created by the subdivision, including any remaining tract. All lots shall be consecutively numbered and all blocks shall be lettered in alphabetical order, consistent with the Preliminary Plat.
 - vi. *Easements*: Accurate locations, widths, and other dimensions of all easements, including a description of their use.
 - vii. *Monuments*: The location, type, material, and size of all existing and proposed monuments and markers included in the subdivision.

- viii. Set-Aside Areas: Accurate locations and dimensions for any property to be dedicated or reserved for public, semi-public, or community use, including any common areas and linear open space surrounding pedestrian pathways.
 - ix. Setbacks: All building lines and setback locations and dimensions throughout the subdivision.
 - x. Covenants and Restrictions: The text of, or references to, any restrictions that will run with the land and become covenants in the deeds for the lots.
 - xi. Explanations: An explanation of all easements and reservations.
 - xii. References: Sufficient data acceptable to the City Engineer to readily determine the location, bearing, and length of all lines for the reproduction of such lines on the property.
 - xiii. Endorsement: A statement signed and dated by the property owner(s) endorsing the Final Plat.
 - xiv. Land Surveyor Certification: Certification by a registered land surveyor.
 - xv. Plan Commission Approval Statement: A form indicating the approval of the Final Plat and providing a place for the signature of the Plan Commission President and Secretary and the date of Preliminary Plat approval.
 - xvi. Other Endorsements and Signatures: Forms providing the necessary statements, signatures, and dates for the recording of the Final Plat in the Shelby County Recorder's Office.
3. *Construction Plan Documents*: The Construction Plans shall be based on the approved Preliminary Plat and shall be consistent with the Final Plat. Construction plans shall be prepared for all required improvements, and shall be designed on state plane coordinates. The Construction Plans shall include the following:
- a. Topographical Features Map: A map noting significant physical and topographical features of the property. For plats containing more than two (2) lots, a topographical map at typical contour intervals, meeting the requirements of the City Engineer, that extends 100 feet beyond the boundary lines of the proposed tract shall be submitted. This map shall also show the direction of the flow of surface water runoff to and from the site.
 - b. Street Profiles: Profiles showing existing and proposed elevations along center lines of all streets. Where a proposed street intersects an existing street or streets, the elevation along the center line of the existing street or streets within 100 feet of the intersection shall be shown. Radii of all curves, lengths of tangents, central angles on all streets, and intersection details shall be shown.
 - c. Street Cross-Sections: Plans and profiles showing the location and typical cross-section of streets including curbs, gutters, rights-of-way, drainage facilities and easements, manholes, and catch basins.
 - i. Street Systems: Plans shall also identify each street's functional classification (consistent with the Shelbyville Thoroughfare Plan) and show the location of all street trees, street lights, street signs, sidewalks and/or pedestrian pathways, and permitted on-street parking areas.
 - ii. Utility Systems: Plans shall also show the location, size, and invert elevations of existing and proposed sanitary sewers, stormwater drains, water lines, gas lines, and fire hydrants. They shall show systems, connections to any existing or proposed utility systems, and the exact location and size of all underground utilities and structures.
 - d. Grading Plan: A site grading plan for the entire subdivision.
 - e. Significant Features: Location, size, elevation, and other appropriate descriptions of any other existing physical and natural features or facilities including 100-year floodplains and floodways, water bodies, trees, the points of connection to proposed facilities and utilities, and the approximate high- and low-water elevations of all ponds, lakes, and streams.
 - f. Other Approvals: Copies of any necessary approvals from other agencies, such as any required approvals from the U.S. Army Corps of Engineers, Indiana Department of Environmental Management, Indiana Department of Transportation, or Indiana Department of Natural Resources regarding modifications to wetlands or the regulatory floodplain.
 - g. Other Features: Any other construction details required to be shown by the Zoning Administrator, City Engineer, or Technical Review Committee.

4. *Technical Review*: The Zoning Administrator shall place the application for Final Plat and Construction Plan review on the agenda for the applicable meeting of the Technical Review Committee and distribute copies of the submittals to the Committee members.
 - a. *Other Approvals*: The applicant shall be responsible for obtaining the necessary reviews from any utility providers and other county, state, or Federal agencies not represented on the Technical Review Committee.
 - b. *Possible Action*: The Committee shall make comments regarding the application and either recommend modifications, state that the application meets their expectations, or request that the Final Plat and Construction Plans be resubmitted with modifications for further review and consideration.
 - i. *Meets Expectations*: The Committee shall state that the Final Plat and Construction Plans meet their expectations if they are consistent with the approved Preliminary Plat, applicable provisions of this Ordinance, and other applicable standards.
 - ii. *Recommend Modifications*: The Committee shall recommend modifications to the Final Plat and Construction Plans if minor modifications are required for the plans to be completely consistent with the approved Preliminary Plat, applicable provisions of this Ordinance, and other applicable standards. Minor modifications are those that can be adequately agreed upon by the Committee and the applicant at the meeting and that do not impact other aspects of the subdivision's construction in a way that would require subsequent review. The requested modifications shall be completed by the applicant, and revised Final Plat and Construction Plan materials shall be provided to the Zoning Administrator within ninety (90) days of the Committee's statement.
 - iii. *Continue*: The Committee may continue the application in order for the applicant to make modifications or provide additional information which will then be reviewed at an upcoming meeting. The application shall be placed on the agenda for the next appropriate Technical Review Committee meeting. The applicant shall provide the required revised Final Plat and Construction Plan materials to the Zoning Administrator prior to that meeting consistent with the adopted Calendar of Meeting and Filing Dates.
 5. *Documentation*: The Zoning Administrator shall include the Committee's final comments in the staff report. The Zoning Administrator shall provide the applicant with a signed copy of the staff report upon request. The Zoning Administrator shall maintain one (1) file copy of the proposed Final Plat and Construction Plans, all application materials.
- F. Construction of Public Improvements
1. *Surety or Construction Options*: Prior to final approval of the Final Plat and Construction Plans the applicant has two (2) procedural options for completing the required improvements. The applicant may select either of the following procedures:
 - a. *Performance Surety*: The applicant may submit performance surety for the required improvements as described by *Section 9.11(F)(2): Performance Surety Option*.
 - b. *Construction of Improvements*: The applicant may construct all required improvements as described by *Section 9.11(F)(3): Construction of Improvements Option*.
 2. *Performance Surety Option*: If the applicant chooses to submit performance surety prior to constructing the required improvements, the following process shall be followed:
 - a. *Final Plat and Performance Surety Submittal*: The applicant shall submit the following to the Zoning Administrator:
 - i. *Final Plat and Construction Plans*: The Final Plat and Construction Plans with all required modifications. The Final Plat shall be shown at an appropriate scale, shall be drawn on reproducible mylar, and shall be on a sheet meeting the size and clarity requirements of the Shelby County Recorder.
 - ii. *Electronic Data (if available)*: A computer disk containing an electronic version of the Final Plat in a form specified by the Zoning Administrator.
 - iii. *Surety*: Performance surety for all required subdivision improvements. The surety shall meet all requirements of *Article 7: Surety*.

- b. Final Plat Review: The Zoning Administrator shall review the Final Plat submittal and associated materials to verify its consistency with all previous approvals and to verify that all required modifications have been made to the plat.
 - i. Plan Commission Endorsement: The Final Plat shall be certified on behalf of the Plan Commission by the President and Secretary who shall affix their signatures to the Final Plat original.
 - ii. Board of Public Works and Safety Endorsement: If the Final Plat includes public streets or infrastructure, the applicant shall contact the Board of Public Works and Safety to have the Final Plat scheduled for review at the next available Board meeting. At that meeting, the Board shall review the Final Plat's public dedications and other improvements, as well as the submitted performance surety for the construction of those improvements. If deemed acceptable, the Board of Public Works and Safety shall sign the Final Plat.
- c. Final Plat Recording: It shall be the responsibility of the applicant to file the approved and signed Final Plat with the Shelby County Recorder within thirty (30) days of the date of signature by Board of Public Works and Safety.
 - i. Other Documents: Simultaneously with the filing of the Final Plat, the applicant shall record any agreements of dedication, covenants, and commitments together with any other legal documents that are required to be recorded. The filing and recording of a plat is without legal effect unless signed by the Plan Commission's President and Secretary and the Board of Public Works and Safety.
 - ii. Final Copy Provided: The applicant shall be required to submit a copy of the recorded Final Plat to the Zoning Administrator for the records of the Plan Commission.
- d. Construction of Improvements: The applicant shall obtain from the Zoning Administrator information regarding the current Shelbyville policies for the installation and inspection of public improvements. The applicant shall construct the subdivision consistent with the approved Construction Plans and the policies and procedures of the appropriate inspecting agencies. No site work or earthwork shall be allowed until the Improvement Location Permit signifying the approval of the Construction Plans and recording of the Final Plat has been issued by the Zoning Administrator.
 - i. Improvements Required: All required improvements shall be made by the applicant, at his/her expense, without reimbursement by the local government or any other improvement district. Prior to the acceptance of the public improvements by the Board of Public Works and Safety, all applicants shall complete all of the required improvements for subdivision construction as depicted on the approved Construction Plans.
 - ii. Certified Compliance: The applicant shall be required to maintain at his/her expense a licensed civil engineer who shall certify that the subdivision construction is in compliance with the approved Construction Plans at the time the acceptance of public improvements request is submitted to the Board of Public Works and Safety.
 - iii. Correction of Errors: If the Zoning Administrator or City Engineer finds upon inspection that any of the required improvements have not been constructed in accordance with the approved Construction Plans, the applicant shall be responsible for correcting any errors in construction and completing the improvements consistent with the approved plans.
- e. Acceptance of Public Improvements: Following the completion of the public improvements and their certification the applicant shall request that the matter be placed on the agenda of the Board of Public Works and Safety.
 - i. Materials Required: The following materials shall be required for the acceptance of public improvements:
 - [a] Copies of "as-built" drawings and all other material as required by the *Shelbyville Construction Standards*.
 - [b] Maintenance surety meeting the requirements of *Article 7: Surety*.
 - ii. Review Materials: The Board of Public Works and Safety shall review the condition of the public improvements and surety. The Board shall consider input from the City Attorney, Zoning Administrator, City Engineer, and the city departments responsible for the maintenance of the improvements.
 - iii. Approval: If the condition of the public improvements and the surety are deemed to be acceptable, the Board shall accept the improvements.

3. *Construction of Improvements Option*: If the applicant chooses to construct all required improvements prior to the recording of the Final Plat this process is followed. Upon Technical Review Committee review of the Final Plat and Construction Plans, the applicant shall submit to the Zoning Administrator the Final Plat and Construction Plans with all required modifications. An Improvement Location Permit for the construction of the subdivision improvements shall then be issued.
 - a. *Construction of Improvements*: The applicant shall obtain from the Zoning Administrator information regarding the current Shelbyville policies for the installation and inspection of public improvements. The applicant shall construct the subdivision consistent with the Construction Plans and the policies and procedures of the appropriate inspecting agencies. No site work or earthwork shall be allowed until the Improvement Location Permit signifying the approval of the Construction Plans and Final Plat has been issued by the Zoning Administrator.
 - i. *Improvements Required*: All required improvements shall be made by the applicant, at his/her expense, without reimbursement by the local government or any other improvement district. Prior to the acceptance of the public improvements by the Board of Public Works and Safety, all applicants shall complete all of the required improvements for subdivision construction as depicted on the approved Final Plat and Construction Plans.
 - ii. *Certified Compliance*: The applicant shall be required to maintain at his/her expense a licensed civil engineer who shall certify that the subdivision construction is in compliance with the approved Construction Plans at the time the acceptance of public improvements request is submitted to the Board of Public Works and Safety.
 - iii. *Correction of Errors*: If the Zoning Administrator or City Engineer finds upon inspection that any of the required improvements have not been constructed in accordance with the approved Construction Plans, the applicant shall be responsible for correcting any errors in construction and completing the improvements consistent with the approved plans.
 - b. *Final Plat Submittal*: Upon completion of the public improvements, the applicant shall submit the following with the Zoning Administrator:
 - i. *Final Plat*: An approved Final Plat shown at an appropriate scale, drawn on reproducible mylar, and on a sheet meeting the size and clarity requirements of the Shelby County Recorder.
 - ii. *Electronic Data (if available)*: A computer disk containing an electronic version of the Final Plat in a form specified by the Zoning Administrator.
 - c. *Final Plat Review*: The Zoning Administrator shall review the Final Plat submittal and associated materials to verify its consistency with all previous approvals. The review of the Final Plat by the Technical Review Committee shall be certified on behalf of the Plan Commission by the President and Secretary who shall affix their signatures to the Final Plat original.
 - d. *Acceptance of Public Improvements*: Following the completion of the public improvements, their certification, and the signing of the Final Plat by the Plan Commission President and Secretary, the applicant shall request that the matter be placed on the agenda of the Board of Public Works and Safety.
 - i. *Materials Required*: The following materials shall be required for the Final Plat approval and acceptance of public improvements:
 - [a] A copy of the Final Plat signed by the Plan Commission President and Secretary
 - [b] Copies of “as-built” drawings showing the location, dimensions, and materials used to construct all public improvements within the subdivision.
 - [c] A computer disk containing an electronic version (if available) of the Final Plat and “as-built” drawings in a format specified by the Zoning Administrator.
 - [d] Maintenance surety meeting the requirements of *Article 7: Surety*.
 - ii. *Review Materials*: The Board of Public Works and Safety shall review the Final Plat’s public dedications and other improvements, submitted maintenance surety for those improvements, and the condition of the constructed public improvements. The Board of Public Works and Safety shall consider input from the City Attorney, City Engineer, Zoning Administrator, and the city departments responsible for the maintenance of the improvements.
 - iii. *Approval*: If the Final Plat, completed public improvements, and maintenance surety are deemed to be acceptable, the Board shall sign the Final Plat.

- e. **Final Plat Recording:** It shall be the responsibility of the applicant to file the approved and signed Final Plat with the Shelby County Recorder within thirty (30) days of the date of signature by the Board of Public Works and Safety.
 - i. **Other Documents:** Simultaneously with the filing of the Final Plat, the applicant shall record any agreements of dedication, covenants, and commitments together with any other legal documents that are required to be recorded. The filing and recording of a plat is without legal effect unless signed by the Plan Commission's President and Secretary and the Board of Public Works and Safety.
 - ii. **Final Copy Provided:** The applicant shall be required to submit a mylar copy of the recorded Final Plat to the Zoning Administrator for the records of the Plan Commission.
- 4. **Permit Restrictions:** No Improvement Location Permit shall be issued by the Zoning Administrator for any subdivision improvements or for any structure on any subdivision lot prior to the receipt of a copy of the recorded Final Plat for the records of the Plan Commission, except in the following instances:
 - a. **Temporary Structures:** The Zoning Administrator may issue Improvement Location Permits for temporary structures, such as construction trailers, signs, and home sales trailers subject to the following conditions.
 - i. The structure shall be provided with adequate access from a public street.
 - ii. The structure shall be provided with adequate sewage disposal and utility facilities.
 - iii. The location and placement of the temporary structure shall not cause a hazard to the welfare of any members of the public as a result of the construction activities on the site.
 - b. **Model Homes:** The Zoning Administrator may issue Improvement Location Permits for model homes subject to the following conditions:
 - i. The home shall be provided with adequate access from a public street.
 - ii. The home shall be provided with adequate sewage disposal and utility facilities.
 - iii. The location and placement of the home shall not cause a hazard to the welfare of any members of the public as a result of the construction activities on the site.
 - iv. Appropriate grading and drainage shall be completed for the model home site prior to the model's placement or construction.
 - v. No more than one (1) home may be located on any existing parcel or property. Example: If the subdivision is occurring on one parcel of property then only one model home may be constructed prior to the recording of the Final Plat and the legal establishment of additional lots. Additional model homes are permitted following the recording of the Final Plat.
- 5. **Occupancy Restrictions:** No permanent Certificate of Occupancy shall be issued for any structure until all required public improvements have been completed and accepted by the Board of Public Works and Safety for the lot that the structure occupies. In no instance shall this provision be interpreted as preventing the issuance of a temporary Certificate of Occupancy allowing the use of structures prior to the acceptance of public improvements.

9.12 Unified Development Ordinance Text Amendment

- A. Purpose and Intent: It may become necessary to amend the text of the Unified Development Ordinance from time to time. The Plan Commission has the authority to hear a proposal to amend the text of the Unified Development Ordinance. The Plan Commission shall make a recommendation to the Shelbyville Common Council concerning a proposal to amend the text of the Unified Development Ordinance. The Common Council has the power to approve or reject a proposal to amend the text of the Unified Development Ordinance.
- B. Project Applicability: Any proposal to add, remove, or alter a provision of the Unified Development Ordinance (i.e. Text Amendment) shall follow the process outlined in this section.
- C. Prerequisites:
 - 1. Eligible Applicants: Members of the Shelbyville Common Council or members of the Plan Commission shall initiate a proposal to amend the text of the Unified Development Ordinance. Persons who wish to propose an amendment to the text of the Unified Development Ordinance and who are not members of the Shelbyville Common Council or Plan Commission shall find a sponsor among the Shelbyville Common Council or the Plan Commission to introduce the proposal.
- D. Filing Requirements:
 - 1. Proposal: A proposal for an amendment to the text of the Unified Development Ordinance shall be prepared by the Zoning Administrator upon the direction of either the Shelbyville Common Council or the Plan Commission.
- E. Formal Procedure: The process for a Unified Development Ordinance Text Amendment, including public notice, public hearing, and review, shall be per the Plan Commission's Rules of Procedure.
 - 1. Effective Date: Unless an amendment to the text of the Unified Development Ordinance provides for a later effective date, the amendment shall be effective when it is adopted under *IC 36-7-4-607*.

Notice of Public Hearing

9.13 Notice of Public Hearing

For all public hearings, the notice shall be provided to the public consistent with the requirements of this Section and the Board of Zoning Appeals Rules and Procedures and Plan Commission Rules and Procedures. Required public notice shall include:

- A. **Legal Notice:** The applicant shall prepare and pay for a legal notice consistent with the requirements of *IC 5-3-1* for publication in the local newspaper. The legal notice shall appear in the newspaper no less than one (1) time at least ten (10) days prior to the public hearing, not including the date of the hearing. Legal notices shall include each of the following:
 1. *Property Location:* The location of the subject property, including its common address and a legal description of the included land,
 2. *Available Plans:* That the project plans are available for examination at the office of the Plan Commission,
 3. *Hearing Information:* That a public hearing will be held, giving the date, place, and hour of the hearing, and
 4. *Written Comments:* That written comments on the application will be accepted prior to the public hearing and may be submitted to the Zoning Administrator.
- B. **Notice to Interested Parties:** The applicant shall prepare and distribute written notice of the application to all interested parties as defined by the Plan Commission Rules and Procedures and Board of Zoning Appeals Rules and Procedures. In no instances shall streets, alleys, streams, or other features be considered boundaries for precluding notification.
 1. *Notice Information:* The notice shall contain the same information as the legal notice that is published in the newspaper as outlined in *Section 9.13(A): Legal Notice*.
 2. *Responsibility:* The distribution and cost of the notice shall be the responsibility of the applicant.
 3. *Ownership Information:* The applicant shall obtain the names and mailing addresses of those to be notified from the Zoning Administrator.
 4. *Notification Requirements:* Property owners shall be notified at least one (1) time in one (1) of the following ways:
 - a. Via a Certificate of Mailing through the U.S. Postal Service, postmarked a minimum of ten (10) days before the date of the public hearing.
 - b. Via Certified Mail through the U.S. Postal Service, postmarked a minimum of ten (10) days before the date of the public hearing.
 - c. Via hand delivered notice in accordance with the Plan Commission Rules and Procedures.
 5. *Notification Certification:* A copy of the materials provided to each property owner, the completed mailing and/or delivery forms, and a completed Affidavit of Notice certifying the correctness of the mailing list shall be provided to the Zoning Administrator by the applicant a minimum of two (2) business days prior to the date of the public hearing.

Certificate of Occupancy

9.14 Certificate of Occupancy

The following procedure applies to Certificates of Occupancy:

- A. Certificate Requirements: It shall be unlawful and in violation of this Ordinance for any builder or property owner to allow any new or significantly remodeled (as determined by the Zoning Administrator) structure to become occupied or utilized prior to:
 1. Legally obtaining an Improvement Location Permit;
 2. Completing all required inspections, including the final inspection; and
 3. Receiving a Certificate of Occupancy from the Zoning Administrator.
- B. Inspection: Upon the completion of the work approved through an Improvement Location Permit, the permit holder shall contact the Zoning Administrator and schedule a final inspection to verify the installation of improvements consistent with the requirements of this Ordinance. The City Engineer, Building Official, any other municipal official, and any other person requested by the Zoning Administrator may also take part in the inspection.
- C. Certificate Issuance: The Zoning Administrator shall issue the Certificate of Occupancy if the improvements comply with all applicable requirements of the City of Shelbyville, including the Unified Development Ordinance and all applicable building codes as verified by the Building Official. The Zoning Administrator may also issue a limited or temporary Certificate of Occupancy at their discretion.

