

ORDINANCE NO. 081919D

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF FISHERS,
HAMILTON COUNTY, INDIANA, AMENDING THE UNIFIED DEVELOPMENT
ORDINANCE.**

WHEREAS, the City of Fishers, Hamilton County, Indiana (“City”) seeks to amend its Unified Development Ordinance, (“UDO”), previously enacted pursuant to Ind. Code § 36-7-4 *et seq.*, by amending various Chapters and Sections as cleanup revisions, as further specified in “Exhibit A” herein.

WHEREAS, the Advisory Plan Commission for the City of Fishers (“Plan Commission”) has conducted a public hearing on Docket No. TA-19-12 as required by law in regard to the Text Amendment; and

WHEREAS, the Plan Commission at its August 7, 2019, meeting sent a favorable recommendation to the Common Council by a vote of eight (8) in favor and zero (0) opposed.

NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FISHERS, HAMILTON COUNTY, INDIANA, MEETING IN REGULAR SESSION AS FOLLOWS:

Section 1. Declaration. The text of the Unified Development Ordinance is hereby amended as described in Exhibit A provided herein.

Section 2. Purpose and Intent. The purpose and intent of this Text Amendment is to protect the public health, safety and well-being.

Section 3. Applicability. The standards of the UDO, as amended from time to time, shall apply to the development of real estate.

Section 4. Approval. All other provisions of the City of Fishers Unified Development Ordinance not in conflict with or specifically changed by this amendment shall remain in full force and effect. This amendment shall become effective upon its adoption and publication in accordance with Indiana law. The invalidity, illegality, or unenforceability of any one or more of the terms and conditions of this Amendment shall not affect the validity, legality, or enforceability of the remaining terms and conditions hereof.

SO BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FISHERS, HAMILTON COUNTY, INDIANA THIS 19TH DAY OF AUGUST 2019.

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**COMMON COUNCIL OF THE CITY OF FISHERS,
HAMILTON COUNTY, INDIANA**

YAY		NAY	ABSTAIN
	Richard W. Block, President		
	Eric Moeller, Vice President		
	David George, Member		
	C. Pete Peterson, Member		
	John Weingardt, Member		
	Cecilia C. Coble, Member		
	Brad DeReamer, Member		
	Selina M. Stoller, Member		
	Todd Zimmerman, Member		

I hereby certify that the foregoing Ordinance was delivered to City of Fishers Mayor Scott Fadness on the ____19th____ day of ___August_____ 2019, at _____ m.

ATTEST: _____
Jennifer L. Kehl, City Clerk

MAYOR'S APPROVAL

Scott A. Fadness, Mayor

DATE

MAYOR'S VETO

Scott A. Fadness, Mayor

DATE

This document was prepared by Christopher P. Greisl, City Attorney, 1 Municipal Drive, Fishers, IN 46038.

In accordance with Indiana Code, I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law: /s/ Chris Greisl, Esq.

TA-19-12 EXHIBIT A

- **Sec. 2.3.2. Nonconforming Buildings & Structures**
 - **B.** Any building or structure which has existed and does not conform to the provisions of the zoning regulations, and has been in continuous existence for a period of ten (10) years, and which has not been the subject of any adverse order or other adverse action by the City during said period, and which was in existence on August 19, 2019 shall be deemed a nonconforming structure or building. Thereafter, such use shall be governed by the provisions of subsections (C & D) of this section.
 - **B. C.**
 - **C. D.**

- **Sec. 3.2.1. ER Estate-Rural Residential Districts**
 - **Building Floor Area:**
 - 4a. Living unit area, 1-story (min) ~~2,100 sf~~ 2,000 sf
 - 4b. Living unit area, 2-story (min) ~~2,400 sf~~ 2,200 sf
- **Sec. 3.2.2. R1 Residential Districts**
 - **Building Floor Area:**
 - 4a. Living unit area, 1-story (min) ~~2,100 sf~~ 1,800 sf
 - 4b. Living unit area, 2-story (min) ~~2,400 sf~~ 2,000 sf
- **Sec. 3.2.1. R2 Residential Districts**
 - **Building Floor Area:**
 - 4a. Living unit area, 1-story (min) ~~2,000 sf~~ 1,600 sf
 - 4b. Living unit area, 2-story (min) ~~2,200 sf~~ 1,800 sf
- **Sec. 3.2.1. R3 Residential Districts**
 - **Building Floor Area:**
 - 4a. Living unit area, 1-story (min) ~~1,600 sf~~ 1,250 sf
 - 4b. Living unit area, 2-story (min) ~~1,800 sf~~ 1,400 sf
- **Sec. 3.2.1. R4 Residential Districts**
 - **Building Floor Area:**
 - 4a. Living unit area, 1-story (min) ~~1,600 sf~~ 1,100 sf
 - 4b. Living unit area, 2-story (min) ~~2,400 sf~~ 1,350 sf
- **Sec. 3.2.1. R5 Residential Districts**
 - **Building Floor Area:**
 - 4a. Living unit area, 1-story (min) ~~1,600 sf~~ 1,000 sf
 - 4b. Living unit area, 2-story (min) ~~1,800 sf~~ 1,200 sf

- **Sec. 5.7.2. Standards for Specific Accessory Uses**
 - **A. Beekeeping.**
 1. **Intent.** The intent of this Section is to regulate beekeeping in accordance with State Law.
 2. **Use Standards.** Beekeeping for personal use and not for agricultural use shall comply with the following standards:
 - a. The number of bee hive colonies shall be limited to 1 bee hive colony per 6,000 square feet of lot area up to a maximum of six (6) bee hive colonies regardless of lot size.
 - b. No bee colony shall be kept in a have that exceeds 12 cubic feet.

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- c. Bee hives may be located on the ground or on the roof of any building with a permanent foundation.
 - d. Hives on the ground may not be located in the front yard.
 - e. Hives must be setback a minimum of 15 feet from any property line.
 - f. Fencing shall be provided around the property lines where the hives are located. Properties one (1) acre or more and used for agricultural uses shall be exempt from this requirement.
 - g. If the opening of any hive located on the ground opens directly onto any activity area (such as a walkway, patio, swimming pool, play area, etc.) then a flyway barrier must be maintained to the following standards:
 - i. Be minimum of 6 feet in height; and,
 - ii. Consist of a solid wall, fencing material, or dense vegetation (or in combination) running parallel to the property line and extending at least 5 feet beyond the hive in each direction so that all bees are forced to fly at an elevation of at least 6 feet above ground.
 - h. Colonies shall be maintained in movable-frames with adequate space and management techniques to prevent overcrowding and swarming.
 - i. Any colony exhibiting swarming or aggressive behavior must be immediately re-queened. Aggressive behavior is any instance in which unusual aggressive characteristics such as stinging or attacking without provocation occurs.
 - j. Every beekeeper shall maintain the following on the same property a colony is located:
 - i. An adequate supply of fresh water located near to each hive; and,
 - ii. Annual and/or perennial plantings that offer a diversity of natural pollen and forage
- **Sec. 6.2.2. Residential Accessory Structures**
 - **E. Swimming Pools.** Private swimming pools may be permitted on residential lots and do not count towards the impervious surface area. Private swimming pools must follow the standards below (as illustrated in the following image):
 1. The water perimeter of an inground or above ground pool shall be no closer than five (5) feet from any rear or side property line.
 2. Any hardscape surrounding the edge of the pool shall be one (1) foot away from the side or rear property line and is part of the impervious surface area calculation for each lot.
- **Sec. 6.4.2. Entrances**
 - **B.1.** The maximum pavement width on an arterial or collector street in a non-single-family zoning district shall be ~~34~~36 feet. Driveways shall not be less than 20 feet in width at the right-of-way line.

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- **Sec. 6.7.4. Buffer Yards**

- **C.1. Small.** A small buffer yard is required where single-family uses abut a multi-family, institutional, or ~~neighborhood mixed-use office uses.~~
- **D. Buffer Yard Standards.**

Buffer Yards	Small	Medium	Large
Shrubs (min per 100 ²)	10 5	10	20 15

- **Sec. 6.7.5. Lot & Foundation Plantings**

- **Lot Plantings.**

Lot Planting	Lot Size				
	< 6,000 sf	6,000 – 15,000 sf	15,000 – 30,000 45,000-sf	30,000– 45,000-sf	> 45,000
Total Trees (min)	1	2	3 3	2	3 + 1 per 15,000 sf of lot area over 45,000 sf

- **B. Foundation Plantings.**

The following foundation planting requirements apply to primary structures:

1. The foundation plantings shall be located within 20 feet of the foundation wall.
2. At least ~~two one (2 1)~~ shrubs and/or ornamental trees shall be planted for every ~~12~~ 10 lineal feet of building circumference. ~~Non-residential buildings may exclude the exclusive-of-loading~~ dock openings.
3. All lots shall have a minimum of ~~six four (6 4)~~ shrubs planted along the foundation facing a street. Corner lots shall install ~~six four (6 4)~~ shrubs per side facing a street.

- **Sec. 6.7.6. Street Trees**

- **A. Street Trees**

	Quantity	Maximum Distance Between Trees	Location
Interstate and State Highways	1 canopy or evergreen tree per 60' of property contiguous to the highway	-	Within 15' of the property line abutting the highway
Arterial and Collector Streets	1 canopy tree per 50'	75'	<i>Sec. 6.7.6.C</i>
Local Streets – Single-family Lots	1 canopy tree per lot frontage	N/A	
Local Streets – Common Area	1 canopy per 40'	60'	

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- **B. Arterial, Collector, and Local Streets**
 1. Trees along an arterial, or collector, ~~or local~~ street shall be planted in a planting strip between the curb and sidewalk. If a planting strip is not available, then the trees shall be planted within the outer 10 feet of right-of-way. If space is not available within the outer 10 feet of right-of-way, then the trees shall be planted on the abutting property within 10 feet of the right-of-way and may be credited toward applicable perimeter planting
 2. ~~Trees along a local street shall be planted in a front yard and not within the planting strip.~~
- **C. Minimum Distance from Sidewalk ~~or Curb~~**

Trees shall be planted ~~at least 10'~~ from the of sidewalk from a sidewalk ~~or curb edge~~.
- **Sec. 6.10.3. Parking Lot Design**
 - **A. Parking Surface**
 1. **Paving.** All ~~non-ADA~~ parking ~~surface area~~ required in the UDO shall utilize ~~a paved surface of~~ concrete, asphalt, brick pavers, or the like. ~~Only concrete shall be utilized for ADA accessible parking spaces and access aisles.~~ Under no circumstance shall gravel, stone, rock, dirt, sand or grass be permitted as parking areas
 - **D. Parking Aisle**
 1. Minimum widths. Minimum parking aisle widths shall be as follows:
 - a) 90° Angle Space: 24-foot wide parking aisle for one- or two-way traffic.
 - b) 60° Angle Space: 18-foot wide parking aisle for one-way traffic.
 - c) 45° Angle Space: 14-foot wide parking aisle for one-way traffic.
 - d) ~~All other parking aisle widths shall be determined by the Director.~~
- **Sec. 6.10.6. Bicycle Parking**
 - **C. Bike Rack Requirements:** A bike rack shall be installed to secure the bicycles. ~~One (1) rack shall count as two (2) bicycle parking spaces.~~
- **Sec. 6.11.3 Non-Residential**
 - A. ~~Interior~~ Sidewalks
 - ~~3. Sidewalks shall be provided along all sides of the lot that abut a public or private street.~~
- **Sec. 6.15.2. Building Setbacks**
 - A. **Setback Types**
 - ~~1. There are three (3) types of setbacks measured from property lines: front setback, side setback, and rear setback.~~
 - ~~2. Setbacks are measured from the edge of the existing or proposed right-of-way as specified in the Thoroughfare Plan, whichever is greater.~~
 - B. **Measurement of Building Setbacks**
 - ~~1. **Front.** Front ~~street~~ setbacks are measured perpendicular from the ~~front property line. edge of the existing or proposed right of way specified in the Thoroughfare Plan, whichever is greater.~~~~

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- **Sec. 6.15.3. Setback Encroachment**
 - A.4. Window wells may encroach up to four (4) ~~two (2)~~ feet into a required side setback so long as the minimum setback is no less than three (3) feet from the side property line.

- **Sec. 6.17.2. Walls & Fences**
 - **A. Location**
 1. Fences may be built directly along a property line; however, fences shall not encroach into the public right-of-way, and not into easements that otherwise prohibit the installation of fences (e.g., drainage and utility easements).
 2. Lots with multiple street frontages shall follow Sec. 6.15.2.C. Multiple Street Frontages for determining the front yard and secondary front yard requirements.
 - **B. Standards**
 1. Within a front yard of any zoning district and a secondary front yard of any commercial district. Industrial zoning districts not included.

- **Sec. 6.18.1. General**
 - This Article applies to all zoning districts when a new primary structure is constructed or one (1) or more additional bedrooms are added to an existing primary structure, or when there is a change of use to the primary structure.

- **Article 8.1. General Provisions**
 - **Sec. 8.1.3. Minor Subdivision**
 - A. A proposed subdivision of land that includes one (1) or more of the following shall not be permitted to utilize the Minor Subdivision Plat process:
 1. Division of land requires new public streets or the extension of public streets,
 2. Divisions of land that results in six (6) or more parcels,
 3. Divisions of land that require one (1) or more waivers from the applicable design standards not exempted below, or
 4. Divisions of land that require, or elect to have, common area or features that will be in common ownership; excluding shared driveway or shared entrances.
 - B. Minor subdivisions shall be exempt from Article 8.4. Open Space, Common Area & Amenity Standards.
 - C. Minor subdivisions shall be exempt from Section Sec. 8.5.6.B. Sanitary Sewer Standards when:
 1. The parent tract of land is located more than 300 feet away from available municipal sanitary sewer, and
 2. The division of land results in parcels one (1) acre or more in lot area.
 - D. The Minor Subdivision Plat process may only be utilized one (1) time by a parent tract of land.
 - E. Minor Subdivisions that do not include new public rights-of-way and complies with all other applicable design standards may be approved by the Plat Committee without a public hearing in accordance with Sec. 10.2.20.E. Approval Decision.

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- **Sec. 8.2.6. Pedestrian Network**
 - **A. Bike & Pedestrian Plan**
 1. When applicable, a multi-use path shall be installed and integrated into new and existing developments in accordance with the ~~City Parks Plan~~ **Thoroughfare Plan**.

- **Sec. 8.3.2. Streets**
 - **B.4. Planting Strip.** ~~As determined by the Thoroughfare Plan,~~ all development shall install ~~an~~ **8** 4-foot **minimum** planting strip between the edge of the curb and sidewalk for proper landscaping and utility installation.
 - ~~**B.11. Permanent Dead-end Streets. Permanent dead-end streets are prohibited. Dead-end streets do not include cul-de-sacs or stub streets.**~~

- **Sec. 8.4.4. Design Elements**
 - **B.2. a. Street Trees:** One (1) canopy tree per ~~50'~~ **40'** feet of common area ~~along a local street trees~~ shall be required. ~~Street trees shall not be planted in the planting strip, and shall be planted 10 feet from the sidewalk.~~

- **Sec. 8.4.5. Perimeter Landscaping**
 - ~~**A.1. Along a street frontage on which street trees are also required, the perimeter tree planting is excused, and only the street tree planting is required.**~~ Perimeter plantings shall be a roughly equal mix of deciduous canopy trees and evergreen trees.

- **Sec. 8.4.7. Conservation Development**
 - **B. Prerequisites**
 3. **Tree Conservation Areas** shall be protected within Common Areas and are not allowed to be placed on private Lot home-sites.
 - **E. Preservation of the Natural Landscape**
 4. **Tree Conservation Areas:** Tree **conservation** areas shall be a minimum of 35 feet wide and minimum contiguous area of 10,000 square feet. ~~Tree conservation areas shall be protected within Common Area.~~ The Director may approve smaller areas that are determined to be of significant value.
 5. **Violation of the Tree Conservation Plan:** Once the Tree Conservation Plan has been established, any person who violates the Tree Conservation Plan and improperly removes trees shall be required to reestablish such trees consistent with the trees removed. For example, if a six-inch (6") caliper tree is removed, the builder may reestablish such tree by installing either **two (2) six-inch (6") caliper trees** or **three (3), three-inch (3") caliper trees** to replace the caliper of the trees removed. ~~Under no circumstance will a tree less than three-inches (3") in caliper be permitted as a replacement tree.~~
 - **H. Created Woodlot**
 - If a property does not have any environmental features or existing wooded area, a created woodlot that complies with the purpose of this Section can utilize the incentives by establishing a created woodlot **protected in a Common Area** based on the following:

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- **Sec. 10.1.1. Common Review Procedures**
 - **D. Application Process, Generally**

5. **Expiration.** If a petitioner fails to provide comments, revisions or contact within a 6-month time period, and the Department has attempted to contact the petitioner, the application will be considered null and void.

- **Sec. 10.1.2. Summary of Review Authority**

Type of Permit, Process or Decision	Cross-Ref.	City Staff	TAC	Board	PUD Committee	Plat Committee	Commission	Council	Public Hearing
Administrative Alternate	Sec. 10.2.1.	D		A-QH					Y ²
Administrative Decision	Sec. 10.2.2.	D	R ¹	A-QH					Y ²
Certificate of Compliance	Sec. 10.2.4.	D	R ¹	A-QH					Y ²
Certificate of Occupancy	Sec. 10.2.5.	D	R ¹	A-QH					Y ²
Development Plan Review	Sec. 10.2.10.	D	R ¹				A-PH		Y ²
Exempt Entities	Sec. 10.2.12.	R	R ¹					D	
Floodplain Standard Appeal	Sec. 10.2.13.	D		A-QH					Y ²
Grading Permit	Sec. 10.2.14.	D	R ¹						
Improvement Location Permit	Sec. 10.2.15.	D	R ¹	A-QH					Y ²
Planned Unit Development	Sec. 10.2.16.	R	R ¹		RR		RR-PH	D	Y
Sign Permit	Sec. 10.2.18.	D	R ¹	A-QH	D ³				Y ²
Special Exception	Sec. 10.2.19.	R	R ¹	A-QH					Y ²
Subdivision (Platting)	Sec. 10.2.20.								
Major		R	R ¹			D-PH	A-PH		Y
Minor		R	R ¹			D-PH	A-PH		Y ²
Subdivision Improvement Permit	Sec. 10.2.21.	D	R ¹	A-QH					Y ²
Temporary Use Permit	Sec. 10.2.22.	D	R ¹	A-QH					Y ²
Text Amendment	Sec. 10.2.23.	R	R ¹				RR-PH	D	Y
Variance	Sec. 10.2.24.	R	R ¹	D-PH					Y
Zoning Map Change (Rezones)	Sec. 10.2.25.	R	R ¹				RR-PH	D	Y

- **Article 12.2. Defined Terms**

- **Conservation Easement.** Those places on a lot or development that are identified for protecting certain elements or the land and/or natural vegetation. Plant life may be removed from a conservation easement if a plant or tree is dead, dying, diseased, or poses a threat to health, safety, and/or welfare. Small vegetation, underbrush, **invasive species and poison ivy** may be removed at any time to aid **the health of mature trees** and to aid in the creation of usable spaces for trails, paths, picnic shelters, and the like. Evergreen trees eight (8) feet or less, in height, and deciduous trees with a caliper measurement of less than four (4) inches may also be removed to aid in the creation of the usable spaces for trails, paths, picnic shelters, and the like, but must be done in a matter cause as little removal and/or damage as possible. Any individual or

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entity seeking to remove such trees shall have the approval of the Department staff prior to the removal of said trees. The City may be permitted to do limited work in Conservation Easements only at the direction of the Council.

~~○ **Front Lot Line.**~~

- ~~▪ For an interior or through lot, the line marking the boundary between the lot and the abutting street, right of way or a lake or watercourse; and~~
- ~~▪ For a corner lot, the line marking the boundary between the lot and each of the abutting streets. (See graphic under “Established Yard.”)~~

~~○ **Rear Lot Line.** The lot line that is opposite the front lot line and farthest from it, except that for a triangular or other irregularly shaped lot, the line 10 feet long, parallel to the front lot line, and wholly within the lot, that is farthest from the lot line (see graphic under “Established Yard”).~~

~~○ **Side Lot Line.** A lot boundary line other than a front or rear lot line (see graphic under “Established Yard”).~~