

FORT WAYNE ZONING ORDINANCE
Gas Station Uses Amendment

(C) **Special Uses**

The following **uses** may be approved by the **Board of Zoning Appeals** after the filing of a **Special Use** petition:

- (1) **Accessory building** conversion to a single **family** residence;
- (2) **Accessory building**, as a **primary building**, on a site of at least 5 acres;
- (3) **Airstrip/heliport** (private; for corporate or multiple **owner use**);
- (4) **Bed and breakfast**;
- (5) **Boarding house**;
- (6) **Class II child care home**;
- (7) **Community garden** that includes a **structure**;
- (8) **Country club**;
- (9) **Educational institution** (not otherwise permitted);
- (10) **Educational institution**-associated facilities, **uses**, and areas, on non-contiguous properties;
- (11) **Funeral home**;
- (12) **Group residential facility (large)**;
- (13) **Home business** (see §157.503(D)(3)(b) for additional standards);
- (14) **Home enterprise** (see §157.503(D)(3)(c) for additional standards);
- (15) **Home workshop** (see §157.503(D)(3)(d) for additional standards);
- (16) **Homeless/emergency shelter** (accessory to a **religious institution**), for up to eight (8) individuals;
- (17) **Manufactured home, Type II** (see §157.503(D)(3)(e) for additional standards);
- (18) **Model home** (for an extension of time or expansion of scope);
- (19) **Nature preserve** that includes a **structure** or parking area;
- (20) **Neighborhood facility**;
- (21) **Nonconforming use** (expansion of existing legal **nonconforming use**, or allow conforming status to existing **use, excluding gas station uses**);
- (22) Reception, meeting, or **recreation hall**; **clubhouse**;
- (23) **Recreation area**;
- (24) Recreation facility;
- (25) **Religious institution** or non-public **school** illuminated **athletic field(s)**;
- (26) **Residential facility for a court-ordered re-entry program**;
- (27) **Residential facility for homeless individuals**, for up to eight (8) individuals;
- (28) **Riding stable, non-residential** (on a **lot** with no **residential building**; the stable shall be located on a **tract** of at least five acres);
- (29) **Sign** (temporary **subdivision** direction);
- (30) **Solar panel (ground-mounted)**;

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- (18) **Instruction/training/education (transitional use);**
- (19) **Live-work unit (transitional use);**
- (20) **Manufactured home, Type II** (see §157.503(D)(3)(e) for additional standards);
- (21) **Medical office (transitional use);**
- (22) **Model home** (for extension of time/expansion of scope);
- (23) **Museum;**
- (24) **Nature preserve** that includes a **structure** or parking area;
- (25) **Neighborhood facility;**
- (26) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing use, excluding gas station uses);
- (27) **Personal service (transitional use**, excluding copy/duplicating service, **health club**/fitness center, or social service agency);
- (28) **Professional office/business service (transitional use**, excluding **bank**, **credit union**, **loan office**, or **savings and loan**);
- (29) **Recreation use**, outdoor (**athletic field**, **riding stable**, **swim club**, **tennis club**);
- (30) **Religious institution** or non-public **school** illuminated **athletic field(s)**;
- (31) **Residential facility for a court-ordered re-entry program;**
- (32) **Residential facility for homeless individuals**, for up to eight (8) individuals; the facility shall be located a minimum of 3000 feet from a small **group residential facility**, a large **group residential facility**, a court-ordered re-entry program **residential facility**, or another **residential facility for homeless individuals**, as measured from the closest property lines of the facilities;
- (33) **Sign** (temporary **subdivision** direction);
- (34) **Solar panel (ground mounted);**
- (35) **Subdivision clubhouse, meeting hall, neighborhood center**, or swim/tennis facility, if not previously approved as part of the **subdivision**;
- (36) **Studio (transitional use);**
- (37) **Two family dwelling** (to allow conforming status for existing **nonconforming uses**);
- (38) **Utility facility, private** (not otherwise permitted or exempt);
- (39) **Wind energy conversion system, micro** (for **single family detached dwellings** on **unplatted land**); and
- (40) **Wind energy conversion system, standard** (for **fire/police station**, **public park/recreation area**, **religious institution**, or **school uses**; or unplatted residential land over five acres).

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- (16) **Home business** (see §157.503(D)(3)(b) for additional standards);
- (17) **Homeless/emergency shelter** (accessory to a **religious institution**), for up to eight (8) individuals;
- (18) **Instruction/training/education (transitional use)**;
- (19) **Live-work unit (transitional use)**;
- (20) **Manufactured home, Type II** (see §157.503(D)(3)(e) for additional standards);
- (21) **Medical office (transitional use)**;
- (22) **Model home** (for extension of time/expansion of scope);
- (23) **Museum**;
- (24) **Nature preserve** that includes a **structure** or parking area;
- (25) **Neighborhood facility**;
- (26) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing use, **excluding gas station uses**);
- (27) **Personal service (transitional use**, excluding copy/duplicating service, **health club**/fitness center, or social service agency);
- (28) **Professional office/business service (transitional use**, excluding **bank, credit union, loan office**, or **savings and loan**);
- (29) **Recreation use, outdoor (athletic field, riding stable, swim club, tennis club)**;
- (30) **Religious institution** or non-public **school** illuminated **athletic field(s)**;
- (31) **Residential facility for a court-ordered re-entry program**;
- (32) **Residential facility for homeless individuals**, for up to eight (8) individuals;
- (33) **Sign** (temporary **subdivision** direction);
- (34) **Solar panel (ground mounted)**;
- (35) **Subdivision clubhouse, meeting hall, neighborhood center**, or swim/tennis facility, if not previously approved as part of the **subdivision**;
- (36) **Studio (transitional use)**;
- (37) **Utility facility, private** (not otherwise permitted or exempt);
- (38) **Wind energy conversion system, micro** (for single **family** detached **structures** on **unplatted land** only); and
- (39) **Wind energy conversion system, standard** (for fire/**police station, public park/recreation area, religious institution, or school uses**; or unplatted residential land over five acres).

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(C) **Special Uses**

The following **uses** may be approved by the **Board of Zoning Appeals** after the filing of a **Special Use** petition:

- (1) **Animal keeping** (outdoor, small animal);
- (2) **Bed and breakfast**;
- (3) **Boarding house**;
- (4) **Class II child care home**;
- (5) **Club, private (transitional use)**;
- (6) **Community facility** not otherwise permitted (**transitional use**);
- (7) **Community garden** that includes a **structure**;
- (8) **Country club**;
- (9) **Educational institution** (not otherwise permitted);
- (10) **Educational institution-associated facilities, uses, and areas** on non-contiguous properties;
- (11) **Emergency response facility (transitional use)**;
- (12) **Funeral home**;
- (13) **Golf course**;
- (14) **Group residential facility (large)**;
- (15) **Heliport (private individual or accessory to permitted nonresidential use, excluding hospital uses)**;
- (16) **Home business** (see §157.503(D)(3)(b) for additional standards);
- (17) **Homeless/emergency shelter** (accessory to a **religious institution**), for up to eight (8) individuals;
- (18) **Instruction/training/education (transitional use)**;
- (19) **Live-work unit (transitional use)**;
- (20) **Manufactured home, Type II** (see §157.503(D)(3)(e) for additional standards);
- (21) **Medical office (transitional use)**;
- (22) **Model home** (for extension of time/expansion of scope);
- (23) **Museum**;
- (24) **Nature preserve** that includes a **structure** or parking area;
- (25) **Neighborhood facility**;
- (26) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use, excluding gas station uses**);
- (27) **Personal service (transitional use, excluding copy/duplicating service, health club/fitness center, or social service agency)**;
- (28) **Professional office/business service (transitional use, excluding bank, credit union, loan office, or savings and loan)**;

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(C) Special Uses

The following **uses** may be approved by the **Board of Zoning Appeals** after the filing of a **Special Use** petition:

- (1) **Animal keeping** (outdoor, small animal);
- (2) **Bed and breakfast**;
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- (4) **Class II child care home**;
- (5) **Club, private (transitional use)**;
- (6) **Community facility** not otherwise permitted (**transitional use**);
- (7) **Community garden** that includes a **structure**;
- (8) **Country club**;
- (9) **Educational institution** (not otherwise permitted);
- (10) **Educational institution-associated facilities, uses, and areas** on non-contiguous properties;
- (11) **Emergency response facility (transitional use)**;
- (12) **Funeral home**;
- (13) **Golf course**;
- (14) **Group residential facility (large)**;
- (15) **Heliport (private individual or accessory to permitted nonresidential use, excluding hospital uses)**;
- (16) **Home business** (see §157.203(D)(3)(b) for additional standards);
- (17) **Homeless/emergency shelter** (accessory to a **religious institution**) , for up to eight (8) individuals;
- (18) **Instruction/training/education (transitional use)**;
- (19) **Live-work unit (transitional use)**;
- (20) **Manufactured home, Type II** (see §157.203(D)(3)(e) for additional standards);
- (21) **Medical office (transitional use)**;
- (22) **Model home** (for extension of time/expansion of scope);
- (23) **Museum**;
- (24) **Nature preserve** that includes a **structure** or parking area;
- (25) **Neighborhood facility**;
- (26) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use, excluding gas station uses**);
- (27) **Personal service (transitional use, excluding copy/duplicating service, health club/fitness center, or social service agency)**;
- (28) **Professional office/business service (transitional use, excluding bank, credit union, loan office, or savings and loan)**;

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- (17) **Homeless/emergency shelter** (accessory to a **religious institution**), for up to eight (8) individuals;
- (18) **Instruction/training/education (transitional use)**;
- (19) **Live-work unit (transitional use)**;
- (20) **Medical office (transitional use)**;
- (21) **Model home** (for extension of time/expansion of scope);
- (22) **Museum**;
- (23) **Nature preserve** that includes a **structure** or parking area;
- (24) **Neighborhood facility**;
- (25) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing use, excluding gas station uses);
- (26) **Personal service (transitional use**, excluding copy/duplicating service, **health club**/fitness center, or social service agency);
- (27) **Professional office/business service (transitional use**, excluding **bank**, **credit union**, **loan office**, or **savings and loan**);
- (28) **Recreation use**, outdoor (**athletic field**, **riding stable**, swim **club**, tennis **club**);
- (29) **Religious institution** or non-public **school** illuminated **athletic field(s)**;
- (30) **Residential facility for a court-ordered re-entry program**;
- (31) **Residential facility for homeless individuals**, for up to eight (8) individuals;
- (32) **Sign** (temporary **subdivision** direction)
- (33) **Solar panel (ground mounted)**;
- (34) **Subdivision clubhouse, meeting hall, neighborhood center**, or swim/tennis facility, if not previously approved as part of the **subdivision**;
- (35) **Studio (transitional use)**;
- (36) **Two family dwelling** (to allow conforming status for existing **nonconforming uses**);
- (37) **Utility facility, private** (not otherwise permitted or exempt);
- (38) **Wind energy conversion system, micro** (for **single family detached buildings** on **unplatted land** only); and
- (39) **Wind energy conversion system, standard** (for fire/**police station**, **public park/recreation area**, **religious institution**, or **school uses**; or unplatted residential land over five acres).

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(C) Special Uses

The following **uses** may be approved by the **Board of Zoning Appeals** after the filing of a **Special Use** petition:

- (1) **Animal service**, indoor (animal grooming, **animal hospital**, **animal kennel**, animal obedience school, **veterinary clinic**)
- (2) **Automatic teller machine (ATM)** (stand alone)
- (3) **Club, private**
- (4) **Commercial communication tower** (see §157.503(D)(3)(a) for additional standards)
- (5) **Community garden** that includes a **structure**
- (6) **Educational institution-associated uses** (on non-contiguous properties, not otherwise permitted)
- (7) **Group residential facility (large)** (if **adjacent** to a **residential district**)
- (8) **Home business** (in a **single family detached dwelling** only; (see §157.503(D)(3)(b) for additional standards)
- (9) **Homeless/emergency shelter** (if **adjacent** to a **residential district**, or accessory to a **religious institution**)
- (10) **Manufactured home, Type II** (see §157.503(D)(3)(e) for additional standards)
- (11) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use**, excluding gas station uses)
- (12) **Parking area** (as the **primary use** of a **lot**); a special use shall not be required for a universally permitted off-site parking area
- (13) **Recreation facility or use**, outdoor (**athletic field**, **riding stable**, swim **club**, tennis **club**)
- (14) **Religious institution** or non-public **school** illuminated **athletic field(s)**
- (15) **Residential facility for court-ordered re-entry program**
- (16) **Residential facility for homeless individuals** (if **adjacent** to a **residential district**)
- (17) Retail: **art gallery**, **bakery**, **coffee shop**, confectionary/candy/ice cream store, craft gallery, delicatessen, florist, jeweler, medical supply sales, musical instrument sales, sandwich **shop**, tea room (this special use shall only be permitted to allow for the conversion of an existing **building**; allowed up to 2500 square feet; **drive-through facilities** shall not be permitted as part of this special use)
- (18) **Sign** (temporary **subdivision** direction)
- (19) **Solar panel (ground mounted)**
- (20) Tattoo establishment
- (21) **Utility facility, private** (not otherwise permitted or exempt)
- (22) **Wind energy conversion (WEC) system (standard**, or more than 1 micro system)
- (23) **Wind energy conversion system, micro** (on land **adjacent** to a **residential district**)

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(D) **Special Uses**

The following **uses** may be approved by the **Board of Zoning Appeals** after the filing of a **Special Use** petition:

- (1) **Automobile maintenance (quick service)**
- (2) **Commercial communication tower** (see §157.503(D)(3)(a) for additional standards)
- (3) **Community garden** that includes a **structure**
- (4) **Educational institution-associated uses** (on non-contiguous properties)

~~(5) **Gas station**~~

~~The **Board** may consider the **gas station** size, **building/canopy** orientation, general **design standards**, and specific **primary building** orientation design requirements set forth for **gas stations** in § 157.219(C)(7) (**Downtown Edge district**).~~

~~(6)(5) **Greenhouse**~~

~~(7)(6) **Group residential facility (large)** (if adjacent to a **residential district**)~~

~~(8)(7) **Home business** (in a **single family detached dwelling** only; see §157.503(D)(3)(b) for additional standards)~~

~~(9)(8) **Homeless/emergency shelter** (if adjacent to a **residential district**, or accessory to a **religious institution**)~~

~~(10)(9) **Manufactured home, Type II** (see §157.503(D)(3)(e) for additional standards)~~

~~(11)(10) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use**, excluding gas station uses)~~

~~(12)(11) **Outdoor use** (in conjunction with a permitted **primary use**)~~

~~(13)(12) **Parking area** (as a **primary use**, if adjacent to a **residential district**) ; a special use shall not be required for a universally permitted off-site parking area~~

~~(14)(13) **Plant nursery**~~

~~(15)(14) **Recreation area**, including accessory recreation areas~~

~~(16)(15) **Recreation facility** (if adjacent to a **residential district**)~~

~~(17)(16) **Religious institution** or non-public **school** illuminated **athletic field(s)**~~

~~(18)(17) **Residential facility for a court-ordered re-entry program**~~

~~(19)(18) **Residential facility for homeless individuals** (if adjacent to a **residential district**)~~

~~(20)(19) **Shooting range** (indoor)~~

~~(21)(20) **Sign** (temporary **subdivision** direction)~~

~~(22)(21) **Solar panel** (ground mounted)~~

~~(23)(22) **Utility facility, private** (not otherwise permitted or exempt)~~

~~(24)(23) **Wind energy conversion (WEC) system** (**standard**, or more than 1 micro system)~~

~~(25)(24) **Wind energy conversion system, micro** (on land adjacent to a **residential district**)~~

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(D) **Special Uses**

The following **uses** may be approved by the **Board of Zoning Appeals** after the filing of a **Special Use** petition:

- (1) **Automobile maintenance (quick service)**
- (2) **Commercial communication tower** (see §157.503(D)(3)(a) for additional standards)
- (3) **Community garden** that includes a **structure**
- (4) **Educational institution-associated uses** (on non-contiguous properties, not otherwise permitted)

~~(5)~~ ~~**Gas station**~~

~~The **Board** may consider the **gas station** size, **building/canopy** orientation, **general design standards**, and specific **primary building** orientation design requirements set forth for **gas stations** in §157.219(C)(7) (**Downtown Edge district**)~~

~~(6)~~(5) **Greenhouse**

~~(7)~~(6) **Group residential facility (large)** (if **adjacent** to a **residential district**)

~~(8)~~(7) **Home business** (for single **family detached buildings** only; see §157.503(D)(3)(b) for additional standards)

~~(9)~~(8) **Homeless/emergency shelter** (if **adjacent** to a **residential district**, or accessory to a **religious institution**)

~~(10)~~(9) **Manufactured home, Type II** (see §157.503(D)(3)(e) for additional standards)

~~(11)~~(10) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use**, ~~excluding **gas station uses**~~)

~~(12)~~(11) **Outdoor use** (in conjunction with a permitted **primary use**)

~~(13)~~(12) **Parking area** (if **adjacent** to a **residential district**); a special use shall not be required for a universally permitted off-site parking area

~~(14)~~(13) **Plant nursery**

~~(15)~~(14) **Recreation area, including accessory recreation areas**

~~(16)~~(15) **Recreation facility** (if **adjacent** to a **residential district**)

~~(17)~~(16) **Religious institution** or non-public **school** illuminated **athletic field(s)**

~~(18)~~(17) **Residential facility for a court-ordered re-entry program**

~~(19)~~(18) **Residential facility for homeless individuals** (if **adjacent** to a **residential district**)

~~(20)~~(19) **Sign** (temporary **subdivision** direction)

~~(21)~~(20) **Solar panel (ground mounted)**

~~(22)~~(21) **Utility facility, private** (not otherwise permitted or exempt)

~~(23)~~(22) **Wind energy conversion (WEC) system (standard, or more than 1 micro system)**

~~(24)~~(23) **Wind energy conversion system, micro** (on land **adjacent** to a **residential district**)

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(C) **Special Uses**

The following **uses** may be approved by the **Board of Zoning Appeals** after the filing of a **Special Use** petition:

- (1) **Animal keeping** (outdoor, small animal)
- (2) **Community garden** that includes a **structure**
- (3) **Group residential facility (large)**
- (4) **Group residential facility (small)**
- (5) **Home business** (see §157.503(D)(3)(b) for additional standards)
- (6) **Homeless/emergency shelter**
- (7) **Model unit** (for extension of time/expansion of scope)
- (8) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use**, excluding gas station uses)
- (9) **Parking structures** (public or private)

Parking structures integrated within the footprint of a new **building** for a permitted **primary use** shall not require a **special use** approval under this provision. In addition to meeting the requirements set forth in §157.503(D)(2), the **Board** shall evaluate the request based on the following standards and guidelines:

- (a) **Parking structures** should contain commercial or residential **uses** along the **street frontages** where practical to encourage **pedestrian oriented uses** and activity at the **street** level. If commercial or residential **uses** are not provided, **parking structures** shall maintain a minimum 10' **setback** along **yards** with a **street frontage**. The **Board** may require a greater **setback** on a case-by-case basis.
 - (b) The first two floors shall be adequately screened by landscaping and/or architectural features. If a new **parking structure** is connected to an existing or proposed **building** than the **parking structure** shall be compatible with that **building**.
 - (c) If a new **parking structure** is not connected to an existing or proposed **building** then the **parking structure** shall be compatible with the proposed **building** or one or more **structures** adjoining to the **parking structure**.
- (10) **Pawn shop**
 - (11) **Religious institution** or school illuminated **athletic field(s)**
 - (12) **Residential facility for a court-ordered re-entry program**
 - (13) **Residential facility for homeless individuals**
 - (14) **Self-service storage (mini-warehouse facility)**, as a **primary use**
 - (15) **Solar panel (ground mounted)**
 - (16) **Utility facility, private** (not otherwise permitted or exempt)

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(C) **Special Uses**

(1) **Accessory dwelling units (ADU)**

An ADU may be constructed as a new detached **structure** or created as part of the **renovation** of a detached **garage**. An ADU shall not be **subdivided** or otherwise separated in ownership from the primary residential **structure**. In addition to meeting the requirements set forth in §157.503(D)(2), the **Board** shall evaluate the request based on the following standards and guidelines:

- (a) The **accessory dwelling unit (ADU)** shall not exceed 40% of the floor area of the primary residence or 800 total square feet, whichever is less;
- (b) The ADU shall not exceed 600 square feet in **ground floor area**;
- (c) The ADU shall be no less than 250 square feet and have no more than two (2) bedrooms;
- (d) New ADU **structures** shall be located behind the **primary structure** and meet the **setback**, height, and **rear yard lot coverage** standards for **accessory structures**;
- (e) There shall be only one ADU per **lot**; and
- (f) As part of its review of a request for an ADU, the **Board** may also consider the size, bulk, scale and compatibility of the ADU, relative to the primary residence and other **structures** in the immediate area, and the size of the **lot**.

(2) **Animal keeping** (outdoor, small animal)

(3) **Boarding house**

(4) **Child care home (class II)**

(5) **Educational institution-associated uses** (on non-contiguous properties, not otherwise permitted)

(6) **Fraternity house**

~~(7) **Gas station** (as a primary or accessory use)~~

~~In addition to meeting the requirements set forth in §157.503(D)(2), the **Board** shall evaluate the request based on the following standards and guidelines:~~

~~(a) **Location and size requirements**~~

~~The proposed **gas station/convenience store** shall meet the following requirements:~~

- ~~(i) A new **gas station/convenience store** shall have a minimum of 100 feet of **frontage** on one of the following arterial roads: **Washington Boulevard**, **Jefferson Boulevard**, **Clinton Street**, and **Lafayette Street**.~~

- ~~(ii) The **primary building** shall be at least 2,000 square feet in size.~~

~~(b) **Building/canopy orientation**~~

~~The preferred **building/canopy** orientation for a **gas station/convenience store** is for the **primary building** to be located near the **street** and the **canopy** and service pumps to be located behind the **primary building**, however alternate layouts may be approved provided they comply with the appropriate design requirements (see §157.219(C)(7)(d), (e), and (f) below).~~

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~~(c) — General **design standards**~~

~~(i) — The **primary building** and any **canopies** shall be compatible with architecture and **development** pattern of the surrounding area and be adequately screened from **adjacent** residential **uses**. To enhance compatibility, **structures** should provide variation in rooflines and utilize similar forms and materials.~~

~~(ii) — **Canopy** lighting shall be recessed with the **canopy** constructed to shield the light fixtures to avoid **glare** on public rights of way and/or **adjacent** properties.~~

~~(iii) — There shall be at least one unobstructed pedestrian walkway at least five (5) feet wide connecting the **primary building** to an **adjacent** public sidewalk.~~

~~(iv) — Except for the vehicular access **driveways**, all pavement, parking and drive lanes shall be located a minimum of eight (8) feet from any **lot line**. These **setback** areas shall be landscaped and low **walls** are encouraged along **street frontages**.~~

~~(v) — A minimum of one bicycle rack shall be provided.~~

~~(vi) — For the purposes of this subsection the determination of a **rear yard** for a **lot** having **frontages** on two **streets** shall be determined as that part of the **lot** that is parallel to the **street** having the highest traffic volume.~~

~~(d) — Design requirements based on orientation of the **primary building** at **street** (meeting the required **front yard setback**), with the **canopy** located behind the **primary building**~~

~~(i) — **Primary Building** and **Canopy** Attachment~~

~~Under this design option it is not required that the **canopy** be attached to the **primary structure**, however it would be encouraged.~~

~~(ii) — **Canopy** location and design~~

~~The **canopy** shall be located a minimum of twenty (20) feet from side and **rear lot lines**. Other than **setback**, there are no special design requirements for the **canopy** under this option, however, varied rooflines for the **canopy** and decorative designs (using materials such as brick or stone) for the **canopy** support columns/poles are encouraged.~~

~~(iii) — Front and side **wall** design.~~

~~The front and any side **wall** of the **primary building** that faces a **street** shall have **windows** or the appearance of **windows**.~~

~~(e) — Design Requirements based on orientation of the **primary building** at **street** (meets required **front yard setback**), **canopy** located to the side of the **primary building**~~

~~(i) — **Primary building** and **canopy** attachment~~

~~Under this design option the **canopy** shall be attached to the **primary building**. The width of the **canopy** attachment shall be a minimum of thirty (30) percent of the length of the **canopy** side that is parallel and closest to the **primary building**. In no case shall the **canopy** connection be less than twenty (20) feet.~~

~~(ii) — **Canopy** location and design~~

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~~Under this design option the canopy shall have a varied roofline and use similar forms and materials as those used on the primary building. The canopy shall have the same or greater front yard setback than the primary building. The canopy shall not be required to have decorative designs for the canopy columns, unless the canopy is located having frontage on two streets. In cases where decorative design for canopy columns is required, such columns shall be designed of brick or stone or other material to achieve a similar decorative affect.~~

~~(iii) Front and side wall design~~

~~The front and any side wall of the primary building that faces a street shall have windows or the appearance of windows.~~

~~(f) Design Requirements based on orientation of the primary building behind the canopy~~

~~(i) Primary building and canopy attachment~~

~~Under this design option the canopy shall be attached to the primary building. The width of the canopy attachment shall be a minimum of thirty (30) percent of the length of the canopy side that is parallel and closest to the primary building. In no case shall the canopy connection be less than twenty (20) feet.~~

~~(ii) Canopy location and design~~

~~Under this design option the canopy shall have a varied roofline and use similar forms and materials as those used on the primary building and utilize decorative designs for the canopy columns. Materials used for the canopy columns shall consist of brick or stone or other material to achieve a similar decorative affect. Attached canopies meeting the standards noted in this section shall be considered a part of the primary structure for the purposes of determining building setbacks.~~

~~(iii) Front and side wall design~~

~~The front and any side wall of the primary building that faces a street shall have windows or the appearance of windows.~~

~~(8)(7) Group residential facility (large)~~

~~(9)(8) Group residential facility (small)~~

~~(10)(9) Home business (for single family detached buildings only; see §157.503(D)(3)(b) for additional standards)~~

~~(11)(10) Homeless/emergency shelter (accessory to a religious institution)~~

~~(12)(11) Manufactured home, Type II (see §157.503(D)(3)(e) for additional standards)~~

~~(13)(12) Model unit (for extension of time/expansion of scope)~~

~~(14)(13) Nature preserve (with parking areas or structures)~~

~~(15)(14) Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use, excluding gas station uses)~~

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(C) Special Uses

- (1) **Animal keeping** (outdoor, small animal)
- (2) **Child care home (class II)**
- (3) **Community garden** that includes a **structure** or water
- (4) **Educational institution-associated uses** (on non-contiguous properties)
- (5) **Fraternity house**
- (6) **Group residential facility (large)**
- (7) **Group residential facility (small)**
- (8) **Home business** (for single **family detached buildings** only)
- (9) **Homeless/emergency shelter** (accessory to a **religious institution**)
- (10) **Manufactured home, Type II** (see §157.503(D)(3)(e) for additional standards)
- (11) **Nature preserve** (with parking areas or **structures**)
- (12) **Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use, excluding gas station uses**)
- (13) **Parking structures** (public or private)

Parking structures integrated within the footprint of a new **building** for a permitted **primary use** shall not require a **special use** approval under this provision. In addition to meeting the requirements set forth in §157.503(D)(2), the **Board** shall evaluate the request based on the following standards and guidelines:

- (a) **Parking structures** should contain commercial or residential **uses** along the **street frontages** where practical to encourage **pedestrian oriented uses** and activity at the **street** level. If commercial or residential **uses** are not provided, **parking structures** shall maintain a minimum 10' **setback** along **yards** with a **street frontage**. The **Board** may require a greater **setback** on a case-by-case basis.
 - (b) The first two floors shall be adequately screened by landscaping and/or architectural features. If a new **parking structure** is connected to an existing or proposed **building**, then the **parking structure** shall be compatible with that **building**.
 - (c) If a new **parking structure** is not connected to an existing or proposed **building**, then the **parking structure** shall be compatible with the proposed **building** or one or more **structures** adjoining the **parking structure**.
- (14) **Recreation** area, including accessory recreation areas
 - (15) **Religious institution** or **school** illuminated **athletic field(s)**
 - (16) **Residential facility for a court-ordered re-entry program**
 - (17) **Residential facility for homeless individuals**
 - (18) **Sorority house**
 - (19) **Solar panel (ground mounted)**
 - (20) **Subdivision** amenity
 - (21) **Utility facility, private** (not otherwise permitted or exempt)

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(C) **Special Uses**

The following **uses** may be approved by the **Board of Zoning Appeals** after the filing of a **Special Use** petition:

- (1) **Automobile service, general** (excluding gas station uses)
- (2) **Commercial communication tower** (see §157.503(D)(3)(a) for additional standards)
- ~~(3) **Gas station**~~
~~The **Board** may consider the **gas station** size, **building/canopy** orientation, general **design standards**, and specific **primary building** orientation design requirements set forth for **gas stations** in §157.219(C)(7) (**Downtown Edge district**).~~
- ~~(4)~~**(3) Group residential facility (large)** (if **adjacent** to a **residential district**)
- ~~(5)~~**(4) Growing/processing/raising of natural products**
- ~~(6)~~**(5) Illuminated recreation field** (if **adjacent** to **residential district**)
- ~~(7)~~**(6) Metal and plastic extrusion and molding facility**
- ~~(8)~~**(7) Metal cutting facility**
- ~~(9)~~**(8) Metal fabricating facility**
- ~~(10)~~**(9) Metal processing facility (anodizing, buffing, galvanizing, plating, and polishing)**
- ~~(11)~~**(10) Nonconforming use** (expansion of existing **nonconforming use**, or allow conforming status to existing **use**, excluding gas station uses)
- ~~(12)~~**(11) Parking area** (as a primary use, if **adjacent** to a **residential district**); a special use shall not be required for a universally permitted off-site parking area
- ~~(13)~~**(12) Processing facility (small scale)**
- ~~(14)~~**(13) Residential facility for a court-ordered re-entry program**
- ~~(15)~~**(14) Residential facility for homeless individuals** (if **adjacent** to a **residential district**)
- ~~(16)~~**(15) Sheet metal fabrication and/or processing**
- ~~(17)~~**(16) Sign** (temporary **subdivision** direction)
- ~~(18)~~**(17) Solar panel (ground-mounted)**
- ~~(19)~~**(18) Wind energy conversion system, micro** (on land **adjacent** to a **residential district**, or to erect an additional micro system or systems)
- ~~(20)~~**(19) Wind energy conversion (WEC) system, standard** (on land of under two acres, or on land **adjacent** to a **residential district**)

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| I2 GENERAL INDUSTRIAL SPECIFIC PERMITTED USES | |
|--|-----------------------|
| Wind energy conversion system (micro) ⁽¹⁾ | Winery |
| Wind energy conversion system (standard) ⁽²⁾ | Woodworking/carpentry |
| Notes: | |
| (1) If not adjacent to a residential district | |
| (2) If on land of over two acres not adjacent to a residential district | |

| I2 GENERAL INDUSTRIAL COMMERCIAL USE CATEGORIES | | |
|--|--------------------------------------|-------------------------------|
| Animal service (indoor) | Food and beverage service | Residential facility, general |
| Animal service (outdoor) | Instruction/training/education | Retail, limited |
| Automobile service, general ⁽¹⁾ | Medical facility or office | Retail/service, general |
| Automobile service, limited | Personal service | Studio |
| Clothing | Professional office/business service | Universally permitted use |
| Community facility | Recreation, general | |
| Electronics | Recreation/tourism, limited | |
| Notes: (1) Excluding gas stations | | |

(C) Special Uses

The following uses may be approved by the **Board of Zoning Appeals** after the filing of a **Special Use** petition:

- (1) **Commercial communication tower** (see §157.503(D)(3)(a) for additional standards)
- (2) Fuel storage facility
- ~~(3) Gas station~~
The Board may consider the gas station size, building/canopy orientation, general design standards, and specific primary building orientation design requirements set forth for gas stations in §157.219(C)(7) (Downtown Edge district)
- ~~(4)~~**(3) Group residential facility (large)** (if adjacent to a residential district)
- ~~(5)~~**(4) Illuminated recreation field** (if adjacent to residential zoning)
- ~~(6)~~**(5) Junk yard** (outdoor)
- ~~(7)~~**(6) Motor vehicle storage yard**
- ~~(8)~~**(7) Nonconforming use** (expansion of existing nonconforming use, or allow conforming status to existing use, excluding gas station uses)
- ~~(9)~~**(8) Parking area** (as a primary use, if adjacent to a residential district); a special use shall not be required for a universally permitted off-site parking area
- ~~(10)~~**(9) Parking or outdoor display area**, gravel (not otherwise permitted)
- ~~(11)~~**(10) Residential facility for a court-ordered re-entry program**
- ~~(12)~~**(11) Residential facility for homeless individuals** (if adjacent to a residential district)
- ~~(13)~~**(12) Salvage yard** (outdoor)
- ~~(14)~~**(13) Sawmill**
- ~~(15)~~**(14) Sign** (temporary subdivision direction)
- ~~(16)~~**(15) Solar panel** (ground-mounted)
- ~~(17)~~**(16) Solid waste transfer station**
- ~~(18)~~**(17) Wind energy conversion system, micro** (on land adjacent to a residential district, or to erect an additional micro system or systems)
- ~~(19)~~**(18) Wind energy conversion (WEC) system, standard** (on land of under two acres, or on land adjacent to a residential district)

FORT WAYNE ZONING ORDINANCE

(D) Special Uses

(1) List of Special Uses

The following **special uses** may be permitted by the **Board of Zoning Appeals** in the **zoning districts** shown in the table below, after public hearing pursuant to §157.503(A)(1). To approve a **special use**, the **Board** shall determine that the application meets the criteria in §157.503(D)(2) below and any other requirements stated for the specific **use** in this ordinance. The **Board** may impose reasonable **conditions** as part of its approval.

In addition, as set forth in §157.411(I) of the **Airport Overlay Districts** provisions, certain **uses** shall also require approval of a special use, even in cases where the use is a permitted use in the existing underlying zoning **district**.

| SPECIAL USES | |
|--|--|
| Special Use | District(s) Where Allowed |
| Accessory building conversion to a single family residence | AR |
| Accessory building, as a primary building, on a site of at least 5 acres | AR |
| Accessory dwelling units (ADU) | DE |
| Airstrip/heliport (for corporate or multiple owner use) | AR |
| Animal grooming | C1 |
| Animal hospital | C1 |
| Animal keeping (outdoor, small animal) | R1, R2, R3, RP, MHS, and DC |
| Animal keeping (small) | DE and UC |
| Animal kennel | C1 |
| Animal obedience school | C1 |
| Automatic teller machine (stand-alone ATM) | C1 |
| Automobile maintenance (quick service) | C2, NC, and SC |
| Automobile sales | C2, NC, and SC |
| Automobile Service, General <u>(excluding gas station uses)</u> | I1 |
| Bed and breakfast | AR, R1, R2, R3, RP, and MHS |
| Boarding house | AR, R1, R2, R3, RP, MHS, and DE |
| Child care home (class II) | AR, R1, R2, R3, RP, MHS, DE, and UC |
| Club, private ⁽¹⁾ | R1, R2, R3, RP, MHS, and C1, |
| Commercial communication tower ⁽²⁾ | C1, C2, NC, SC, C3, C4, BTI, I1, I2, and I3 |
| Community facility (transitional use) | R1, R2, R3,RP, and MHS |
| Community garden that includes a structure | AR, R1, R2, R3, RP, MHS, C1, C2, NC, DC, DE, and UC |
| Country club | AR, R1, R2, R3, RP, and MHS |
| Educational institution uses | AR, R1, R2, R3, RP, MHS ⁽¹⁾ , C1, C2, C3,DE, UC |
| Emergency response facility (transitional use) | R1, R2, R3, RP, and MHS |
| Flood control improvement project/non-permitted fill, private | Any district |
| Fraternity house | DE and UC |
| Fuel storage facility | I2 |
| Funeral home | AR, R1, R2, R3, RP, and MHS |
| <u>Gas station (including convenience store)</u> | <u>C2, NC, SC, I1, and I2</u> |

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| SPECIAL USES | |
|---|--|
| Special Use | District(s) Where Allowed |
| Gas stations/convenience stores (as a primary or accessory use) | DE |
| Golf course | AR, R1, R2, R3, RP, and MHS |
| Greenhouse (retail) | C2, NC, and SC |
| Group residential facility (large) ⁽¹⁾ | AR, R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, DC, DE, UC, I1, I2, and I3 |
| Heliport | R1, R2, R3, RP, and MHS |
| Home business ⁽²⁾ | AR, R1, R2, R3, RP, MHS, C1, C2, C3, C4, DC, DE, and UC |
| Home enterprise ⁽²⁾ | AR |
| Home workshop ⁽²⁾ | AR |
| Homeless/emergency shelter (accessory to a religious institution) | AR, R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, DC, DE, |
| Illuminated recreation field (if adjacent to residential district) | BTI, I1, I2, and I3 |
| Instruction/training education (transitional use) | R1, R2, R3, RP, and MHS |
| Junk yard | I2 |
| Live-work unit (transitional use) | R1, R2, R3, RP, and MHS |
| Manufactured home, Type II (see §157.503(D)(3)(e) for additional standards) | R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, DE, UC |
| Medical office (transitional use) | R1, R2, R3, RP, and MHS |
| Metal and plastic extrusion and molding | I1 |
| Metal cutting facility | I1 |
| Metal fabricating facility | I1 |
| Metal processing facility | I1 |
| Model home (for an extension of time or expansion of scope) | AR, DC, DE, MHS, R1, R2, R3, and RP |
| Model unit (for an extension of time or expansion of scope) | DC, DE |
| Motor vehicle storage yard | I2 |
| Museum | R1, R2, R3, RP, and MHS |
| Nature preserve (that includes a structure or parking area | AR, R1, R2, R3, RP, MHS, DE, and UC |
| Neighborhood facility | AR, R1, R2, R3, RP, and MHS |
| Nonconforming use (expansion of existing nonconforming use, or allow conforming status to existing use; <u>this special use shall not be available for gas station uses</u>) | AR, R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, DC, DE, UC, BTI, I1, I2, and I3 |
| Open use of land (not otherwise permitted) | I3 |
| Outdoor use (in conjunction with a permitted primary building) | C2 |
| Parking structures (public or private) | DE |
| Pawn shop | DC and DE |
| Personal service (transitional use) | R1, R2, R3, RP, and MHS |
| Plant nursery (retail) | C2, NC, and SC |
| Processing facility (including but not limited to animals, animal products, lumber, timber, raw materials processing) | I2 |
| Professional office/business service (transitional use) | R1, R2, R3, RP, and MHS |
| Reception, meeting, or recreation hall; clubhouse | AR |
| Recreation facility or use (not otherwise permitted) ⁽¹⁾ | A1, A3, R1, R2, R3, RP, MHS, C1, C2, NC, SC, C3, C4, and UC |

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in the area of that expansion. The resurfacing, restriping, or similar maintenance of existing parking area shall not be considered an **addition** or expansion.

(3) **Signs**

Nonconforming **signs** shall be governed by the provisions of §157.409(F)(10).

(4) **Reversion of Use**

A **building** originally designed for single or two **family use** and converted to a higher intensity residential or non-residential **use** may be reverted to a single **family** or two **family use** if acceptable evidence can be provided to the **DPS** staff showing that the **building** was originally built for or was historically used for single **family** or two **family use**. A **Certificate of Use** application is required for consideration of a **building** reversion. **Buildings** reverted under this §157.504(E)(4) shall be considered to be a conforming use. Evidence that could be determined to be acceptable includes but is not limited to the following:

- (a) Original **building** designs or permits;
- (b) Sanborn Fire Insurance Maps;
- (c) **City** directories;
- (d) Tax or assessment records; and
- (e) Affidavits

(5) **Acquisition of Property for Public Purposes**

If a government or quasi-governmental entity acquires property for public purposes, and the result of that acquisition is to reduce **lot** area, **lot width**, property **setbacks** below the minimums required by this ordinance in the **district** where the property is located, or otherwise results in **development** on the property not complying with the requirements of this ordinance, and that deviation from the requirements of this ordinance did not exist before the acquisition of property for public purposes, then the deviation from the requirements of this ordinance created by acquisition of property for public purposes shall not be considered a non-conformity, and the applicant's rights with regard to the remaining property shall be the same as if a portion of the property had not been acquired for public purposes.

(6) Gas Stations

A gas station that was approved via a Special Use or Use Variance by the Board of Zoning Appeals shall not be considered a nonconforming use subject to these provisions, and shall remain subject to any previous Board of Zoning Appeals conditions of approval. Any gas station that became nonconforming as of April 3, 2014:

- (a) May be enlarged, expanded, or extended on the same parcel or lot that existed at the time the gas station became nonconforming, so long as such enlargement, expansion, or extension, meets all development standards of this ordinance and an Improvement Location Permit and/or Certificate of Use is issued before such enlargement, expansion, or extension. This provision is intended to also allow for the addition of gas pumps and the expansion or replacement of canopies;**
- (b) May be expanded into any building that existed at the time the gas station became nonconforming, so long as a Certificate of Use is issued before such expansion;**

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(c) Shall not be permitted to increase the size of the parcel or lot that the gas station is located on; and

(a)(d) Shall be subject to all other applicable Nonconforming Situations provisions in this Section, including but not limited to the Maintenance or Reconstruction provisions, and the Discontinuation and Damage provisions.

(F) Discontinuation and Damage

(1) Discontinuation of Use

(a) Any **nonconforming use** that has been discontinued for a period of twelve (12) consecutive months as determined by the **Zoning Administrator** shall be deemed abandoned and shall not be permitted to be reestablished. Any subsequent **use** of the **lot** shall only conform to the **use** provisions of this ordinance. In a case where a detached residential **accessory building** becomes a **nonconforming building** and **use** due to the demolition or other removal of the primary **residential building** on the same **lot** the passage of twelve (12) months after the removal of the **primary building** without the construction of a new primary **residential building** shall be deemed as intent to abandon the **accessory building and use**. Enforcement proceedings as provided in this ordinance may be initiated after the expiration of the twelve (12) month period.

(2) **Restoration of Damaged Building or Structure**

(a) A damaged **nonconforming building** or **structure** may be reconstructed or restored if the cost of **restoration** or reconstruction is no more than double the total value of the **nonconforming building or structure**. A damaged **nonconforming building or structure** that costs more than double the total value of the **nonconforming building or structure** to repair shall only be repaired or rebuilt in conformance with the provisions of this ordinance. However, a nonconforming detached single **family residential structure** located in a **district** which does not allow new single **family detached residential structures** shall be permitted to be rebuilt if damaged, provided it meets the other applicable standards of this ordinance.

(b) For purposes of this subsection, the “value of the **nonconforming structure**” shall be presumptively determined by the property **owner**’s most current property record card that is maintained by the applicable agency responsible for assessing the property for real estate taxes. The property **owner** may attempt to prove the value of **nonconforming structure** by providing the **Zoning Administrator** with an appraisal that is completed and signed by an appraiser licensed by the State of Indiana and performed in accordance with the Uniform Standards for Professional Appraisal Practice (USPAP). The **Zoning Administrator** shall determine the value of the original **nonconforming structure**,

(3) **No Expansion of Damaged Building or Structure**

Any damaged **nonconforming building** or **structure** shall be reconstructed or restored within the boundaries of the footprint of the original **nonconforming building** or **structure**, and the original **nonconforming building** or **structure** shall not be expanded or enlarged. Any **nonconforming building** or **structure** that is restored or reconstructed at more than double the total value of the **building** or **structure**, or that is expanded outside of the footprint of the original **nonconforming building** or **structure**, shall result in the **building** or **structure** losing its nonconforming status and the **building** or **structure** shall be required to meet the requirements of this ordinance.

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- (a) water pollution control laws;
- (b) any rules of the water pollution control board; or
- (c) IC 13-18-10.

(4) A **confined feeding operation** is not permitted by right or eligible for a **special use** under the provisions of this ordinance.

Construction Access Road

A temporary non-dedicated, unplatted **right-of-way**, other than a **street, alley** or **easement**, designed to provide sole ingress and egress for all **development** and construction equipment, as well as all laborers and material handlers, in connection with the improvement of a platted **subdivision** of land or a Development Plan, including but not limited to the construction of **dwelling**s, **buildings** and other improvements, which **right-of way** is constructed and maintained by the **developer** and **owner** at either's sole expense or their cumulative expense and continuously in the absolute ownership and/or exclusive control of the **developer** and **owner**.

Contingent Use

A **use** that could be permitted in any **zoning district** as set forth in §157.503(C), subject to specific standards and **Board of Zoning Appeals** approval.

Convenience Store

A small retail establishment designed and stocked to sell primarily food, beverages, and other household supplies to customers. A use which also includes gas pumps shall not be considered a convenience store.

Convent

A **structure** used for the purpose of housing **persons** on a permanent basis who are not members of a **family** and who constitute a religious community typically consisting of nuns, priests, monks, or other similar religious personnel. For the purpose of this definition the terms **convent** and monastery are interchangeable and shall have the same meaning. Assembly for worship services may be conducted in conjunction with the **convent use** but only for the residents of the **convent**. A **convent** is a permitted **accessory use** where incidental to a religious assembly **use** (**church, synagogue, temple, and mosque**).

Convention Facility

A facility specially designed to host conferences, exhibitions, events, large meetings, seminars and **training** facilities. Office, retail, accommodations, and other commercial **uses** commonly established in these facilities and related **parking structures** shall be allowed as accessory appurtenances.

Conveyance (including the word “convey”)

The transfer of title to land from one **person** to another by deed.

Corner Lot (see “Lot, Corner”)

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Garage (see “Garage, Residential”)

Garage, Residential

A detached **accessory structure** or portion of a **primary building** used for personal **storage**, the **storage** of **motor vehicles** and other similar accessory residential **uses**.

Garage Sale (see “Yard Sale”)

Garbage

Animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food; or other business or household waste materials.

Garden Equipment Supply

An establishment that specializes in the retail of nursery plants or related items, which may include: plants that have been grown on the property or imported, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils.

Gas Pump Embellishment

Letters, figures, characters or representatives in irregular forms that used as a supplement to permitted gas pump signage.

Gas Station

A facility where ~~gas fuel is sold, which may also include a convenience store, and other supplies for motorists are sold. Minor repair services such as lubrication, oil and tire changes may be provided, but major repairs such as vehicle bodywork or painting or repair of engines or drive trains may not be provided. A gas station may include a convenience store.~~ A gas station use shall be considered a primary use of a property.

Gateway

A point along a roadway at which a motorist or pedestrian gains a sense of having entered the **City** or a particular part of the **City**. This impression can be imparted through such things as **signs**, **monuments**, landscaping, a change in **development** character, or a natural feature.

Gazebo

A freestanding, roofed, usually open-sided **structure** providing seating or an area for gathering.

Glare

A situation created when illumination sources shine with visibly harsh, uncomfortably bright light that: causes discomfort; distracts attention; or leads to reduction or loss of visibility or visual performances (up to and including situations of blinding **glare**, as defined in the Illuminating Engineering Society of North America’s current Lighting Handbook). These situations are typically caused by insufficiently shielded light sources, or high luminance (luminance that is sufficiently greater than the luminance to which the eyes are adapted).

Golf Course

A **tract** of land typically laid out for playing the game of golf that may include a **clubhouse**, dining and snack **bars**, pro **shop**, and practice facilities.