

GENERAL ORDINANCE NO. 2, 2023
AS AMENDED

CITY CLERK

AN ORDINANCE MODIFYING CERTAIN PROVISIONS OF CHAPTER 10 OF THE TERRE HAUTE CITY CODE RELATED TO SPECIAL USE CRITERIA AND THE DEFINITIONS OF "FAMILY" AND "PERSONS REQUIRING ADDITIONAL CONSIDERATION".

WHEREAS, from time to time the Common Council of the City of Terre Haute (hereinafter "Common Council") finds it necessary to update the *City Code* to ensure compliance with changes in federal and state law; and

WHEREAS, in conjunction with keeping the *City Code* in legal compliance, the Common Council seeks to offer solutions to certain operations that are not or may not be operating in compliance with the *City Code* an opportunity to become compliant upon meeting certain reasonable criteria as set forth herein.

IT IS HEREBY ORDAINED by the Common Council of the City of Terre Haute that the *Terre Haute City Code* shall be modified and hereby amended as follows:

SECTION 1. *Terre Haute City Code* shall be modified with the insertion of the underlined text and deletion of the stricken text set forth herein as follows:

Sec. 10-60 Family.

~~An individual or two (2) or more persons related by blood or marriage, or a group of not more than five (5) persons (excluding servants) who are not related by blood or marriage, living together as a single housekeeping unit in a dwelling unit, excludes dormitories or religious homes. (Ord. No. 1, 1967, § 1123.38, 7-6-67)~~ An individual or group of persons that meets at least one of the following definitions:

a. An individual or a group of people all of whom are related to each other by blood, marriage, legal adoption, foster parent responsibility, or other legal status making the person a dependent of one of more persons legally residing in the household under federal or state law;

b. A group of not more than five (5) adults and their dependent children, living together as a single housekeeping unit in a dwelling unit.

c. A group of more than five (5) individuals constituting persons requiring additional consideration if a special use is obtained as provided in Sec. 10-193.

Sec. 10-92-1 Persons Requiring Additional Consideration.

Foster children, pregnant women and their children, runaway children, temporarily or permanently disabled mentally, emotionally or physically disabled individuals recovering from drug or alcohol abuse, and all other persons who possess a disability which is protected by either the Americans with Disabilities Act of 1990, 42 USC 12101, the Fair Housing Act as amended, 42 USC 3601 et seq. as it may be amended. This definition does not include any persons who currently use controlled substances in an illegal manner, individuals recovering from alcohol abuse that are currently using alcohol, persons who have been convicted of the manufacture or sale of illegal drugs, and persons with or without disabilities who present a direct threat to the health, safety, welfare or property of the community or others.

~~Sec. 10-95-1 Residential Facility for the Developmentally Disabled.~~

~~A residential facility established under a program authorized by I.C. § 12-11-1 which provides residential services for not more than eight (8) developmentally disabled individuals. (Gen. Ord. No. 19, 1997, 2-12-98)~~

~~Sec. 10-95-2 Residential Facility for the Mentally Ill.~~

~~A residential facility established under a program established by I.C. § 12-22-1-1 which provides residential services for mentally ill individuals. (Gen. Ord. No. 19, 1997, 2-12-98)~~

Sec. 10-97-1 Single Housekeeping Unit.

a. Two or more individuals may be considered a single housekeeping unit in a dwelling unit by sufficient evidence, in whole or in part, of the following:

- (1) The occupants have established ties and familiarity with each other;
- (2) The occupants will occupy the dwelling unit as a stable single housekeeping unit for a substantial period of time, or for a period of time longer than what is traditionally considered transient in nature such as a short or brief period of time;
- (3) Evidence that one or more of the occupants of the single housekeeping unit have control over who becomes a member of the single housekeeping unit;
- (4) All occupants share the common areas and food preparation and storage areas of the Dwelling Unit;
- (5) The occupants share meals, household activities and expenses; and
- (6) The occupants access the dwelling unit by a common entrance.

Division VIII. Residential Districts.¹

Sec. 10-180 Uses, Permitted.

- b. Uses, Permitted - R-1 Single-Family Residence District.

...

~~(16) Residential Facility for the Developmentally Disabled. (Gen. Ord. No. 19, 1997, 2-12-98)~~

~~(17) Residential Facility for the Mentally Ill. (Gen. Ord. No. 19, 1997, 2-12-98)~~

Sec. 10-181 Uses, Special.

- a. General.

Upon application to and approval by the Board of Zoning Appeals, the following uses may be permitted as special uses in the districts listed hereafter in accordance with the provisions of Sec. 10-264. (Gen. Ord. No. 13, 2000, 6-8-00)

- b. Special Uses R-1 District.²

(1) Municipal or privately-owned recreation buildings or community centers.

(2) Public utility and public service uses, including:

- (a) Bus turn-arounds (off-street);
- (b) Electric sub-stations;
- (c) Fire stations;
- (d) Police stations;
- (e) Public art galleries and museums;
- (f) Railroad passenger stations;

¹ Editor's Note: All drawings or diagrams referred to in this Division are on file in the Office of the City Clerk and are available for public inspection during regular business hours.

² Sec. 10-181 b.(3) *et al.* regarding an automobile parking lot in a Residence District on a lot over 75 feet wide was deleted from the *Code* by General Ordinance No. 18, 2004, As Amended, which was passed on Nov. 9, 2004.

- (g) Railroad right-of-way;
 - (h) Telephone exchanges and telephone transmission equipment buildings; (Gen. Ord. No. 25, 2000, 1-11-01)
 - (i) Water filtration plants;
 - (j) Water pumping stations; and
 - (k) Water reservoirs.
- (3) Residential facility for persons requiring additional consideration

Sec. 10-193 Residential Facilities for the Mentally Ill. Residential Facility for Persons Requiring Additional Consideration.

~~No residential facility for the mentally ill shall be located within one thousand feet (1,000') of another residential facility for the mentally ill, as measured between lot lines. (Gen. Ord. No. 18, 1997, 2-12-98)~~ Any residential facility for persons requiring additional consideration ("Facility") shall meet each of the following prescribed conditions in addition to the special use requirements set forth in Sec. 10-264:

- a. All of the residents of the facility, excluding dependent children, must be Persons Requiring Additional Consideration as defined in Sec. 10-92-1 or caregivers, counselors or supervisory personnel for such persons.
- b. All of the residents of the Facility must be living as a Single Housekeeping Unit.
- c. The Facility shall not be established, constructed, expanded, altered, changed, operated or occupied, except in accordance with all building and fire code, and all applicable federal, state, and local regulations, including, but not limited to, licensing requirements and are subject to reasonable inspection of the Facility for determining by the authority having jurisdiction.
- d. The maximum number of residents in the facility shall be limited to the number of habitable sleeping rooms as follows:
 - (1) Each habitable sleeping room shall have an area not less than ~~ninety (90)~~ fifty (50) square feet; and
 - (2) In the event more than one (1) person physically occupies a single habitable sleeping room, the floor area shall be increased at the rate of ~~ninety (90)~~ fifty (50) square feet for each occupant in excess of one (1).

- e. Off-street parking for residents must be provided in accordance with this Chapter unless a variance from the parking requirements is obtained.
- f. The facility must conform to one (1) or more of the following:
 - (1) It is certified by the federal or state governments;
 - (2) It is funded in part by governmental grant or loans; or
 - (3) It provides room and board, personal care, and habilitation services in a family environment and offers, or makes available through a third-party provider, counseling services.
- g. The residential facility shall not be occupied or operated without a certificate of occupancy.

Sec. 10-261 Variations.

The Board of Zoning Appeals shall determine and vary the regulations of this Comprehensive Zoning Ordinance in harmony with their general purpose and intent, only in the specific instance hereinafter set forth, where the Board makes written finding of fact based upon the standards herein ~~a finding of fact based upon the standards hereinafter~~ prescribed, that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this Comprehensive Zoning Ordinance.

Pursuant to Sec. 10-207 as it pertains to Zones C-8 and C-9, applications for variances are not permitted with respect to Dimensional Requirements [10-207 t. and 10-207 dd.] unless the application for variance is sought to permit construction of a new, fully enclosed structure of at least 30,000 square feet. Nothing in this provision shall otherwise prohibit an applicant from seeking a variance from any other provision of the Comprehensive Zoning Ordinance as it applies to Zones C-8 and C-9. The provision is adopted to prohibit the seeking of variances from Dimensional Requirements only for structures of less than 30,000 square feet. (Gen. Ord. No. 5, 2009, 5-14-09)

- a. An Application for a Variation shall be filed with the Board of Zoning Appeals. The application shall contain such information as the Board may by rule require from time to time. ~~No more than ninety (90) days after the filing of such application, a hearing shall be held on the application. Notice of such hearing shall be published at least once, not more than thirty (30) days nor less than ten (10) days before the hearing, in one (1) or more newspapers of general circulation in the City of Terre Haute. The published notice may be supplemented by such additional form of notices as the Board by rule may provide. The Board of Zoning Appeals shall make a final determination on any application under this Section within (60) days of the hearing.~~

Sec. 10-264 Variations in the Nature of Special Uses. (Herein called *USES, SPECIAL*)

a. The development and execution of a Comprehensive Zoning Ordinance is based upon the division of the City into districts within which districts the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are variations in the nature of special uses which, because of their unique characteristic, cannot be properly classified in any particular district or districts, without consideration in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. Such variations in the nature of special uses fall into two categories:

- (1) Uses either municipally operated, or operated by publicly regulated utilities or uses traditionally affected with a public interest; and
- (2) Uses entirely private in character but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities. (Ord. No. 1, 1967, § 1141.10 (a), 7-6-67)

b. An application for a special use shall be filed and processed in the same manner as prescribed for a variance under Sec. 10-261 and shall be determined based on the factors set forth herein ~~a reasonable regard to the same factors considered by the Plan Commission and the Legislative Body provided in Sec. 10-263 c.(4) for amendments to the Comprehensive Zoning Ordinance.~~ Approval of a special use need not be recorded, but must be noted on the City of Terre Haute zoning maps. Fees shall be consistent with the fees established by the Board of Zoning Appeals in Sec. 10-265 b. (Gen. Ord. 13, 2000, 6-8-00; Gen. Ord. No. 25, 2000, 1-11-01)

c. The Board of Zoning Appeals may grant a special use for a use listed as such in the appropriate zoning district if, after public hearing, it makes written findings of facts based upon the evidence presented that:

- (1) General Welfare: the proposal will not be injurious to the public health, safety, morals and general welfare of the community;
- (2) Development Standards: the requirements and development standards for the requested use as set forth in this Chapter;
- (3) Ordinance Intent: granting the special use will not be contrary to the general purposes served by this Chapter, and will not adversely affect other property or uses in the same zoning district and vicinity; and
- (4) Comprehensive Plan: the proposed use will be consistent with the character of the zoning classification in which it is located and the Terre Haute Comprehensive Plan.

d. The Board of Zoning Appeals shall also consider the following items as it relates to any requested special use:

- (1) Topography and other nature site features;

- (2) Zoning of the site and surrounding properties;
- (3) Driveway locations, street access and vehicular and pedestrian traffic;
- (4) Parking, including amount, location and design;
- (5) Landscaping, screening and buffering;
- (6) Open space and other site amenities;
- (7) Noise production and hours of any use and/or operation;
- (8) Design, placement, architecture and building materials for any structure proposed to be erected;
- (9) Placement, design, intensity, height and shielding of lights;
- (10) Traffic generation; and
- (11) General site layout as it relates to its surroundings.

e. An application for a Special Use as a Residential Facility for Persons Requiring Additional Consideration shall comply with all of the requirements of Sec. 10-193 of this Ordinance in addition to the considerations set forth in this Section 10-264.

f. The Board of Zoning Appeals shall impose such conditions as it deemed necessary to find that the criteria for approval in Sec. 10-264(c) and (d) are met ~~protect adjoining property owners~~. Conditions must be sufficiently clear to inform the applicant of the limitations upon the use of his or her land ~~to protect nearby owners~~. A special use does not become effective until the conditions are fulfilled and it may be revoked if the conditions are not complied with. The policing job is the province of the Building Inspector. The matter of non-compliance with the conditions imposed can be placed before the Common Council only on appeal from a ruling by the Building Inspector. (Gen. Ord. No. 13, 2000, 6-8-00)

g. Unless otherwise specified by the Board of Zoning Appeals, special use approvals shall be limited to and run with the applicant at the location specified in the petition. The Board of Zoning Appeals may also limit special exceptions to a specific time period and a specific use. Special uses shall be invalid if the property conforms to the zoning classification in which it is located or the special use approval is terminated. In no circumstances can a special use be expanded, extended or enlarged unless reauthorized by the Board of Zoning Appeals under the procedures set forth in this Section for granting a special use.

h. Upon receiving a special use approval, the applicant must conform to any requirements set by the BZA and utilize the location in a manner consistent with the special use that was requested within one hundred eighty (180) days or ~~the said~~ special use shall be automatically deemed revoked. An applicant may request an extension of this deadline by filing

a request with the BZA at least sixty (60) days prior to expiration of the initial period for and setting forth the reasons relating to anya hardship.

SECTION 2. The illegality or invalidity, for any reason, of any of the sections of this ordinance, or parts thereof, shall invalidate only such section or sections as are so determined to be illegal or invalid, any such invalidity shall have no effect on the remaining sections of this ordinance.

SECTION 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 4. This ordinance shall be in full force and effect from and after the date of its passage by the Common Council of Terre Haute, Indiana and approval of the Mayor and upon publication as required by law.

Introduced by: Neil Garrison Neil Garrison, Councilperson

Passed in open Council this 13th day of April, 2023.
Curtis DeBaun Curtis DeBaun, President

ATTEST: Michelle L. Edwards Michelle L. Edwards, City Clerk

Presented by me to the Mayor this 14th day of April, 2023.

Michelle L. Edwards Michelle L. Edwards, City Clerk

Approved by me, the Mayor, this 14th day of April, 2023.

Duke A. Bennett Duke A. Bennett, Mayor

ATTEST: Michelle L. Edwards Michelle L. Edwards, City Clerk

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CITY CLERK

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Sec. 10-95-1 Residential Facility for the Developmentally Disabled.

~~A residential facility established under a program authorized by I.C. § 12-11-1 which provides residential services for not more than eight (8) developmentally disabled individuals. (Gen. Ord. No. 19, 1997, 2-12-98)~~

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- (3) Evidence that one or more of the occupants of the single housekeeping unit have control over who becomes a member of the single housekeeping unit;
- (4) All occupants share the common areas and food preparation and storage areas of the Dwelling Unit;
- (5) The occupants share meals, household activities and expenses; and
- (6) The occupants access the dwelling unit by a common entrance.

Division VIII. Residential Districts.¹

¹ Editor's Note: All drawings or diagrams referred to in this Division are on file in the Office of the City Clerk and are available for public inspection during regular business hours.

Sec. 10-180 Uses, Permitted.

- b. Uses, Permitted - R-1 Single-Family Residence District.

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- b. Special Uses R-1 District.²

- (1) Municipal or privately-owned recreation buildings or community centers.
- (2) Public utility and public service uses, including:
 - (a) Bus turn-arounds (off-street);
 - (b) Electric sub-stations;
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- (h) Telephone exchanges and telephone transmission equipment buildings; (Gen. Ord. No. 25, 2000, 1-11-01)
- (i) Water filtration plants;
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(3) Residential facility for persons requiring additional consideration

Sec. 10-193 ~~Residential Facilities for the Mentally Ill.~~ Residential Facility for Persons Requiring Additional Consideration.

~~No residential facility for the mentally ill shall be located within one thousand feet (1,000') of another residential facility for the mentally ill, as measured between lot lines. (Gen. Ord. No. 18, 1997, 2-12-98)~~ Any residential facility for persons requiring additional consideration ("Facility") shall meet each of the following prescribed conditions in addition to the special use requirements set forth in Sec. 10-264:

- a. All of the residents of the facility, excluding dependent children, must be Persons Requiring Additional Consideration as defined in Sec. 10-92-1 or caregivers, counselors or supervisory personnel for such persons.
- b. All of the residents of the Facility must be living as a Single Housekeeping Unit.
- c. The Facility shall not be established, constructed, expanded, altered, changed, operated or occupied, except in accordance with all building and fire code, and all applicable federal, state, and local regulations, including, but not limited to, licensing requirements and are subject to reasonable inspection of the Facility for determining by the authority having jurisdiction.
- d. The maximum number of residents in the facility shall be limited to the number of habitable sleeping rooms as follows:
 - (1) Each habitable sleeping room shall have an area not less than ninety (90) square feet; and
 - (2) In the event more than one (1) person physically occupies a single habitable sleeping room, the floor area shall be increased at the rate of ninety (90) square feet for each occupant in excess of one (1).
- e. Off-street parking for residents must be provided in accordance with this Chapter unless a variance from the parking requirements is obtained.

- f. The facility must conform to one (1) or more of the following:
- (1) It is certified by the federal or state governments;
 - (2) It is funded in part by governmental grant or loans; or
 - (3) It provides room and board, personal care, and habilitation services in a family environment and offers, or makes available through a third-party provider, counseling services.
- g. The residential facility shall not be occupied or operated without a certificate of occupancy.

Sec. 10-261 Variations.

The Board of Zoning Appeals shall determine and vary the regulations of this Comprehensive Zoning Ordinance in harmony with their general purpose and intent, only in the specific instance hereinafter set forth, where the Board makes written finding of fact based upon the standards herein ~~a finding of fact based upon the standards hereinafter~~ prescribed, that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this Comprehensive Zoning Ordinance.

Pursuant to Sec. 10-207 as it pertains to Zones C-8 and C-9, applications for variances are not permitted with respect to Dimensional Requirements [10-207 t. and 10-207 dd.] unless the application for variance is sought to permit construction of a new, fully enclosed structure of at least 30,000 square feet. Nothing in this provision shall otherwise prohibit an applicant from seeking a variance from any other provision of the Comprehensive Zoning Ordinance as it applies to Zones C-8 and C-9. The provision is adopted to prohibit the seeking of variances from Dimensional Requirements only for structures of less than 30,000 square feet. (Gen. Ord. No. 5, 2009, 5-14-09)

- a. An Application for a Variation shall be filed with the Board of Zoning Appeals. The application shall contain such information as the Board may by rule require from time to time. ~~No more than ninety (90) days after filing the provide from time to time, by rule. No more than ninety (90) days after the filing of such application,~~ a hearing shall be held on the application. Notice of such hearing shall be published at least once, not more than thirty (30) days nor less than ten (10) days before the hearing, in one (1) or more newspapers of general circulation in the City of Terre Haute. The published notice may be supplemented by such additional form of notices as the Board by rule may provide. The Board of Zoning Appeals shall make a final determination on any application under this Section within (60) days of the hearing.

Sec. 10-264 Variations in the Nature of Special Uses. (Herein called *USES, SPECIAL*)

- a. The development and execution of a Comprehensive Zoning Ordinance is based upon the division of the City into districts within which districts the use of land and buildings

and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are variations in the nature of special uses which, because of their unique characteristic, cannot be properly classified in any particular district or districts, without consideration in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. Such variations in the nature of special uses fall into two categories:

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- (2) Uses entirely private in character but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities. (Ord. No. 1, 1967, § 1141.10 (a), 7-6-67)

b. An application for a special use shall be filed and processed in the same manner as prescribed for a variance under Sec. 10-261 and shall be determined based on the factors set forth herein ~~a reasonable regard to the same factors considered by the Plan Commission and the Legislative Body provided in Sec. 10-263 e.(4) for amendments to the Comprehensive Zoning Ordinance.~~ Approval of a special use need not be recorded, but must be noted on the City of Terre Haute zoning maps. Fees shall be consistent with the fees established by the Board of Zoning Appeals in Sec. 10-265 b. (Gen. Ord. 13, 2000, 6-8-00; Gen. Ord. No. 25, 2000, 1-11-01)

c. The Board of Zoning Appeals may grant a special use for a use listed as such in the appropriate zoning district if, after public hearing, it makes written findings of facts based upon the evidence presented that:

- (1) General Welfare: the proposal will not be injurious to the public health, safety, morals and general welfare of the community;
- (2) Development Standards: the requirements and development standards for the requested use as set forth in this Chapter;
- (3) Ordinance Intent: granting the special use will not be contrary to the general purposes served by this Chapter, and will not adversely affect other property or uses in the same zoning district and vicinity; and
- (4) Comprehensive Plan: the proposed use will be consistent with the character of the zoning classification in which it is located and the Terre Haute Comprehensive Plan.

d. The Board of Zoning Appeals shall also consider the following items as it relates to any requested special use:

- (1) Topography and other nature site features;
- (2) Zoning of the site and surrounding properties;

- (3) Driveway locations, street access and vehicular and pedestrian traffic;
- (4) Parking, including amount, location and design;
- (5) Landscaping, screening and buffering;
- (6) Open space and other site amenities;
- (7) Noise production and hours of any use and/or operation;
- (8) Design, placement, architecture and building materials for any structure proposed to be erected;
- (9) Placement, design, intensity, height and shielding of lights;
- (10) Traffic generation; and
- (11) General site layout as it relates to its surroundings.

e. An application for a Special Use as a Residential Facility for Persons Requiring Additional Consideration shall comply with all of the requirements of Sec. 10-193 of this Ordinance in addition to the considerations set forth in this Section 10-264.

f. The Board of Zoning Appeals shall impose such conditions as it deemed necessary to find that the criteria for approval in Sec. 10-264(c) and (d) are met ~~protect adjoining property owners~~. Conditions must be sufficiently clear to inform the applicant of the limitations upon the use of his or her land ~~to protect nearby owners~~. A special use does not become effective until the conditions are fulfilled and it may be revoked if the conditions are not complied with. The policing job is the province of the Building Inspector. The matter of non-compliance with the conditions imposed can be placed before the Common Council only on appeal from a ruling by the Building Inspector. (Gen. Ord. No. 13, 2000, 6-8-00)

g. Unless otherwise specified by the Board of Zoning Appeals, special use approvals shall be limited to and run with the applicant at the location specified in the petition. The Board of Zoning Appeals may also limit special exceptions to a specific time period and a specific use. Special uses shall be invalid if the property conforms to the zoning classification in which it is located or the special use approval is terminated. In no circumstances can a special use be expanded, extended or enlarged unless reauthorized by the Board of Zoning Appeals under the procedures set forth in this Section for granting a special use.

h. Upon receiving a special use approval, the applicant must conform to any requirements set by the BZA and utilize the location in a manner consistent with the special use that was requested within one hundred eighty (180) days or ~~the said~~ special use shall be automatically deemed revoked. An applicant may request an extension of this deadline by filing a request with the BZA at least sixty (60) days prior to expiration of the initial period ~~for~~ and setting forth the reasons relating to any hardship.

SECTION 2. The illegality or invalidity, for any reason, of any of the sections of this ordinance, or parts thereof, shall invalidate only such section or sections as are so determined to be illegal or invalid, any such invalidity shall have no effect on the remaining sections of this ordinance.

SECTION 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 4. This ordinance shall be in full force and effect from and after the date of its passage by the Common Council of Terre Haute, Indiana and approval of the Mayor and upon publication as required by law.

Introduced by: _____ Neil Garrison, Councilperson

Passed in open Council this _____ day of _____, 2023.

_____ Curtis DeBaun, President

ATTEST: _____ Michelle L. Edwards, City Clerk

Presented by me to the Mayor this _____ day of _____, 2023.

_____ Michelle L. Edwards, City Clerk

Approved by me, the Mayor, this _____ day of _____, 2023.

_____ Duke A. Bennett, Mayor

ATTEST: _____ Michelle L. Edwards, City Clerk



Area Planning Department For Vigo County

159 Oak Street, Terre Haute, Indiana 47807

Telephone: (812) 462-3354

Fax: (812) 234-3248

Terre Haute • West Terre Haute • Riley • Seelyville

RESOLUTION G.O. #2-23

THE VIGO COUNTY AREA PLAN COMMISSION'S FINDINGS FOR A FAVORABLE RECOMMENDATION TO MODIFY CERTAIN PROVISIONS OF THE CODE RELATED TO SPECIAL USE CRITERIA AND THE DEFINITIONS OF "FAMILY" AND "PERSONS REQUIRING ADDITIONAL CONSIDERATION".

Whereas, I.C. 36-7-4, et seq. empowers the Area Plan Commission of Vigo County, Indiana, to hold hearings and make recommendations concerning ordinances for the zoning or districting of all lands within the incorporated or unincorporated areas of Vigo County.

Whereas, the Area Planning Commission of Vigo County, Indiana, has conducted a public hearing in Accordance with I.C. 36-7-4, et seq., with respect to Resolution G.O. #2-23.

Forwarded With a FAVORABLE Recommendation, 8 Yes, 1 Opposed Vote, by the Vigo County Area Plan Commission, this 1st Day of February, 2023.

Handwritten signature of Fred L. Wilson.

Fred L. Wilson, President

Vigo County Area Plan

Commission:

Handwritten signature of Norm Froderman.

ATTEST: _____

Norm Froderman, Secretary





SEE YOU IN
TERRE-HAUTE

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Staff Review of General Ordinance No. 2, 2023

Staff Findings:

General Ordinance No. 2, 2023, is an amendment to the Terre Haute City Code modifying certain provisions of the code related to special use criteria and the definitions of “family” and “persons requiring additional consideration”. The specific language “Residential Facilities for the Mentally Ill has been removed.

The amended portion of code defines “Residential Facility for Person Requiring Additional Consideration.” By defining such a facility, it requires them to obtain a special use through the Board of Zoning Appeals as well as meet special conditions in order to operate in Residential Districts. All facilities will have to be certified and funded by a government program or be made available through a third-party counseling service. They must also meet all building codes and adhere to off-street parking requirements.

The amended ordinance changes the usual nature of Special Uses in that it states that “special use approvals shall be limited to, and run with the applicant at the location specified in the petition.” Also noted, is that if the special use ends then the approval is terminated.

Comment was not available from the City BZA at the time of this report.

Ordinance Committee:

The Ordinance committee did meet on 1/19/2023 in our office. There was open discussion about General Ordinance No. 2, 2023 Comments from members present include and are paraphrased: Questions arose to how oversight would be handled. What pushback there would be from the community. Safety, responsibility, enforcement and upkeep. What would be the appropriate process to recertify homes? The recommendation from the committee was to table the ordinance to allow for stake holder input. Minutes from the meeting are not available as they have not yet been approved.

Existing Procedure:

The current means by which to permit these establishments is through a Planned Development. A Planned Development is a “catch all” in the zoning ordinance. Any use, not otherwise listed as a use by right, can utilize the Planned Development which can be located in any district. This method provides public remonstrance, public notice and legislative

oversite. Until now, this process has been utilized, arguably, with a modicum of success. This is evidenced by the existence and operation of "Additional Consideration" homes outside of the adopted permitting process.

Recommendation:

The genesis for this ordinance is the City Attorney. If he, as the City's legal counsel, is of the belief that the current means of regulation and oversight is insufficient, then Staff will recommend the ordinance be adopted and amended as needed.