

RC #	Council Sponsor	Reasonable Condition Topic	Status	Legal Opinion as to Reasonableness	Other notes:
1	Stosberg	Use Table	Adopted	N/A	
2	Sosberg	Phasing Plan	Adopted	N/A	
3	Ruff	ADUs	Withdrawn	N/A	
4	Rosenbarger	Permanent Affordability	Pending	<p>A Reasonable Condition as to the Affordable Housing component of the PUD is required because the PUD ordinance does not meet UDO criteria as it is. Your proposed RC does meet the UDO requirements, and it goes beyond those requirements. There may be some question of whether the proposed RC is practical/ reasonable because it goes as far as it does; however, it is in line with the statutory requirements, and would ultimately allow you to approve of the PUD. You shall not approve the PUD without bringing it into compliance with the UDO's criteria for affordable housing. 20.06.070(c)(4)(E)(iii) and 20.04.110(c).</p>	<p>The City's proposed RC is also in line with the UDO and you could choose to use their suggested RC language instead; however, then it would become a commitment rather than a RC because they are agreeing to it. If it's a commitment, it would be recorded. They do acknowledge that the PUD as is does <u>not</u> comply with UDO 20.06.070(c)(4)(E)(iii) and 20.04.110(c).</p>
5	Zulich	Permanent Affordability	Not Adopted	N/A	

6	Flaherty	Sustainability	Adopted, CC requests w/draw	<p>Appears to be in conflict with IC 8-1-2-101.2, which states: a municipal council does not have the power to enact any code, ordinance, or land use regulation that would prohibit a gas company, public utility, or dept of public utilities from furnishing services to a utility customer, or purchasing, using or connecting a utility service based on the energy source of the utility service; however, there could be an argument that a PUD is optional and therefore this RC is not prohibitive. Because of the existing statute, we think this RC could invite reasonableness challenges.</p>	<p>Corporation Counsel indicated that they are only planning to install electricity, so it would be up to the individual unit owner to request a gas line be added.</p>
7	Flaherty	Sustainability	Pending	<p>The significant cost of LEED or other energy system standards cuts against the affordability of the housing in the PUD and therefore, may push the line of reasonability; however, efficiency makes the homes more affordable in the long run. This RC is not contrary to any Indiana laws.</p>	
8	Flaherty	Land Use	Pending	<p>This RC does not conflict with any laws and is not a material change to the PUD, which is not platted and is in the design phase. We think there are strong arguments that this condition is reasonable.</p>	
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11	Flaherty	Land Use	Pending	The Indiana Fire Code: 675, Article 22, Section 6, Chapter 5: 503.1 requires fire apparatus access roads to be provided within 150 feet of every building. 503.2.1, requires newly constructed fire apparatus roads to be at least 20' in width; however, 503.1 has an exception that allows for fire apparatus access roads to be further than 150 away if the building is equipped with a sprinkler system; the Council has also faced this issue before in the South Dunn PUD, which passed with narrower roads. Based on the exceptions and precedent, we believe there is a good argument that this RC is reasonable.	Corporation Counsel indicated that the fire chief will be at tonight's hearing in support of the Petitioner.
12	Flaherty	Land Use	Pending	This RC is not contrary to any laws; however, Corporation Counsel claims that this change would necessitate the removal of a building that the City was planning to repurpose for a police station. If this is true, then that would call into question the reasonability of this condition due to the expense and scope of the project, as well as the impact on the City (to the extent that this is a confirmed plan and the police department has budgeted for it, etc.). If this does not necessitate the moving/ demolishing of a building, we think this RC is reasonable.	

13	Rosenbarger	Short Term rentals	Pending	This RC is in conflict with HEA 1210, Section 229, which will amend IC 36-1-20-3.6. to state that a unit may not adopt or enforce an ordinance, resolution, regulation, policy, or rule that prohibits or restricts an owner of a privately owned residential property from using the roperty as a rental property. Additionally, statutes IC 36-1-24-8, 9 also hold that short term rentals are permitted and that zoning restrictions cannot prohibit or restrict short term rentals. Therefore we believe this RC would likely be found unreasonable by a court.	Corporation Counsel expressed that they would ask the HOA to impose these restrictions. It may be worth asking them for a written commitment to that.
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PUD Affordable Housing Requirements under the UDO

UDO 20.06.070(c)(4):

(4) Approval Criteria for Rezoning to a Planned Unit Development (PUD) District. **The Plan Commission and Common Council shall only approve a petition for rezoning to a PUD district if they determine that the petition:**

(A) Is consistent with the purpose of this UDO and the purpose of Section [20.02.050](#) (Planned Unit Development (PUD) District); and

(B) The petitioner has demonstrated that the proposed rezoning is compatible with surrounding development or can be made compatible with surrounding development through commitments or conditions; and

(C) Any portion of the PUD zoning district to be occupied by multifamily, mixed-use, or industrial development shall provide a greater level of internal connectivity and connectivity to surrounding developments than would be required by this UDO if the project were not being developed in a PUD zoning district; and

(D) Each multifamily, mixed-use, or nonresidential principal structure in the PUD zoning district shall provide a greater level of design quality than would be required by this UDO if the project were not being developed in a PUD zoning district; and

(E) **At least one of the following criteria are met:**

i. The proposed PUD zoning district will include construction of a substantial open space, recreational, entertainment, or cultural amenity that will be open to and usable by the general public, and that would not otherwise be required by this UDO. Reconfiguration of open space required by this UDO does not satisfy these criteria;

ii. The proposed PUD zoning district will protect a significant ecological, natural, historical, architectural, or archeological resource that was not already protected from development by this UDO or by state or federal law. Avoidance of designated floodplains or wetland areas, or the provision of additional buffers around such areas, does not satisfy these criteria; or

iii. **The proposed PUD zoning district provides affordable housing beyond the amounts that the petitioner would have been required to provide in order to earn a tier 1 or tier 2 affordable housing incentive under Section [20.04.110\(c\)\(5\)](#) (Affordable Housing Incentives) by either:**

1. **Income-restricting at least ten percent more of the dwelling units** at or below the income levels required to earn a tier 1 or tier 2 incentive; or

2. Income restricting the same number of dwelling units required to earn a tier 1 or tier 2 affordable housing incentive, but limiting incomes to at least ten percent lower AMI level than would have been required to earn a tier 1 or tier 2 incentive under Section 20.04.110(c)(5) (Affordable Housing Incentives).

20.04.110(c):

(c) Affordable Housing.

(1) Purpose. The purpose of these standards is to encourage the provision of affordable housing for very low-, low-, and moderate-income households. Affordable housing is necessary to help maintain a diverse housing stock and to allow all residents to have better access to jobs and to improve their economic status.

(2) Eligibility. Projects that satisfy one of the following criteria shall be eligible for the incentives established in subsection (5) below (this is where 20.04.110(c)(5) comes in):

(A) Tier 1.

- i. At least sixty percent of the total gross floor area of the building (including additional area awarded with an incentive) is dedicated to residential dwellings; and
- ii. A minimum of fifteen percent of the total dwelling units (including those on floors awarded with an incentive) are income-restricted permanently, unless otherwise adjusted or forfeited by the City, to households earning less than one hundred twenty percent of the HUD AMI for Monroe County, Indiana;

Analysis:

Based on above statutes, the PUD has to do either of the following:

1. At least 25% of the dwelling units are income restricted to households below 120% AMI (*Corp. Counsel has suggested RC 4 be amended to be in line with this option*)
2. At least 15% of the dwelling units are income restricted to households below 110% AMI

Energy Efficiency Statutes

IC 8-1-2-101.2Municipal council or county executive prohibited from regulating utility service based on energy source used

Sec. 101.2. (a) The following definitions apply throughout this section:

(1) "Energy source" means:

(A) the method of generation; or

(B) the fuel source;

used to provide or supply utility service to a customer. The term includes any energy source used to provide utility service, including a clean energy resource (as defined in [IC 8-1-37-4](#)).

(2) "Executive" has the meaning set forth in [IC 36-1-2-5](#).

(3) "Municipal council" has the meaning set forth in section 1(b) of this chapter.

(4) "Utility service" means any service provided by a liquid petroleum gas company, a public utility, or a department of public utilities relating to:

(A) the generation, production, transmission, or distribution of electricity or thermal energy to or for the public, for compensation; or

(B) the production, manufacture, storage, transportation, distribution, sale, or furnishing of:

(i) natural gas;

(ii) artificial or manufactured gas; or

(iii) a mixture of natural gas and artificial or manufactured gas;

to or for the public, for compensation;

for heat, light, power, or other uses.

(b) A municipal council or county executive does not have the power to enact any code, ordinance, or land use regulation that would prohibit or have the effect of prohibiting, or to otherwise regulate in a manner that would prohibit or have the effect of prohibiting:

(1) a liquid petroleum gas company, a public utility, or a department of public utilities from furnishing utility service to a utility customer; or

(2) a customer of a liquid petroleum gas company, a public utility, or a department of public utilities from:

(A) purchasing;

(B) using; or

(C) connecting or reconnecting to;

a utility service;

based on the energy source of the utility service.

(c) This section does not prohibit a liquid petroleum gas company, a public utility, or a department of public utilities from disconnecting utility service to a customer in accordance with the company's, utility's, or department's approved terms and conditions for service, including when an imminent danger to public safety exists.

As added by P.L. 180-2021, SEC. 1.

Indiana Fire Code:

Part III—Building and Equipment Design Features

CHAPTER 5

FIRE SERVICE FEATURES

SECTION 501 GENERAL

501.1 Scope. Fire service features for buildings, structures and premises shall comply with this chapter.

501.2 Permits. A permit shall be required as set forth in Sections 105.6 and 105.7.

501.3 Construction documents. *Construction documents* for proposed fire apparatus access, location of *fire lanes*, security gates across fire apparatus access and *construction documents* and hydraulic calculations for fire hydrant systems shall be submitted to the fire department for review and approval prior to construction.

501.4 Timing of installation. When fire apparatus access roads or a water supply for fire protection is required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction except when *approved* alternative methods of protection are provided. Temporary street signs shall be installed at each street intersection when construction of new roadways allows passage by vehicles in accordance with Section 505.2.

SECTION 502 DEFINITIONS

502.1 Definitions. The following terms are defined in Chapter 2:

■ AGENCY.

FIRE APPARATUS ACCESS ROAD.

FIRE COMMAND CENTER.

FIRE DEPARTMENT MASTER KEY.

FIRE LANE.

KEY BOX.

■ TRAFFIC CALMING DEVICES.

SECTION 503 FIRE APPARATUS ACCESS ROADS

503.1 Where required. Fire apparatus access roads shall be provided and maintained in accordance with Sections 503.1.1 through 503.1.3.

503.1.1 Buildings and facilities. *Approved* fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section

and shall extend to within 150 feet (45 720 mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an *approved* route around the exterior of the building or facility.

Exception: The *fire code official* is authorized to increase the dimension of 150 feet (45 720 mm) where:

1. The building is equipped throughout with an *approved automatic sprinkler system* installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.
2. Fire apparatus access roads cannot be installed because of location on property, topography, waterways, nonnegotiable grades or other similar conditions, and an *approved* alternative means of fire protection is provided.
3. There are not more than two Group R-3 or Group U occupancies.

503.1.2 Additional access. The *fire code official* is authorized to require more than one fire apparatus access road based on the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access.

503.1.3 High-piled storage. Fire department vehicle access to buildings used for *high-piled combustible storage* shall comply with the applicable provisions of Chapter 32.

503.2 Specifications. Fire apparatus access roads shall be installed and arranged in accordance with Sections 503.2.1 through 503.2.8.

503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm), exclusive of shoulders, except for *approved* security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm).

503.2.2 Authority. The *fire code official* shall have the authority to require an increase in the minimum access widths where they are inadequate for fire or rescue operations.

503.2.3 Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities.

503.2.4 Turning radius. The required turning radius of a fire apparatus access road shall be determined by the *fire code official*.

675 IAC 22-2.5-6 Chapter 5; fire services features (*Amendments to the above statute*)

Sec. 6. Chapter 5 is amended as follows: (a) Amend Section 501.2 to delete the text and insert to read as follows: Address Identification. When not required by local ordinance, buildings shall be provided with approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road frontage fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of 4 inches (101.6 mm) high with a minimum stroke width of .5 inch (12.7 mm). Address numbers shall be maintained.

(b) Amend Section 501.3 to delete "and approval" without substitution.

(c) Amend Section 502.1 to insert a new definition as follows: FIRE APPARATUS ACCESS ROAD. A road that provides not only fire apparatus access for the servicing fire department, but provides same access for any local or state law enforcement agency, for any servicing emergency medical agency and for any local or state emergency response agency to a facility, building or structure or portion thereof. This is a general term inclusive of all other terms such as fire lane, public street, private street, also public or private lot and lane and access roadway.

(d) Amend Section 503.1.1 to delete the text and insert as follows: Buildings and facilities. Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet (45.72 m) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured around the perimeter of the exterior of the building or facility.

Exception: Buildings protected throughout by a supervised automatic fire sprinkler system and not used for high-piled combustible storage in excess of twelve thousand (12,000) square feet.

(e) Add Section 503.1.4 to read as follows: 503.1.4. For exterior lumber storage, see Section 2809.

(f) Amend Section 503.2.2 to delete the text and insert the following: Vertical clearances or widths required by this section shall be increased when vertical clearances or widths do not provide fire apparatus access for the largest vehicle available to the servicing fire department.

(g) Amend Section 503.2.3 to delete the text and insert as follows: Fire apparatus access roads shall be designed, constructed and maintained to support the imposed live loads of the heaviest piece of fire department apparatus available to the servicing fire department and shall be provided with a surface so as to provide all-weather driving capability with required ground clearances from chassis frame and appurtenances.

(h) Amend Section 503.2.4 to delete the text and insert the following: The turning radius of a fire apparatus access road shall be determined after consultation with the servicing fire department and shall be at least equal to the minimum required radius for the fire apparatus. Such roads shall be designed and constructed to permit turning of the longest piece of fire apparatus available to the servicing fire department.

(i) Amend Section 503.2.5 to delete the text and insert the following: Dead-end fire apparatus access roads in excess of one hundred fifty (150) feet in length shall be designed and constructed so as to allow the turning around of the longest piece of fire apparatus available to the servicing fire department.

(j) Amend Section 503.2.6 as follows:

(1) In the first sentence, after "in", insert "an approved manner".

(2) In the first sentence, delete "accordance with AASHTO HB 17".

(3) In the third sentence, delete "when required by the code official".

(4) Amend the last sentence to delete the text and insert to read as follows: Where elevated surfaces designed for emergency vehicle use are adjacent to surfaces which are not designed for such use, approved barriers or approved signs shall be installed.

(k) Amend Section 503.2.7 to delete the text and insert to read as follows: The gradient for all fire apparatus access roads shall not exceed the maximum that the apparatus available to the servicing fire department can accommodate.

(l) Amend Section 503.2.8 to delete the title and text and insert to read as follows: Angles of approach, breakover, and departure. The angles of approach, breakover and departure for fire apparatus access roads shall be within the navigational limits of the largest piece of apparatus available to the servicing fire department.

(m) Amend Section 503.3 to delete the text and insert to read as follows: When required by local ordinance, signs, or other notices shall be provided and maintained for the fire apparatus access roads to identify such roads and prohibit the obstruction thereof.

(n) Amend Section 503.4.1 to delete the text and insert the following: Traffic calming devices. Traffic calming devices installed on fire department access roads shall

accommodate all navigational requirements of the largest piece of apparatus available to the servicing fire department, in accordance with Section 503.2.

Short Term Rental Statutes

HB SECTION 229. IC 36-1-20-3.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]:

Sec. 3.6. (a) Except as provided in subsections (c) and (d), a unit may not adopt or enforce an ordinance, resolution, regulation, policy, or rule that: (1) prohibits or restricts an owner of a privately owned residential property from using the property as a rental property; or (2) has the effect of prohibiting or restricting the use of property as a rental property. (b) This section does not prohibit a unit from enforcing any: (1) generally applicable health and safety regulations; (2) building codes, fire codes, or reasonable occupancy standards; or (3) registration or inspection requirements set forth in this chapter, provided the requirements do not operate to impose a cap or limit described in subsection (a). (c) A unit that has adopted an ordinance, resolution, regulation, policy, or rule before January 1, 2026, other than an ordinance, resolution, regulation, policy, or rule described in subsection (d), that does not comply with subsection (a) is exempt from the provisions of this section until January 1, 2028, at which time a unit described in this subsection shall comply with this section. (d) A unit that has adopted a short term rental ordinance, resolution, regulation, policy, or rule before January 1, 2018, in compliance with IC 36-1-24 (as enacted in HEA 1035-2018) is exempt from this section.

IC 36-1-24-8 Owner occupied short term rental property is a permitted residential use

Sec. 8. A short term rental of owner occupied short term rental property is a permitted residential use under any applicable zoning ordinance of a unit and may not be disallowed by any zoning ordinance (as defined in [IC 36-7-1-22](#)) in a zoning district or classification of a unit that permits residential use.

As added by P.L. 73-2018, SEC. 1.

IC 36-1-24-9 Short term rental property that is not an owner occupied short term rental property; special exception; zoning variance

Sec. 9. (a) This section applies only to a short term rental property that is not an owner occupied short term rental property.

(b) A unit may require a special exception, special use, or zoning variance for the short term rental property that is in a residential zoning district or classification of a unit. However, the unit may not interpret and enforce the unit's zoning regulations for a special

exception, special use, or zoning variance in a manner that is intended or has the effect of prohibiting or unreasonably restricting short term rentals of property to which this section applies. Denial of a special exception, special use, or zoning variance for the short term rental property may be appealed in accordance with [IC 36-7-4](#).

As added by P.L.73-2018, SEC.1.