

COUNCIL BILL NO. 1774, as amended**INTRODUCED BY JOHN D. MICKS****ORDINANCE NO. 1683**

AN ORDINANCE OF THE CITY OF DUBOIS AMENDING: (1) CHAPTER 27, PART 16, REVISING THE VARIOUS USES ALLOWED WITHIN THE INDUSTRIAL PARK DISTRICT; (2) ADDING CONDITIONAL USE CRITERIA FOR MOTOR VEHICLE SALES FACILITIES; (3) REVISING THE VARIOUS USES ALLOWED WITHIN THE COMMERCIAL HIGHWAY DISTRICT; (4) ADDING CONDITIONAL USE CRITERIA FOR SHOPPING CENTERS AND HOME IMPROVEMENT AND BUILDING SUPPLY STORES, AND COMMERCIAL RECREATION FACILITIES; AND, (5) ADDING NEW DEFINITIONS FOR COMMERCIAL RECREATION FACILITIES, MOTOR VEHICLE SALES, HOME IMPROVEMENT AND BUILDING SUPPLY STORES, AND SHOPPING CENTERS.

BE IT ENACTED AND ORDAINED by the Council of the City of DuBois as follows:

Section 1. Chapter 27, Part 16, Section 1600, Subsection E entitled "Transitional Uses" is hereby revised to repeal the uses set forth therein and to substitute instead the following language:

(1) Permitted Uses

- a) Paper box factory.
- b) Distribution plant, including warehousing, wholesale business, and parcel delivery of appliances, food, clothing and paper products, and household goods and furniture.
- c) Laboratories - experimental, photo or motion picture, film, or testing.
- d) Manufacture, fabrication and maintenance of electric and neon signs, light sheet metal products, and also, including plumbing, heating or electrical contracting business.
- e) Manufacturing, fabricating, compounding, assembling, or treatment of merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feather, paper, plastics, powdered metals, precious or semi-precious metals or stones, shell, textiles, yards, wood, and paint not employing a boiling process.
- f) Manufacture, fabricating, compounding, canning, packaging, or treatment of such products as bakery goods, candy, cosmetics dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, and food products, but not including the following: fish and meat products, sauerkraut, vinegar and yeast, except in conjunction with a general food products manufacturing company, and not including the rendering of fats and oils, or the slaughter of animals.

- g) **Manufacture of appliances - electrical or mechanical; instruments and equipment- electronic, musical, precision, or the like; machines - electrical or mechanical, for home or office, and the like; phonographic, radios, telephones, or other instruments or machines for receiving, reproducing, or transmitting sound; watches and clocks, toys, novelties, and rubber and metal products.**
- h) **Printing, lithographing, type composition, ruling and binding establishment.**
- i) **Heavy industry permitted as a special exception if determined by the Zoning Hearing Board to be appropriate to surrounding uses and not deleterious to the overall development of the Industrial Park or the health, safety, and general welfare of neighboring land uses.**
- j) **Schools and related uses.**
- k) **Commercial laundries and dry cleaning plants.**
- l) **Business offices for the conduct of finance and banking; insurance sales and claims; utility services; advertising services; printing, binding and copying services; government services and stenographic services.**
- m) **Offices for the conduct of professional services such as legal, medical, psychological, therapy, dental, orthodontic, real estate, engineering and architectural.**

Prohibited Uses

- (a) **Motor vehicle salvage and storage yards.**
- (b) **Motels and hotels.**
- (c) **Mortuaries and funeral homes.**
- (d) **Any use not specifically permitted by right, special exception or conditional use within this District.**

Conditional Uses

- (a) **Motor Vehicle Sales Facilities subject to the following specific criteria and those of Section 1600.E(3)(c) of this Ordinance as set forth below:**

The use shall be limited to the sale of passenger vehicles, not heavy equipment, both as defined herein;

No vehicles other than those specifically for sale shall be displayed on the premises and the demolition or junking of motor vehicles is prohibited;

- iii. Any parts removed from serviced or repaired vehicles shall not remain on the site longer than thirty (30) days;
 - iv. No outdoor storage of parts, equipment, lubricants, fuel, or other materials new, used or discarded, as part of the sales, service or repair operation, shall be permitted;
 - v. All uses involving drive-through service shall provide sufficient on-site stacking lanes to prevent vehicle backups on adjoining roads;
 - vi. All exterior vehicle storage areas shall be screened from adjoining residential properties;
 - vii. All service and/or repair activities shall be conducted within a building. Any ventilation equipment outlets associated with the service/repair work area(s) shall not be directed toward any adjoining property within a residential district;
 - viii. The applicant shall furnish evidence of how the handling, storage, dispensing and disposal of fuels, oils and other related fluids and materials will be accomplished in a manner that complies with all applicable local, State and Federal regulations;
 - ix. The applicant shall submit and continuously implement a working plan for the collection and proper disposal of litter and debris; and,
 - x. If an outside public address system is to be utilized, the applicant shall submit evidence that the proposed public address system use will comply with the standards relating to sound contained in Section 1602.1. of this Ordinance.
- (b) Motor Vehicle Service and Repair Facilities subject to the following specific criteria and those of Section 1600.E(3)(c) of this Ordinance as set forth below:

The use shall be limited to working upon passenger vehicles, not heavy equipment, both as defined herein;

- ii. All vehicles shall be repaired and removed from the premises promptly and the demolition or junking of motor vehicles is prohibited;
- iii. Any parts removed from repaired vehicles shall not remain on the site longer than thirty (30) days;
- iv. No outdoor storage of parts, equipment, lubricants, fuel, or other materials new, used or discarded, as part of the service or repair operation, shall be permitted;
- v. All uses involving drive-through service shall provide sufficient on-site stacking lanes to prevent vehicle backups on adjoining roads;

- vi. All exterior vehicle storage areas shall be screened from adjoining residential properties. The storage of vehicles on the property without current registration or inspection is prohibited;
 - vii. All service and/or repair activities shall be conducted within a building. Any ventilation equipment outlets associated with the service/repair work area(s) shall not be directed toward any adjoining property within a residential district;
 - viii. The applicant shall furnish evidence of how the handling, storage, dispensing and disposal of fuels, oils and other related fluids and materials will be accomplished in a manner that complies with all applicable local, State and Federal regulations;
 - ix. The applicant shall submit and continuously implement a working plan for the collection and proper disposal of litter and debris; and,
 - x. If an outside public address system is to be utilized, the applicant shall submit evidence that the proposed public address system use will comply with the standards relating to sound contained in Section 1602.1. of this Ordinance.
- (c) All conditional uses permitted within this Section 1600.E(3) shall demonstrate compliance with the following criteria and submit the necessary materials to verify that:

- i. the proposed use will not adversely affect the safe function of adjoining streets and intersections through the preparation of a qualified traffic study;
- ii. the proposed use has sufficient off-street parking and loading on the subject property;
- iii. the proposed access drive(s) are located and designed so as not to obstruct traffic flow on adjoining roads;
- iv. the proposed use will not constitute a detriment to the neighborhood or the use of surrounding properties; and,
- v. the proposed use complies with all other rules and regulations of the Industrial Park District without exception.

Section 2. Chapter 27, Part 18, Section 1801, Subsection 2. is hereby revised to alphabetically add the following definitions:

COMMERCIAL RECREATION FACILITY – An activity operated as a business, open to the public, for the purpose of public recreation or entertainment, including but not limited to, bowling alleys, drive-in motion picture facilities, swimming pools, health clubs, miniature golf courses, museums, etc. This does not include adult arcades, adult bookstores, adult cabarets or adult motels as regulated in Chapter 10, Part 4 of the Code of Ordinance of the city of DuBois.

HOME IMPROVEMENT & BUILDING SUPPLY STORE – A commercial business that specializes in providing materials, tools and related services associated with the construction, maintenance and repair of buildings, landscaping and property.

MOTOR VEHICLE SALES FACILITIES – A principal use devoted to the retail sale of passenger vehicles. This use shall also expressly include the servicing, repair, maintenance and reconstruction, of passenger vehicles and car washes that are operated accessory to the principal sales operation.

*SHOPPING CENTER - Two (2) or more stores or other similar businesses that are designed to function as a unit, with shared vehicular access, off-street parking and signage.

Section 3. Chapter 27, Part 13, Section 1300 entitled "Uses Permitted" (within the Commercial Highway District) is hereby revised to repeal the uses set forth therein and to substitute instead the following language:

"§1300. Uses Permitted - The following uses shall be permitted only if they do not cause objectionable impact due to odor, dust, smoke, noise, vibration or other similar causes, and there shall be no manufacture, compounding, processing, or treatment of products other than that which is clearly incidental and essential to a use and when all such products are sold at retail on the premises.

1) Permitted Uses

- a) Multi-family residential use (three (3) or more units) only, subject to controls and restrictions set forth herein.
- b) Public garage and motor vehicle filling stations, (See Part 2, §200), hotels, motels, restaurants, drive-in restaurants, supermarkets, theatres, laundromats, commercial laundries and dry cleaning plants, and drug stores.
- c) Business offices for the conduct of finance and banking; insurance sales and claims; utility services; advertising services; printing, binding and copying services; government services and stenographic services.
- d) Offices for the conduct of professional services such as legal, medical, psychological, therapy, dental, orthodontic, real estate, engineering and architectural.
- e) Retail stores, shops and boutiques, including but not limited to grocery stores.
- f) Schools and related uses.
- g) Other uses similar in character to those enumerated above.

2) Conditional Uses

- a) Shopping centers with any of the uses allowed within the Commercial Highway District, subject to the following requirements:

- i. The subject property shall front on an arterial or collector road, and all access drives shall be set back at least two hundred feet (200') from the intersection of any street right-of-way lines;
- ii. Both public sewer and public water shall be utilized;
- iii. Off-street parking spaces shall be provided at a rate of one (1) per 200 square feet of gross floor area;
- iv. Off-street loading shall be provided at a rate of one space per 25,000 square feet, or fraction thereof, of gross floor area;
- v. In addition to vehicular access to the property, the applicant shall be required to design and construct on-site connections to adjoining sidewalks;
- vi. Unless deferred by the City Council, the applicant shall be required to provide an improved bus stop along any established route of public bus transport;
- vii. Adequate lighting shall be provided for the security of patrons that will be arranged so as not to cast glare onto adjoining roads and properties. Such lighting must comply with the requirements of Section 1601.7. of this Ordinance;
- viii. The proposed shopping center shall comply with the following standards:

| Shopping Center Design Requirements | |
|---|----------------------|
| Minimum Lot Area for Total Site | 5 acres |
| Minimum Lot Area for Individual Outparcels | 1 acre |
| Minimum Lot Width for Total Site | 250 feet |
| Minimum Lot Width for Individual Outparcels | 100 feet |
| Maximum Permitted Building Coverage | 30% |
| Maximum Permitted Lot Coverage (all impervious surfaces) | 93% |
| Minimum Required Front Yard Setback for Buildings, Off-street Loading and Waste Receptacles | 60 feet |
| Minimum Required Side Yard Setbacks for Buildings, Off-street Loading and Waste Receptacles | 25 feet on all sides |
| Minimum Required Rear Yard Setback for Buildings, Off-street Loading and Waste Receptacles | 20 feet |
| Minimum Required Setbacks for Off-street Parking Spaces | 5 feet |
| Maximum Permitted Height | 40 feet |

- ix. Signage within the shopping center shall be provided in accordance with the following standards:

The subject property shall front on an arterial or collector road, and all access drives shall be set back at least two hundred feet (200') from the intersection of any street right-of-way lines;

- ii. Both public sewer and public water shall be utilized;
- iii. Off-street parking spaces shall be provided at a rate of one (1) per 200 square feet of gross floor area;
- iv. Off-street loading shall be provided at a rate of one space per 25,000 square feet, or fraction thereof, of gross floor area;
- v. In addition to vehicular access to the property, the applicant shall be required to design and construct on-site connections to adjoining sidewalks;
- vi. Unless deferred by the City Council, the applicant shall be required to provide an improved bus stop along any established route of public bus transport;
- vii. Adequate lighting shall be provided for the security of patrons that will be arranged so as not to cast glare onto adjoining roads and properties. Such lighting must comply with the requirements of Section 1601.7. of this Ordinance;
- viii. The proposed shopping center shall comply with the following standards:

| Shopping Center Design Requirements | |
|---|----------------------|
| Minimum Lot Area for Total Site | 5 acres |
| Minimum Lot Area for Individual Outparcels | 1 acre |
| Minimum Lot Width for Total Site | 250 feet |
| Minimum Lot Width for Individual Outparcels | 100 feet |
| Maximum Permitted Building Coverage | 30% |
| Maximum Permitted Lot Coverage (all impervious surfaces) | 93% |
| Minimum Required Front Yard Setback for Buildings, Off-street Loading and Waste Receptacles | 60 feet |
| Minimum Required Side Yard Setbacks for Buildings, Off-street Loading and Waste Receptacles | 25 feet on all sides |
| Minimum Required Rear Yard Setback for Buildings, Off-street Loading and Waste Receptacles | 20 feet |
| Minimum Required Setbacks for Off-street Parking Spaces | 5 feet |
| Maximum Permitted Height | 40 feet |

- ix. Signage within the shopping center shall be provided in accordance with the following standards:

| Shopping Center Sign Requirements | | | |
|--|--|---|---|
| Sign Type | Maximum Number Permitted | Maximum Permitted Sign Area | Other Requirements |
| Freestanding Shopping Center Sign | 1 per street frontage | 1 square foot per 2 lineal feet of storefront, up to 225 square feet maximum. | No less than 20% of the sign area (per side) shall display the shopping center name. |
| Anchor Tenant Sign (for use with more than 150 lineal feet of storefront) | six per side facing a street up to a maximum of seven signs. | 1 square foot per 1 lineal feet of storefront up to a maximum of 300 square feet. | These signs shall only be provided as flat wall, wall projecting or roof signs. |
| Storefront Sign (for use with up to 150 lineal feet of storefront) | 1 per side facing a street up to a maximum of two signs. | 2 square feet per 1 lineal feet of storefront up to a maximum of 150 square feet. | These signs shall only be provided as flat wall, wall projecting or roof signs. |
| Under canopy signs for all uses. | 1 per 100 lineal feet of storefront. | 4 square feet per sign | No under-canopy sign shall have a vertical dimension of more than 18 inches from its lowest to highest point. The base of an under-canopy sign shall be no less than 8 feet, 6 inches above the finished grade below such sign. |
| Outparcel Signs for principal freestanding uses sharing common vehicular access with the shopping center | 2 per principal use but 1 per wall. | No more than 20% of the area of the wall. | These signs shall only be provided as flat wall signs, wall projecting signs or roof signs. |
| <p>For the purposes of this table the following lists definitions of various sign types.</p> <p><u>Freestanding sign</u> - Any sign erected upon a permanently affixed independent structure (legs or base) so that such structure is the main support of the sign.</p> <p><u>Flat wall sign</u> - A sign erected, or displayed on, or parallel to the surface of a building.</p> <p><u>Wall projecting sign</u> - Any sign mounted upon a building so that its principal face is not parallel to the building wall.</p> <p><u>Roof sign</u> - A sign erected or displayed upon the roof of any building or structure or a wall sign, a portion of which exceeds the height of the building.</p> | | | |

- xi. In reviewing applications for shopping centers, the City shall require approval of a conditional use in accordance with the requirements set forth in this Section and the general regulations listed in Section 1300.2)e) of this Ordinance. Once the shopping center has gained conditional use approval, any change in occupancy that does not affect the layout of the site (except for the changing of outdoor signs) does not

require another conditional use approval. Any change that affects the layout of the site will require another conditional use approval.

- b) Home improvement and building supply stores, subject to the following requirements:
- i. The subject property shall front along an arterial or collector road or be part of a shopping center with direct vehicular access to an arterial or collector road;
 - ii. The exterior retail sales area shall be all areas open for public display, including, but not limited to, shelves, racks, bins, stalls, tables, and booths, plus any adjoining aisles or walkways from which consumers can inspect items for sale that are not within a completely enclosed building;
 - iii. Off-street parking shall be provided at the rate of one (1) space for each two hundred (200) square feet of gross floor area, plus one (1) space for each five hundred (500) square feet of exterior retail sales area;
 - iv. Off-street loading space shall be provided at a rate of 1 space per each 25,000 square feet, or fraction thereof, of gross floor area;
 - v. All exterior retail sales areas shall include a dust-free surface and a completely-enclosed minimum six foot (6') high fence;
 - vi. All exterior storage and retail sales area (exclusive of nursery and garden stock) shall be screened from adjoining roads and properties;
 - vii. The applicant shall furnish expert evidence that any exterior amplified public address system will comply with Section 1602.1. of this Ordinance;
 - viii. The applicant shall furnish expert evidence that any exterior lighting has been arranged and designed so as to comply with Section 1601.7. of this Ordinance;
 - ix. Any drilling, cutting, sawing, mixing, crushing, or other preparation of building materials, plus any testing or repair of motorized equipment, shall be conducted within a completely-enclosed building;
 - x. The applicant shall submit a working plan for the collection, recycling and disposal of litter and wastes.
 - xi. The proposed use shall comply with the following design standards:

| Home Improvement & Building Supply Store Design Requirements | |
|---|----------------------|
| Minimum Lot Area | 2 acres |
| Minimum Lot Width | 200 feet |
| Maximum Permitted Building Coverage | 30% |
| Maximum Permitted Lot Coverage (all impervious surfaces) | 93% |
| Minimum Required Front Yard Setback for Buildings, Off-street Loading, Exterior Retail Sales Area and Waste Receptacles | 60 feet |
| Minimum Required Side Yard Setbacks for Buildings, Off-street Loading, Exterior Retail Sales Area and Waste Receptacles | 25 feet on all sides |
| Minimum Required Rear Yard Setback for Buildings, Off-street Loading, Exterior Retail Sales Area and Waste Receptacles | 20 feet |
| Minimum Required Setbacks for Off-street Parking Spaces | 5 feet |
| Maximum Permitted Height | 40 feet |

- xii. The proposed use shall comply with those general regulations listed in the Section 1300.2)e) of this Ordinance.
- c) Grocery stores having a minimum floor size of 50,000 square feet that are part of a shopping center may offer motor vehicle filling pump islands, subject to the following specific criteria:

The applicant shall demonstrate that the handling, storage, dispensing and disposal of fuels, oils and other related fluids will be accomplished in a manner that complies with all applicable local, State and Federal regulations;

- ii. No fueling pumps shall be located closer than three hundred (300) feet to any lot line of a school, hospital or public institution for human care;
- iii. The applicant shall prepare and continuously implement a working plan of the collection and proper disposal of litter and debris;
- iv. If an outside public address system is to be utilized, the applicant shall submit evidence that the proposed public address system use will be designed and operated in a manner to comply with the standards relating to sound contained in Section 1602.1. of this Ordinance;
- v. Off-street parking shall be provided at the rate of 2 spaces per each fuel pump nozzle;
- vi. The location and arrangement of the proposed fuel islands and related access drives shall not cause traffic back-up onto adjoining roads or interfere with safe and convenient access to the off-street parking lot associated with the grocery store;
- vii. Adequate lighting shall be provided for the security of patrons that will be arranged so as not to cast glare onto adjoining roads and properties. Such

lighting must comply with the requirements of Section 1601.7. of this Ordinance;

- viii. The motor vehicle filling operation shall be supervised with on-site personnel at all times during hours of operation;
- ix. No servicing or cleaning of vehicles or the sales of vehicle parts shall be permitted aside from those items normally incidental with vehicle fueling activities (e.g. oil, coolant, washer fluid, gas treatment, pressurized air and etc.); and,
- x. The proposed use shall comply with those general regulations listed in the Section 1300.2)e) of this Ordinance.

d) Commercial recreation facilities subject to the following criteria:

If the subject property contains more than two acres, it shall front on an arterial or collector road or be part of a shopping center that has direct vehicular access to an arterial or collector road;

Those uses involving outdoor activities shall provide sufficient screening and/or landscaping measures to mitigate any visual impacts on adjoining properties;


- iii. If an outside public address system is to be utilized, the applicant shall submit evidence that the proposed public address system use will be designed and operated in a manner to comply with the standards relating to sound contained in Section 1602.1. of this Ordinance;
- iv. Structures exceeding the maximum permitted height may be permitted, so long as they are set back from all property lines at least the horizontal distance equal to their height, plus an additional fifty feet (50'). Furthermore, such structures shall not be used for occupancy;
- v. The applicant shall furnish qualified evidence that the proposed use will not be detrimental to the use of adjoining properties due to hours of operation, noise, light, litter, dust, and pollution;
- xi. Adequate lighting shall be provided for the security of patrons that will be arranged so as not to cast glare onto adjoining roads and properties. Such lighting must comply with the requirements of Section 1601.7. of this Ordinance;
- vi. Required parking will be provided in accordance with Part 4 of this Ordinance. In addition, the Council may require an unimproved, grassed, overflow parking area to be provided for peak use periods. Such overflow parking areas shall be accessible only from the interior driveways of the permanent parking lot. Overflow parking areas shall contain fencing to prevent vehicles from crossing adjoining properties or directly accessing adjoining roads;

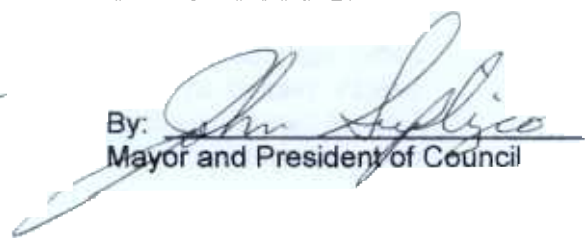
- vii. Any booths or other structures used for the collection of admission and/or parking fees shall be set back and arranged to prevent vehicle backups on adjoining roads during peak arrival periods. Any other collection of fees (roaming parking lot attendants) shall be conducted in a manner to prevent vehicle backups on adjoining roads. If, at any time after the opening of the commercial recreation facility, the Council determines that traffic backups are occurring on adjoining roads, and such backups are directly related to the means of access to the subject property, the Council can require the applicant to revise means of access to relieve the undue congestion;
 - viii. Any outside pedestrian waiting lines shall be provided with a means of shade; and,
 - ix. The proposed use shall comply with those general regulations listed in the Section 1300.2)e) of this Ordinance.
- e) All conditional uses permitted within this Section 1300.2) shall demonstrate compliance with the following criteria and submit the necessary materials to verify that:
- i. the proposed use will not adversely affect the safe function of adjoining streets and intersections through the preparation of a qualified traffic study;
 - ii. the proposed use has sufficient off-street parking and loading on the subject property;
 - iii. the proposed access drive(s) are located and designed so as not to obstruct traffic flow on adjoining roads;
 - iv. the proposed use will not constitute a detriment to the neighborhood or the use of surrounding properties; and,
 - v. unless specified with the respective conditional use criteria, the proposed use complies with all other rules and regulations of the Commercial Highway District without exception.

Section 5. All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

ATTEST:

CITY OF DUBOIS:

By: 
City Manager

By: 
Mayor and President of Council

APPROVED BY COUNCIL:

September 27, 2004