

CHAPTER 23. REVISION HISTORY

CHAPTER 23. US 36 OVERLAY ZONING DISTRICT

| Ordinance # | Plan Commission Approval Date | Town Council Adoption Date | Description |
|--------------------|--------------------------------------|-----------------------------------|---|
| 2008-01 | 12-17-07 | 02-14-08 | Chapter 23: Adoption of Chapter 23 US 36 Overlay Zoning District |
| 2010-20 | 09-27-10 | 10-14-10 | Prohibited Uses and Special Exceptions consolidated into Chapter 27: Permitted Use Table. |
| 2011-10 | 05-23-11 | 06-09-11 | Section 18(4)(A): Waiver Process & Standards |
| 2013-24 | 11-18-13 | 12-05-13 | Section 23-3: Applicability to Existing Development |
| 2016-02 | 11-23-15 | | Section 23-3: Applicability to Existing Development |

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CHAPTER 23. US HWY 36 OVERLAY ZONING DISTRICT

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Section 23-1. Purpose

The purpose of the US Highway 36 Overlay Zoning District is to promote and protect the public health, safety, comfort, convenience, morals and general welfare by providing consistent and coordinated standards for properties adjacent to or near the US Highway 36 Corridor in Avon, Indiana. The Avon Plan Commission and Town Council, in establishing this zone, are relying on IC 36-7-4-600 *et seq.* and IC 36-7-4-1400 *et seq.* The US Highway 36 Overlay Zoning District is intended to serve as a tool for implementing the comprehensive plan. The corridor's character, viability, quality and functionality are important to the Town of Avon because it is the community's primary east-west thoroughfare, and also a major location for commercial uses that contribute to the local economy, and, as such, carries high numbers of local travelers and visitors. Therefore, a further purpose of the US Highway 36 Overlay Zoning District is to preserve and enhance the aesthetic qualities of properties both adjacent and visible from the corridor through:

1. the promotion of coordinated development within the US Highway 36 Overlay Zoning District;
2. the establishment of high standards for development on properties within the overlay zone, including buildings, signs, landscaping, parking and other site improvements, which permit innovative site design while encouraging efficient land use;
3. the establishment of development and use standards that will promote the quality, scale, character and type of development consistent with the corridor's high level of importance to the Town;
4. to diversify the workforce and provide more opportunities for residents of Avon to work in the Town, specifically high tech, office, and higher education;
5. the establishment of access management standards to reduce the number of curb cuts along US HWY 36 and improve traffic flow; and
6. to manage growth in undeveloped areas of town so not to increase traffic volume and degrade the level of service of the corridor.

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Section 23-2. Boundaries

The boundaries of the US Highway 36 Overlay Zoning District for the Town of Avon, Indiana, can be generally described as follows:

Extending north $\frac{1}{4}$ mile from the northern edge of the US Highway 36 right-of-way and extending south to the northern boundary of the railroad, for the entire length of the highway within Avon's corporate limits, but excluding all property that is legally being used as residential. If the residentially used property changes to a non-residential use, that property shall become part of the overlay district and shall conform to the regulations of the US Highway 36 Overlay Zoning District.

Furthermore, the overlay district is divided into three tiers. Each tier may have different zoning regulations. Tier 1 includes the portion of any lot that is within 260 feet from the edge of US Highway 36 right-of-way or in front of the first east/west access road for the highway, regardless of whether there is actual access from the highway. Tier 2 would include all other properties within the overlay district that are not determined to be within Tier 1 or Tier 3. Tier 3 includes all property that is 660 feet or more from the edge of the right-of-way of US Highway 36 and has two or more lots between the edge of the right-of-way and said 660 foot line.

It is the intent of this ordinance to extend this overlay district to include any new properties that are annexed into Avon that would be within the north and south boundaries of the overlay. If only a portion of a lot or tract falls within the overlay district, the entire property must be developed using the standards of the overlay district. Likewise, if any portion of a lot or tract falls within more than one tier, the entire property must be developed using the standards that apply to lowest number tier.

Section 23-3. Applicability to Existing Development

Existing development, which was developed legally, shall be considered non-conforming, with respect to the overlay district standards. In the event of a casualty, natural disaster, or other force majeure event that destroys a structure beyond 50% of its value, a legally existing non-conforming structure may be rebuilt as it was. If it is to be larger than the non-conforming structure that was destroyed, then the new structure, as a whole, must comply with these overlay district standards.

Any of the following proposed changes to an existing legally non-conforming structure or site shall require that the addition or change comply with the overlay district standards:

1. If a proposed addition to a structure equals or exceeds 35% of the total existing building gross floor area of that structure; or
2. If a proposed change to a parking area would result in an increase of 35% or more parking spaces, or an increase in parking lot area of 35% or more.

The following improvements shall not be construed as improvements that will prompt the need to comply with the standards of the overlay:

1. Changes to paint color. Additionally, changes in paint color do not require Plan Commission approval provided the improvement complies with Section 23-18 (2(D)) of this ordinance;
2. Changes to façade materials that do not increase the existing nonconformity; or
3. The addition of landscaping to a legal nonconforming site, that is not in association with improvements listed in numbers 1 and 2 above. All new landscaping shall comply with the Town of Avon's approved species as found in Chapter 16 of the Avon Zoning Ordinance.

Note that the measurement is to be considered a cumulative measurement from the day that this ordinance is enacted, so that once increases reach the 35% threshold, the overlay district standards shall apply. Amendments to approved development plans shall be in compliance with Section 4-8 (9) of the zoning ordinance.

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Section 23-4. Green Design

All new development and major redevelopment within the US Highway 36 Overlay Zoning District is encouraged, but not required to meet the Leadership in Energy and Environmental Design (LEED®) Green Building Rating System certification requirements.

The Town of Avon believes green design not only makes a positive impact on public health and the environment, but it also reduces operating costs, enhances building and organizational marketability, potentially increases occupant productivity, and helps create a sustainable community.

Section 23-5. Uses

When determining whether a use is allowed in the US Highway 36 Overlay Zoning District, first consult the underlying zoning district. If the use is allowed, then consult the following lists to determine if the use is prohibited in the overlay, or if the use requires a special exception in the overlay zone. If a use is legally established at the time the overlay ordinance is enacted, but is no longer permitted according to this section, it shall be considered legally non-conforming, in compliance with Chapter 6 of the zoning ordinance.

Tier 1, 2 & 3 Prohibited Uses and Special Exceptions SEE Chapter 27: Permitted Use Table

A special exception is required for retail development over 40,000 sq. ft. of gross floor area for multi-tenant buildings and 25,000 sq. ft. for single tenant buildings west of SR 267 because of the traffic impacts associated with regional retailers of a larger scale and further to promote responsible growth and development in accordance with the Avon comprehensive plan. In considering special exceptions, the Board of Zoning Appeals should consider whether the proposed land use would adversely impact traffic management in the Town and if so what traffic mitigation measures are proposed for the site as well as the land use vision of the Avon comprehensive plan.

Section 23-6. Accessory Buildings and Uses

All accessory uses and buildings that are permitted in the underlying primary zoning district(s) shall be permitted, unless they are otherwise prohibited in this overlay zoning district. Any attached or detached accessory building shall meet all the standards of this overlay district and shall be architecturally compatible with the Principal Building(s) with which it is associated, unless the plan commission approves alternative architecture. No accessory buildings are permitted unless there is a principal building on the lot or tract.

Section 23-7. Properties with Agricultural Zoning

Properties within the overlay district which are zoned as Agricultural Overlay District and which are used in accordance with the standards of that district shall be considered legally non-conforming upon the adoption of this district. If the agricultural use changes, the property will no longer be considered as legally non-conforming. The adoption of this overlay district should not be construed as a change in zoning.

Section 23-8. Minimum Lot Size

The minimum lot size for new lots within the overlay zoning district shall be one (1) acre, except that for those properties which have an underlying zoning designation of SC, the minimum lot size shall be six (6) acres.

Section 23-9. Setbacks

1. Minimum Front -- The minimum front setback for all lots within Tier 1 is 60 feet. Lots within Tiers 2 and 3 shall comply with the minimum front setback in the underlying primary zoning district.

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2. Maximum Front -- The maximum front setback for all lots within Tier 1 of the overlay district shall be 125 feet. There shall be no maximum front setback for Tier 2 and 3.
3. Minimum Side and Rear -- The minimum side and rear setbacks for all lots within the overlay shall be as required in the underlying zoning district, except where adjacent to any residential use or zone, the minimum shall be 45 feet.

Section 23-10. Building Height

Building height shall comply with the standard in the underlying zoning district.

Section 23-11. Utility Lines

All new on-site utility service lines shall be buried beneath the ground. If US Highway 36 is widened in the future, the Town requests that all overhead utility lines along the highway be buried beneath the ground.

Section 23-12. Parking & Loading

1. Pedestrian Walkways -- The plan commission shall approve all pedestrian walkways. Pedestrian walkways should be coordinated with the interior parking lot landscaping. All surface-parking areas with more than 200 parking spaces shall provide continuous internal pedestrian walkways to connect the parking area with the primary building entrance(s). For all parking areas with more than 50 spaces, there shall be at least one internal pedestrian walkway with a minimum width of 5' that connects the internal pedestrian walkway with the public sidewalk or trail. Pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low-maintenance surface materials such as pavers, bricks, or scored/stamped concrete or asphalt. Further, pedestrian walkways should be coordinated with landscape areas whenever possible or their design of the walkways should provide some other form of protection from vehicles.
2. Parking in Front -- Within Tier 1, the maximum amount of parking that shall be allowed in front of a building shall be 2 rows. Within Tier 2, only the minimum amount of required parking may be located in front of the building. Any extra parking shall be located on the side or rear of the building. Within Tier 3 there is no limit on how much of the approved parking may be placed in front of the building. The plan commission may approve an alternative parking layout.
3. Extra Landscaping Required -- The extra parking area(s) in Tier 1 or Tier 2 that result from an excess of parking over the maximum amount shall be provided with additional landscaping in accordance with Section 23-15 (5), Interior Parking Lot Landscaping, below.
4. Handicapped Parking Spaces -- Handicapped-parking spaces shall comply with state and federal regulations and shall be located the closest to the entrance(s). Whenever possible there should be separation between handicap and pick-up spaces.
5. Pick-up Spaces -- No more than 2 parking spaces may be designated for pick-up and shall be shown on the plan. Pick-up spaces shall be located no closer to the entrance(s) than handicapped spaces. Pick-up spaces shall include a sign, not to exceed 2 square feet which shall count as part of a business's total sign area.
6. Bicycle Parking -- A bicycle parking area may be provided for each building, in an appropriate and accessible location.
7. Loading -- Loading and unloading areas shall not be oriented to US Highway 36 or any other public street and shall in all cases be placed behind the building.

Section 23-13. Drive-Throughs

All components of a drive-through, including stacking spaces, menu boards, and pick-up windows shall be located within the side or rear yards of a lot. In no case shall any of these drive-through components

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be located within the front yard, or in the case of a corner lot, shall not be located in the front yard that faces US Highway 36.

Section 23-14. Access to Individual Tracts

The purpose of this Section is to discourage new curb cuts and to reduce the use of existing curb cuts along U.S. Highway 36. Full access to all tracts from U.S. Highway 36 shall only occur at signalized intersections, as depicted in Avon's Thoroughfare Plan. When development occurs where a future business collector is indicated on the Thoroughfare Plan, the developer shall construct their portion of the business collector (access road). In lieu of access to U.S. Highway 36, tracts shall be accessed via connection to another arterial street, collector street, local street, or access easement through an adjoining parking lot when possible. When other access alternatives are not feasible and adjacent tracts fronting U.S. Highway 36 are undeveloped the Plan Commission may allow right in/right out driveways at a minimum distance of 600 feet from other curb cuts on U.S. Highway 36, in cooperation with the Indiana Department of Transportation. Bicycle and pedestrian circulation to and through the site shall be coordinated with vehicular access, landscaping and parking.

Section 23-15. Landscaping

At the time of planting, all plant materials shall comply with the standards found in the most recent edition of the American Standard for Nursery Stock published by the ANLA. Native/adapted plants should be used whenever possible. Native/adapted plants are indigenous to a locality or cultivars of native plants that are adapted to the local climate and are not considered invasive species or noxious weeds. Landscaping that does not require permanent irrigation systems should be installed whenever possible.

Required plantings may be clustered as long as their placement meets the spirit and intent of the pertinent landscape regulation. The plan commission may approve an alternative-landscaping plan if they determine that it meets the spirit and intent of this ordinance.

1. Tree Sizes -- The following minimum tree sizes shall apply within the overlay district:
 - A. Large deciduous shade tree -- 2½ inch caliper
 - B. Ornamental tree -- 1 ½ inch caliper
2. Parkway Plantings -- Parkway plantings, as required by the underlying zoning regulations, shall still be provided.
3. Front Yard Landscaping -- Each front yard must contain a 20' wide buffer. At a minimum, each 50-linear-foot segment of front yard buffer shall contain 10 shrubs or 1 large deciduous tree from the Town of Avon's a list of approved trees. Public art may be provided in the front yard in lieu of the equivalent of two required large deciduous trees, and must be approved by the plan commission.
4. Foundation Planting -- Foundation planting shall be shown on the landscape plan. If asked, the plan commission may choose to allow the required foundation plantings to be clustered. At least 10% of the foundation planting strip area shall be planted with annuals or perennials.
 - A. Buildings up to 20,000 square feet -- Foundation plantings shall include shrubs, annuals or perennials. At least 10 shrubs shall be required every 50'.
 - B. Buildings 20,000 sq. ft to 50,000 square feet -- Foundation planting areas shall be within 12' of the building when a sidewalk is adjacent to the building. Foundation plantings shall include shrubs, annuals or perennials and ornamental trees. At least one ornamental tree and 10 shrubs shall be required every 50'.
 - C. Buildings over 50,000 square feet -- Foundation planting areas shall be within 18' of the building when a sidewalk is adjacent to the building. Foundation plantings shall include shrubs, annuals or perennials, ornamental trees and large deciduous shade trees. At least one large deciduous shade tree, one ornamental tree and 10 shrubs shall be required every 75'.

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5. Interior Parking Lot Landscaping -- Not less than 7% of the interior of a parking area shall be devoted to landscaping, either located in planting islands or planting medians. In the case of parking that exceeds the maximum number of spaces required, 10% of the interior of the extra parking area shall be devoted to landscaping. There shall be a minimum of one large deciduous tree for every 15 parking spaces. Trees must be clear of branching to at least 6 feet. The landscape area not covered by tree canopy, but within an interior landscape area, shall be covered by shrubs, grass, ground cover, perennials or mulch. Plants may not interfere with visibility. (i.e. Assuming a 10,000 sq. ft. parking lot 700 sq. ft. of interior parking lot landscaping is required; if the parking exceeds the maximum allowed under the ordinance the interior parking lot landscaping required is 1,000 sq. ft.)
6. Perimeter Parking Lot Landscaping --Landscape standards shall apply as they would to the underlying zoning districts, except that there shall be 2 (large deciduous) shade trees for every 70 lineal feet of length. A minimum of 50% of which should be evergreen.

Section 23-16. Signs

A sign plan shall be required during development plan review.

1. Pylon Signs -- No pylon signs shall be permitted, except for integrated centers, which may have such signage in accordance with Section 18-8 of the Avon Zoning Ordinance. Additionally, the pylon sign may not contain a visible metal pole and must be constructed using masonry products.
2. Ground Signs -- Ground signs shall follow the standards set in Section 18-7 of the Avon Zoning Ordinance.
3. Temporary Signs -- Temporary signs shall follow the standards set in Section 18-6 of the Avon Zoning Ordinance.
4. Electronic Message Signs -- Electronic message signs are prohibited within the US Highway 36 Overlay District, per Section 18-2 of the Avon Zoning Ordinance.
5. Wall Signs -- Wall signs shall follow the standards set in Section 18-8 of the Avon Zoning Ordinance. Additionally, wall signs that are part of an integrated center must be consistent within the center, specifically having a complimentary style (e.g., individual channel letters or lighted panel).
6. Off-Premise Advertising or Billboard Signs -- Off-Premise Advertising or Billboard Signs are prohibited within the US Highway 36 Overlay District, per Section 23-5, Uses, above. See also Sections 18-2 and 18-11 of the Avon Zoning Ordinance for additional Off-Premise Advertising or Billboard Sign regulations.

Section 23-17. Exterior Lighting

The underlying zoning districts' exterior lighting standards shall apply to all properties within the US Highway 36 Overlay Zoning District.

Section 23-18. Architectural Design Requirements

The following standards shall apply to all new or substantially renovated buildings within the US Highway 36 Overlay District. All buildings shall be designed with respect to the general character of the US Highway 36 Corridor and shall consider the design of buildings on lots that abut the project site. All buildings within Tier 1 and Tier 2 shall be oriented so that they face U.S. Highway 36. For corner lots, all other elevations facing a public street shall have a front-like façade.

1. Public Spaces
 - A. In order to contribute to the establishment and enhancement of community and public spaces, each integrated center building of 40,000 square feet and over shall provide at least two of the

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following amenities: patio/seating area, pedestrian plaza with benches, transportation center, window shopping walkway, outdoor playground area, kiosk area, water feature, clock tower, or other deliberately shaped area and/or focal feature or amenity, that the plan commission believes will adequately enhance the community and public spaces. All such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials of the building and landscape.

2. Building Materials

- A. Masonry -- Buildings within Tier 1 shall be 80% masonry on all sides. Buildings within Tier 2 shall be 80% masonry, excluding windows and doors, on the side facing US Highway 36 and 50%, excluding windows and doors, on the remaining sides. Buildings within Tier 3 shall follow the existing standards of the Avon Zoning Ordinance, and shall have 60% brick, stone, dryvit, or stucco, excluding windows and doors, on the elevation facing a public street and 30% masonry, excluding windows and doors, on the remaining sides.
- B. Prohibited Materials -- Dryvit, stucco, concrete block (including but not limited to split face), prefabricated steel panels and vinyl siding shall not be used as exterior finish materials within the US Highway 36 Overlay District, except that Dryvit and stucco may only be used as accent materials, covering the balance of the wall after the masonry is applied, except in Tier 3 in which stucco and dryvit are permitted materials. Coating or painting of a prohibited material shall not constitute a permitted material.
- C. Two Different Materials -- A minimum of two different exterior finish materials shall be used for building exteriors, including stone, brick, architectural pre-cast (panels or detailing if the surface looks like brick or stone), architectural metal panels, glass, ornamental metal and Dryvit or stucco when not exceeding the maximum wall coverage in Section 23-18 (2)(B), Prohibited Materials, above. The building(s) must use these materials for all of the exterior finish. The building may not be constructed entirely of a metal and glass curtain wall. Where materials are combined horizontally on one façade, the heavier material must be below.
- D. Color -- A minimum of two different colors shall be used for building exteriors. Colors should be primarily neutral or earth tones. Neutral colors include beige, ivory, taupe, black, grey, and white. Earth tone colors include colors from the palette of browns, tans, greys, greens, and red. Earth tone colors should be flat or muted. The use of high intensity colors, neon or fluorescent color is prohibited. Building trim and accent areas may feature brighter colors, including primary colors, but neon tubing shall not be an acceptable feature for building trim or accent areas. The plan commission shall approve the building's color palette and may approve an alternative color scheme.
- E. Glazing -- Retail buildings shall provide glazing on a minimum of 35% of the ground floor front façade. Side elevations shall contain a minimum of 10% glazing of the ground floor side facade or in lieu of glazing two (2) architectural features. Nothing in these requirements shall be construed as prohibiting the use of stained glass windows for places of worship.

3. Building Design

- A. Articulation -- Building elevations in Tier 1 and Tier 2 that are greater than 60' in length, measured horizontally, shall incorporate wall plane projections or recesses every 40', having a depth of at least 3 feet and a width of at least 20'.
- B. Architectural Features -- Buildings having up to 25,000 square feet within Tier 1 and Tier 2 shall have a minimum of two architectural features, and buildings 25,000 square feet and over within Tier 1 and Tier 2 shall have a minimum of three architectural features. Architectural features shall be selected from the following:
 - (a) Front façade features -- On the elevation of the building that faces US Highway 36, at least 60% of the horizontal length shall have at least one of the following: arcades, display windows, outdoor patios or plazas, entry areas, awnings or other features approved by the plan commission.

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(b) Entrance features -- Each principal building on a site shall have clearly defined, highly visible entrances featuring at least one of the following:

- (1) Canopies or porticos
- (2) Overhangs
- (3) Recesses and/or projections
- (4) Raised cornice parapets over the door
- (5) Peaked roof forms
- (6) Arches
- (7) Architectural details including tile work and moldings integrated into the building structure and design
- (8) Integral planters or wing walls that incorporate landscaped areas and/or places for sitting
- (9) other features approved by the plan commission

* When additional tenant spaces will be located in the principal building, each space shall have at least one exterior entrance that shall conform to the above requirements.

C. Roofs -- Roofs shall include at least two of the following:

- (a) Energy Efficient Rooftop Systems -- Roofs may be constructed of an energy efficient material, in order to reduce the "heat island" effect.
- (b) Parapet -- The average height of a parapet shall not exceed 15% of the height of the supporting wall and at no point shall be taller than 1/3 of the height of the supporting wall. Parapets must feature 3-dimensional cornice treatment.
- (c) Overhanging Eaves -- Eaves shall extend at least 3 feet past the supporting walls.
- (d) Sloping Roof -- Sloping roofs shall have an average slope of at least 1 foot vertical rise for every 3 feet of horizontal run, but no greater than 1 foot of vertical rise for every 1 foot of vertical run.
- (e) Multiple Planes -- There shall be at least 3 different roof slope planes.

D. Fences and Gates -- No fence shall be located within a front yard. Chain link and barbed wire fences are prohibited within the US Highway 36 Overlay District, except that chain link fencing may be used in Tier 3 if it is not visible from a public street. Gates for fences and all other screening walls shall be constructed of metal facing with wood or wood-look PVC slats.

E. Mechanical Equipment or Penetrations -- All mechanical equipment shall be located behind the building. If mechanical equipment is located on a roof, or if there are other roof penetrations, they shall be screened from all streets with a parapet wall or other acceptable method.

4. Waivers of Standards

A. The provisions of Chapter 23, Section 18, subsections 1 through 3 may be waived in accordance with the terms of Chapter 4-8(7)D.

Section 23-19. Trash and Recycling

Trash collection and recycling areas shall be enclosed and screened on all sides, with an opaque wall, a minimum of 7 feet in height, but not exceeding 10 feet in height. Within Tier 1, screening walls shall be constructed of the same building materials as the principal building. Trash collection and recycling areas shall be located in the rear of all buildings, unless the plan commission approves an alternative location.

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