

## **CHAPTER 154: ZONING CODE**

Section 154.01 Zoning code adopted by reference

### **§ 154.01 ZONING CODE ADOPTED BY REFERENCE.**

The city's zoning code is hereby adopted by reference as if set forth at length herein. The zoning code is available for inspection in the office of the Clerk-Treasurer during normal business hours.

#### ***Editor's note:***

*The city's zoning ordinance has been included herein as an appendix to this chapter.*

# CITY ZONING ORDINANCE

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## CHAPTER 1: LEGAL PROVISIONS

### § 1.01 TITLE.

This ordinance shall be known and may be cited hereinafter as the Zoning Ordinance of the City of Columbia City, Indiana.

(1980 Code, Ch. 156, § 1.01) (Ord. 1995-7, passed 6-5-1995)

### § 1.02 REPEAL OF PREVIOUS ORDINANCE.

The City of Columbia City Zoning Ordinance Number 379, adopted on April 12, 1955, and all subsequent amendments thereto, are hereby repealed effective coincident with the effective date of this ordinance.

(1980 Code, Ch. 156, § 1.02) (Ord. 1995-7, passed 6-5-1995)

### § 1.03 PURPOSE.

As established by I.C. 36-7-4-601, the purpose of this ordinance is to regulate and control the zoning of land and the consequent use of said land within the city, and its jurisdictional area, in order to secure adequate light, air, convenience of access; safety from fire, flood, and other danger; lessen or avoid congestion in public ways; and promote the public health, safety, comfort, morals, convenience, and general welfare. To achieve these purposes, these regulations are specifically designed to:

- A. Protect the character and stability of residential, recreation, commercial, industrial, and open space areas within the city and promote their orderly and beneficial development.
- B. Provide privacy and convenience of access to property.
- C. Regulate the intensity of land use and establish open areas surrounding buildings and structures necessary to provide adequate light and ventilation, and to protect public safety and health;
- D. Regulate and limit the height of buildings and structures.
- E. Lessen and avoid congestion on public streets by providing for off-street parking and loading areas.
- F. Regulate and limit the density of population based on the city's ability to provide for water, sewerage, schools, parks, and other essential public services.
- G. Divide the city into zoning districts and establish by reference to a map, the boundaries of said districts.
- H. Fix reasonable standards to which land, buildings, structures, and their uses must conform.
- I. Prohibit uses, buildings, or structures which are incompatible with the character of development or uses, buildings, or structures permitted within specified zoning districts.
- J. Prevent illegal additions or alterations of existing buildings or structures.
- K. Protect against fire, explosion, noxious fumes, odors, heat, dust, smoke, glare, noise, vibration, radioactivity, and other nuisances and hazards, in the interest of the public health, safety, and welfare.
- L. Prevent the overcrowding of land and the undue concentration of buildings and structures so far as is possible and appropriate in each zoning district by regulating the land around them.
- M. Preserve and enhance the taxable value of land, buildings, and structures throughout the city and its jurisdictional area.
- N. Provide for the completion, restoration, reconstruction, or extension of nonconforming uses. (Please see Chapter 2).

- O. Designate and define the powers and duties of the official(s) administering and enforcing this ordinance.
- P. Provide penalties for the violation of this ordinance.

(1980 Code, Ch. 156, § 1.03) (Ord. 1995-7, passed 6-5-1995)

**§ 1.04 INTERPRETATION, CONFLICT, AND SEPARABILITY.**

- A. In their interpretation and application the provisions of these regulations shall be held to be the minimum requirements for the promotion of public health, safety, and general welfare.

- B. Conflict with public and private provisions.

Public provisions. The regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule, or regulation, statute, or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other ordinance, rule, or regulation, or other provision of law, those provisions which are more restrictive or impose higher standards shall control.

Private provisions. These regulations are not intended to abrogate any easement, covenant, or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, or the determinations of the Commission in enforcing these regulations, and such private provisions are not inconsistent with these regulations or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and determinations made thereunder. Private provisions can only be enforced privately unless a public agency such as the Common Council or Plan Commission has been made a party to such agreements.

Separability. If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The city hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application.

(1980 Code, Ch. 156, § 1.04) (Ord. 1995-7, passed 6-5-1995)

**§ 1.05 COMPLIANCE WITH THE REGULATIONS.**

The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

- A. No building shall be erected, converted, placed, enlarged, reconstructed, or structurally altered, nor shall any building or land be used except for a purpose and in the manner permitted in the district in which the building or land is located.
- B. No land required for yards, open spaces, or off-street parking or loading spaces about an existing building or any building hereafter erected or structurally altered shall be considered as required yard or lot area for more than one building, unless otherwise provided for in this ordinance.
- C. Every building hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one main building on one lot, except as otherwise provided in this ordinance.
- D. The provisions of these regulations shall be considered the minimum requirements of the promotion of the public health, safety, morals, comfort, and general welfare. Where the provisions of the regulations of this ordinance impose greater restrictions than those of any other statute, ordinance, or regulation, the provisions of

this ordinance shall be controlling. Where the provisions of any other statute, ordinance, or regulation impose greater restrictions than this ordinance, the provisions of such statute, ordinance, or regulation shall be controlling.

- E. This ordinance is not intended to abrogate or annul any easement, covenant, or other private agreement. However, where any provision of this ordinance is more restrictive or imposes a higher standard or requirement than such easement, covenant, or other private agreement, the provisions of this ordinance shall govern.

(1980 Code, Ch. 156, § 1.05) (Ord. 1995-7, passed 6-5-1995)

**§ 1.06 JURISDICTIONAL AREA.**

This ordinance shall apply to all incorporated land within the city, and the contiguous unincorporated land within the jurisdictional area zone map on file in the offices of the Columbia City/Whitley County Joint Planning and Building Department.

(1980 Code, Ch. 156, § 1.06) (Ord. 1995-7, passed 6-5-1995)

**§ 1.07 EFFECTIVE DATE.**

This ordinance was adopted by the Common Council, at a meeting held on June 5, 1995.

(1980 Code, Ch. 156, § 1.07) (Ord. 1995-7, passed 6-5-1995)

**§ 1.08 SAVING PROVISIONS.**

This ordinance shall not be construed as abating any action now pending under, or by virtue of prior existing zoning ordinance, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the city under any section or provision existing at the time of the effective date of this ordinance, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the city except as shall be expressly provided for in this ordinance.

(1980 Code, Ch. 156, § 1.08) (Ord. 1995-7, passed 6-5-1995)

**§ 1.09 EXCLUSION.**

Nothing in this ordinance or in any rules, regulations, or orders issued pursuant to this ordinance shall be deemed to restrict or regulate or to authorize any unit of government, legislative body, plan commission, or board of zoning appeals now or hereafter established, to restrict or regulate the exercise of the power of eminent domain by the state, the United States of America, or by their agencies.

(1980 Code, Ch. 156, § 1.09) (Ord. 1995-7, passed 6-5-1995)

**§ 1.10 AMENDMENTS.**

The Common Council shall have the authority to amend, supplement, change, modify, or repeal by ordinance the text or map of the zoning ordinance in accordance with the provisions of this chapter.

Text amendments: An application for an amendment to the written text of this zoning ordinance may be filed in the offices of the Columbia City/Whitley County Joint Planning and Building Department for consideration by the Plan Commission and the Common Council. Such application may be initiated by the Mayor, any member of the Common Council, or any member of the Plan Commission.

Map amendments (rezoning): An application for a change in the zoning district designation as described by the official zoning map, may be filed in the offices of the Columbia City/Whitley County Joint Planning and Building Department for consideration by the Plan Commission and Common Council. Such application may be filed by



the Mayor, any member of the Common Council, any member of the Plan Commission, any person with a financial, contractual, or proprietary interest in the property to be rezoned, or the owners of more than 50% of the area to be involved in the proposed zoning change.

- A. Application and submission requirements for amendments: The application shall be made upon a form provided by the Columbia City/Whitley County Joint Planning and Building Department. Said application shall be signed by the applicant and shall include:
1. Text amendments: An application for a text amendment shall set forth the new text to be added, and any existing text to be deleted.
  2. Map amendments: An application for a map amendment shall include:
    - (a) A legal description for the property whose zoning designation is proposed to be changed.
    - (b) A scaled map of the property whose zoning designation is proposed to be changed, correlated with the legal description.
    - (c) A location map, locating the subject property within the neighborhood and community.
    - (d) The name and address of the property-owner.
    - (e) The petitioner's interest in the property, and if the petitioner is not the property owner, the name and address of the petitioner and a written, notarized statement from the property-owner authorizing the petitioner to act as the owner's agent for the purposes of the rezoning application.
    - (f) The date of the filing of the application.
    - (g) The present and proposed zoning classifications and the reasons for the proposed change.
  3. An application for either a text amendment or a map amendment shall comply with, and be in accordance with, the "Rules of Procedure," as adopted by the City Plan Commission.
- B. Fees and costs for amendments: In all cases where an application is initiated by a private party, the application shall be accompanied by the fee established by the Joint Advisory Board and on file in the offices of the Columbia City/Whitley County Joint Planning and Building Department. Additionally, the applicant, on filing such an application, shall pay all costs and expenses associated with the application, whether or not the proposed amendment is enacted, including the drafting, advertising, and recording of the amendatory ordinance.
- C. Approval process for amendments:
1. The Plan Commission: All such applications shall be referred to the Plan Commission for consideration and a report. The Plan Commission shall hold a public hearing, as required by law. Any such hearing may, for good cause shown, be continued from time to time at the request of the applicant or at the discretion of the Plan Commission.
    - (a) Certification of action: Upon completion of the public hearing, the Commission shall approve, deny or send the application with no recommendation. A certification, in writing, of its action, together with its recommendation shall be transmitted to the Common Council.
    - (b) Approval of the rezoning of a portion of the property: The Plan Commission may recommend, and the Common Council may approve, that an application for a change of a zoning district classification be approved for all, or only a portion of the property described in the application.
    - (c) Approval of a different classification: The Plan Commission may recommend, and the Common Council may approve, a zoning district classification other than the classification requested in the

application as long as the recommended and approved zoning district is of the same “family” and of lower intensity. Example: Requested zoning district classification is R-2, Plan Commission may recommend R-1, but not R-3 or commercial, industrial, or other classification “family.”

2. The Common Council: After receiving the Plan Commission's certification on the proposed amendment, the Common Council may proceed to take action on the proposed amendment. At the first regular meeting after the proposed amendment is certified, the Common Council may adopt, reject, or amend the proposal.
  - (a) Adoption: If the Common Council adopts the proposal as certified by the Plan Commission, it takes effect as any other ordinance.
  - (b) Failure to act: If the Common Council fails to act upon the proposal within 90 days following the Plan Commission's certification, the action recommended by the Plan Commission in their certification shall automatically take effect.
  - (c) Rejection or amendment: If the Common Council rejects the action recommended by the Plan Commission's certification, or amends the proposal contrary to the recommendation of the Plan Commission, the proposal shall be returned to the Plan Commission for its further consideration, with a statement of the Common Council's reasons for the rejection or amendment.
    - (1) If the Plan Commission approves the action of the Common Council, or fails to act within 45 days of the Common Council's report, the Common Council's action stands as passed by the Common Council, upon the filing of the Commission's report of approval, or the end of the 45-day period.
    - (2) If the Plan Commission rejects the Common Council's action, the original action of the Common Council stands only if confirmed by another vote of the Common Council within 45 days following the report of the Plan Commission's rejection. If the Common Council fails to confirm its original action within this 45-day period, then the action recommended in the Plan Commission's original certification on the proposed amendment takes effect.
3. Basis for consideration and action: In preparing and/or considering proposals to amend the zoning ordinance, the Plan Commission and the Common Council shall pay reasonable regard to: [Taken from I.C. 36-7-4-603, the Indiana Planning and Zoning Statute.]
  - (a) The Comprehensive Plan.
  - (b) The current conditions and the character of current structures and uses in each district.
  - (c) The most desirable use for which the land in each district is adapted.
  - (d) The conservation of property values within the neighborhood and jurisdiction.
  - (e) Responsible development and growth.  
(I.C. 36-7-4-603)
4. Burden of proof: In assessing the relevance or acceptability of a proposed amendment, the burden of proof in justifying the request shall rest with the applicant, both before the Plan Commission and the Common Council.
5. Withdrawal: Any request for withdrawal of a legally filed application for an amendment to the zoning ordinance must be filed in writing and must be applied for prior to final action on the proposal by the Plan Commission.

D. Reapplication for amendments: In the event that any application to amend the zoning ordinance is denied on final review by the Common Council, reapplication for the purposes of additional review of the same

application shall not be accepted by the Plan Commission until 12 months following the date of the final action on the original application has elapsed, unless it can be shown to the satisfaction of the Plan Commission that substantial new evidence, not available during the original review of the application, will be presented.

(1980 Code, Ch. 156, § 1.10) (Ord. 1995-7, passed 6-5-1995)

### **§ 1.11 ADMINISTRATION AND ENFORCEMENT.**

This section contains the regulations pertaining to administration and enforcement of the provisions of this ordinance, issuance of permits and certifications, inspection of property, and issuance of stop work, stop use orders, and enforcement of the provisions of this ordinance.

A. *Designation of the Administrator.* The City hereby designates the Columbia City/Whitley County Joint Planning and Building Department as the Administrator for the purposes of implementing this ordinance and has the principal responsibility for enforcing this ordinance. The Planning and Building Department shall have the following duties with respect to this ordinance:

1. May designate one or more additional members of the Department, as well as members of other city departments who have a particular skill or competence, to act as its authorized representative.
2. Shall review and approve building permits.
3. Shall review and approve requests for occupancy or other appropriate permits.
4. May cause the cessation of any erection, construction, reconstruction, alteration, conversion, maintenance, or use in violation of this ordinance by issuing a stop work or stop use order.
5. May adopt such administrative policies as it deems necessary to the carrying out of its enforcement responsibilities, which policies shall have general applicability to cases of similar character.
6. May determine the actual location of a boundary line between zoning districts, where such line does not coincide with a property line or district boundary line. Such determination shall be subject to appeal before the Board of Zoning Appeals in accordance with Chapter 12 of this ordinance.
7. May refer any violation of the zoning ordinance to the City Plan Commission Attorney for prosecution or other appropriate action when deemed necessary.
8. May exercise any other authority granted by the provisions of this, or any other city ordinances.

B. Permits, orders and certifications:

1. Improvement location/building permits (ILP/BP): It shall be unlawful to commence or to proceed with the erection, construction, major reconstruction, conversion, alteration, enlargement, extension, razing, or moving of any building or structure or any portion thereof, no new use, extension or alteration of an existing use, or conversion from one use to another, shall be allowed in any building, structure or land or part thereof until issuance of a proper permit; except for the raising of agricultural crops, orchards or forestry, without first having applied in writing to the Department for an ILP/BP to do so and an ILP/BP has been granted therefore. However, this requirement shall not be interpreted as including normal maintenance or minor repair of existing structures. Primary responsibility for securing the necessary permits shall be the property owner's.

However if the property owner should contract part or all of the proposed work it is the responsibility of the person or firm hired to ensure that all required permits and approvals have been secured prior to any work being initiated.

Blank forms shall be provided by the Department for the use of those applying for permits as provided in this ordinance. Any permits issued by the Department shall be on standard forms for such purpose. There shall be a separate permit for each building or structure to be constructed, altered, or erected except for accessory buildings which may be included in the permit for the principal building when construction is simultaneous. Following issuance of the required permit, the applicant's copy shall be prominently posted at the site of the proposed work to the public view.

Any ILP/BP under which no construction work has been commenced within one year after the date of issuance of said permit or under which proposed construction has not been completed within 18 months of the time of issuance shall expire by limitation. A new permit must be obtained before any further construction can occur. The new permit will be issued on the basis of the entire original project, and fees assessed accordingly.

2. Voiding of ILP/BP: A permit may be revoked by the Department at any time prior to the completion of the building or structure for which the same was issued, or after the change of character of use, when it shall appear to him his or her departure from the plans, specifications, or conditions as required under terms of the permit, that the same was procured by false representation, or that any provisions of this ordinance are being violated.

Written notice of such revocation shall be served upon the owner, his or her agent, or contractor, or upon any person employed on the building or structure for which such permit was issued, via a stop work order for construction, which shall be posted in a prominent location, or a certified letter citing the violation(s) for the character of use, and thereafter no such construction or use shall proceed in violation of this ordinance.

3. Certificates of occupancy: No building or structure or part thereof shall hereafter be constructed or altered until issuance of a proper ILP/BP. No building or structure or part thereof shall be occupied without issuance of a certificate of occupancy by the Planning Department.
4. Temporary certificates of occupancy: Pending the issuance of a regular certificate of occupancy, a temporary certificate of occupancy may be issued by the Department for a period not exceeding 30 days from the issuance of the temporary certificate of occupancy, during completion if not deemed to endanger health or safety. Upon expiration of the original temporary certificate of occupancy, one extension not exceeding 30 days may be granted provided there remains no danger to health or safety.
5. Partial certificates of occupancy: Pending issuance of a regular certificate of occupancy, a partial certificate of occupancy may be issued to allow use of completed portions of any new construction or alterations provided the area(s) for which the partial certificate of occupancy is issued contain no circumstances or conditions which may endanger health or safety.
6. Certificate of occupancy, contents, records: Certificate of occupancy shall state that the building or proposed use of a building or land complies with all the building, health laws, and ordinances of the city, and with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the Columbia City/Whitley County Joint Planning and Building Department, and copies shall be furnished, on request, to any person having a proprietary or tenancy interest in the building affected. No fee shall be charged for a certificate of occupancy.
7. Stop work orders: The cessation of any erection, construction, reconstruction, alteration, conversion, or maintenance in violation of this ordinance may be effected by posting a stop work order, stating the nature of the violation, to the owner of the property involved or to his or her agents or to the person doing the work.

8. Compliance with permits and certificates: Permits or certificates issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this ordinance, and punishable as provided by § 1.14 of this chapter, herein.

C. Entry and inspection of land and buildings:

1. The Planning and Building Department or its authorized representatives, are hereby empowered, to the fullest extent of the law in performance of their assigned functions, to enter upon any land within the jurisdictional area of the city for the purpose of making inspections, examinations, and surveys, or to place and maintain thereon monuments, markers, notices, signs, or placards in order to effect the provisions of this ordinance. The above authorized person(s) shall be required to present proper credentials when entering upon any land or structure for the purpose of this ordinance.
2. The Planning and Building Department is authorized to inspect or cause to be inspected any building or other structure or any land on which work is in progress.

(1980 Code, Ch. 156, § 1.11) (Ord. 1995-7, passed 6-5-1995)

**§ 1.12 CHARGES, AND EXPENSES.**

The Joint Advisory Board shall establish a schedule of fees, charges, and expenses, and a collection procedure for building permits, certificates, appeals, and other matters pertaining to the ordinance. The schedule of fees shall be posted in the office of the Columbia City/Whitley County Joint Planning and Building Department, and may be altered or amended with the approval of the Joint Advisory Board. No permit, certificate, special exception, approval, or variance shall be issued unless or until such costs, charges, fees, or expenses listed in this ordinance have been paid in full, nor shall any action be taken on proceedings before the City Plan Commission or City Board of Zoning Appeals unless or until fees have been paid in full.

(1980 Code, Ch. 156, § 1.12) (Ord. 1995-7, passed 6-5-1995)

**§ 1.13 COMPLAINTS REGARDING VIOLATIONS.**

Any person may file a complaint whenever a violation of this ordinance occurs, or is alleged to have occurred. Such complaint shall be filed in writing with the Planning and Building Department and shall state fully the causes and basis of the complaint. The Planning and Building Department shall record such complaint properly, make a timely investigation and take action thereon as provided by this ordinance.

(1980 Code, Ch. 156, § 1.13) (Ord. 1995-7, passed 6-5-1995)

**§ 1.14 VIOLATIONS AND PENALTIES.**

It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, or maintain any structure in violation of any regulation in, or any provision of this ordinance, or of any regulation enacted hereunder. Uses of land and dwellings, buildings, or structures, including tents and manufactured homes and buildings used contrary to any provisions of this ordinance, or any regulation enacted hereunder, are hereby declared to be a violation. Any person, firm, or corporation making any attraction to real property within the city limits, or its zoning jurisdictional area, including, but not limited to driveways, fences, additions to homes and businesses, and any building activity regulated by city ordinance or code, who fails to secure the proper permits and/or use, shall be in violation of this ordinance. Any structure or use that violates this zoning ordinance shall be deemed to be a common nuisance, and the owner of the structure or land shall be liable for maintaining a common nuisance.

- A. It shall be the duty of the Department to enforce these regulations and to bring any violations or lack of compliance to the attentions of the City Attorney who may file a complaint against the person and prosecute the alleged violation.
- B. Any person may, by suit in a circuit or superior court of the county, enjoin the violation of this ordinance.
- C. The City Board of Zoning Appeals by mandatory injunction in the circuit court of the county against the owner or possessor of the real estate, may require the removal of a structure erected in violation of this ordinance, or the removal of any use or condition permitted in violation of this ordinance.
- D. A use that violates this ordinance shall be treated as if it were a common nuisance, and the owner or possessor of the structure, land, or premises upon which the use is maintained shall be liable for such nuisance.
- E. Anyone violating any of the provisions of this ordinance, or of any regulation enacted hereunder, shall, upon conviction thereof be subject to a fine of not less than \$500. Each day that a violation continues shall constitute a separate offense.

In addition to the penalties herein above authorized and established, the City Attorney shall take such other actions at law or in equity as may be required to remove, or otherwise eliminate any violations of this ordinance. (In cases of conflict of interest, overburdening of activities, etc., the City Plan Commission Attorney or any other attorney may be used in conjunction with or in place of the City Attorney.)

- F. No improvement location permit or building permit required under the Local Building Code, or this ordinance, shall be issued on any property subject to this ordinance in violation of the provisions of this ordinance.
- G. Attorney's fees. Notwithstanding anything contained in this ordinance to the contrary or appearing to be to contrary, and in addition and supplementary to other provisions of this ordinance, if the Board of Zoning Appeals or the city is required to utilize the services of the City Attorney or any other attorney in investigating a possible violation of this ordinance or enforcing the provisions of this ordinance pursuant to § 1.14 C., D., or E., or any other section, before any board or court (including appeals), and such investigation results in a determination that a violation has occurred or if the Board of Zoning Appeals or city is successful in its enforcement of the ordinance by way of suit, appeal or other appropriate proceeding, the respondent, defendant or party investigated for a violation shall pay the city's reasonable attorney fees and all costs related to the investigation of the violation and/or the enforcement of this ordinance, unless such attorney fees or costs are specifically waived by the Common Council members.
- H. Cost on appeal. As to any appeal from a decision of the Board of Zoning Appeals, costs may not be allowed against the Board of Zoning Appeals unless it appears to the court that the Board acted with gross negligence or in bad faith in making the decision brought up for review.

(1980 Code, Ch. 156, § 1.14) (Ord. 1995-7, passed 6-5-1995)

## **CHAPTER 2: GENERAL PERFORMANCE STANDARDS**

### **§ 2.01 LIMITATIONS ON LAND USE.**

No person, firm, or corporation shall use or permit to be used, any land or buildings, nor shall any person, firm, or corporation make, erect, construct, move, alter, enlarge, or rebuild or permit the making, erection, construction, moving, altering, enlarging, or rebuilding of any building, structure, or improvement, which is designed, arranged, or intended to be used or maintained for any purpose or in any manner except in accordance with the use, height, area, yard, space, and other requirements established in the district in which such land, building, structure, or improvements is located. The exception would be as provided in the nonconforming uses later in this chapter.

(1980 Code, Ch. 156, § 2.01) (Ord. 1995-7, passed 6-5-1995)

### **§ 2.02 DIVISION OF LOT.**

A lot shall not hereafter be divided into two or more lots, unless all lots resulting from such division conform to all the applicable regulations of the zoning district in which the lots are to be located and also comply with the City Subdivision Control Ordinance (see Chapter 154).

(1980 Code, Ch. 156, § 2.02) (Ord. 1995-7, passed 6-5-1995)

### **§ 2.03 SINGLE-FAMILY DWELLINGS ON SEPARATE LOTS.**

Every single-family dwelling hereafter erected or structurally altered shall be located on a separate lot or tract. In no case shall there be more than one detached single-family dwelling on one lot or tract (except for accessory buildings or uses, as defined herein.)

(1980 Code, Ch. 156, § 2.03) (Ord. 1995-7, passed 6-5-1995)

### **§ 2.04 LOT AND YARD REQUIREMENTS.**

The minimum lot area, minimum ground floor area, minimum lot width, maximum lot coverage, minimum depth of front yard, minimum depth of rear yard, minimum width of each side yard, and the maximum building height for each district shall be as specified in its respective chapter.

- A. Lots which abut on more than one street shall provide the required front yards along every street. The remaining yards will become side yards for the setback purposes of this ordinance. (The intent of this ordinance is to encourage access to be located on the minor street.)
- B. In any residential district (R-1, R-2, R-3) where at least 25% of the lots in a block are occupied by existing residential structures, the minimum depth of a front yard may be the average of the depths of the front yards of the existing residential structures.
- C. No principal structure in an agricultural or residential district, except those used by essential services or agriculture, shall exceed the height specified in the respective zoning district, and no accessory building shall exceed 16 feet in height above average ground level, unless approved by the Board of Zoning Appeals. No structure in a business or industrial district shall exceed 50 feet in height above average ground level. The Board may authorize a variance to this height regulation in any district if:
  - 1. All front and side yard depths are increased one foot for each additional foot of height; or
  - 2. The structure is any of the following and does not constitute a hazard to any established airport, television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers and scenery lofts, cooling towers, ornamental towers and spires, chimneys, silos, elevator bulkheads, smokestacks, conveyors, and flag poles.

(1980 Code, Ch. 156, § 2.04) (Ord. 1995-7, passed 6-5-1995)

**§ 2.05 COMPLIANCE WITH YARD REQUIREMENTS.**

Except as otherwise provided, required yards shall be open and unobstructed from the ground to the sky. Yards provided for a building for the purpose of complying with the provisions of this code shall not be considered the yard for any other building, nor, considered the yard for any other lot.

- A. Permitted yard obstruction: Permitted yard obstructions such as the following are authorized in all districts subject to the provisions of any and all recorded restrictive covenants and/or easements running with the land:
  - Basketball and/or tennis courts
  - Barbecue pits
  - Bird baths and bird houses
  - Clotheslines
  - Cornices, canopies, eaves, and similar architectural features may not project more than two feet into a required yard.
  - Curbs
  - Driveways
  - Fire escapes may project not more than four and one-half feet into a required yard.
  - Flagpoles
  - Hedges, provided they do not impede corner visibility requirements of Chapter 10.
  - Hot tubs, spas, whirlpools. Required to be ten feet in from any side or rear property line. Not allowed in any required front yard.
  - Lamp posts
  - Mail boxes
  - Name plates, not exceeding two square feet, see Chapter 11, Signs.
  - Parking spaces, no inoperative or unlicensed motor vehicles shall be parked or stored within the front or side yards in a residential district.
  - Patios.
  - Playground equipment
  - Public utility installations for local service (such as poles, lines, hydrants, and telephone booths).
  - Retaining walls
  - Trees, shrubs, plants and flowers; provide they do not impede corner visibility requirements of Chapter 10.
  - Walks

(1980 Code, Ch. 156, § 2.05) (Ord. 1995-7, passed 6-5-1995)

**§ 2.06 ACCESSORY BUILDINGS, STRUCTURES, AND USES.**

A subordinate building, structure, or use which is incidental to that of the primary use and is a use other than human occupancy. Accessory building and structures are required to have the same setback regulations as the primary building or structure except in residential and agricultural areas where they may be located no nearer than five feet from the side and/or rear property lines.

Accessory buildings or structures shall be located more than five feet from side and rear property lines. An improvement location permit shall be required for all accessory structures. Accessory structures are not permitted in any required front yard.

Note: Other building codes may apply.

(1980 Code, Ch. 156, § 2.06) (Ord. 1995-7, passed 6-5-1995)



## **§ 2.07 FENCES AND/OR WALLS.**

Fences or walls may be located in any yard provided that corner traffic visibility is maintained in accordance with the off-street parking and loading requirements in Chapter 10. Other screening devices are detailed in § 10.04.

Fences may not be located on a property line, except by agreement of all concerned property owners.

Fences may not be located in platted easements, except by agreement of the Board of Public Works and/or the Director of Community Development.

Height requirements: Fences and walls in residential districts shall not exceed a height of six feet. Any fence or wall which projects into or encloses a required front yard shall not exceed three feet, except that open chain link fences may be erected to four feet in height.

Building materials: Fence be constructed with customary fencing materials. Examples include: Chain link, rod iron, picket, stockade type, brick, or other ornamental. Previously used materials shall not be used. The fence shall be constructed with all braces and supports on the interior, except when both sides are of the same design and appearance.

Maintenance: The screening wall or fence shall be maintained by the owner of the lot fence construction. Failure to maintain after notice shall constitute an offense hereunder.

(1980 Code, Ch. 156, § 2.07) (Ord. 1995-7, passed 6-5-1995)

## **§ 2.08 SATELLITE ANTENNAS.**

Satellite antennas are regulated as follows:

- A. Satellite antennas are a permitted use in residential districts provided they meet the following standards:
  - 1. Shall be setback from the perimeter property line(s) two feet for every foot of height.
  - 2. Shall not be permitted as a principal use on the lot.
  - 3. Shall not be permitted in any required front yard.
- B. Satellite antennas are permitted as a matter of right in all other districts. If the antenna is to be located on a lot which abuts a residential district, the antenna shall be setback from the common property boundary two feet for every foot of height above grade.
- C. Satellite antennas which do not meet the standards as set forth above shall require approval of a special exception by the Board of Zoning Appeals.
- D. Satellite antennas which have been installed prior to the effective date of this ordinance shall be permitted to continue. When they are replaced, the new satellite antennas shall come into conformance with the standards listed above.

(1980 Code, Ch. 156, § 2.08) (Ord. 1995-7, passed 6-5-1995)

## **§ 2.09 SWIMMING POOLS.**

Swimming pools are any artificial basin of water constructed, installed, modified, or improved for wading, swimming, or diving. This term does not include artificial lakes. (675 I.A.C. 20-1.18 Definitions.) Swimming pools are required to be ten feet in from any property line.

Residential swimming pool (family pool) means any constructed pool, permanent, or nonportable, which is intended for noncommercial use as a swimming pool. (675 I.A.C. 20-1.18 Definitions). Any residential swimming

pool will be required to be ten feet in from any side or rear property line. Residential swimming pools are not allowed in any required front yard.

Access to residential pools shall be restricted by one of the following means:

- A. Walls or fencing not less than five feet high and completely surrounding the pool and deck area with the exception of self-closing and latching gate and door, both capable of being locked.
- B. Other means not less than five feet high and deemed impenetrable by the enforcing authority at the time of construction and completely surrounding the pool and deck area when the pool is not in use.
- C. A combination of subparagraphs A. through B. of this section that completely surrounds the pool and deck with the exception of self-closing and latching gates and doors which are capable of being locked. (This applies to subparagraphs A. through B. of this section and this subparagraph only.)
- D. A safety pool cover which shall:
  - 1. Provide a continuous connection between the cover and the deck, so as to prohibit access to the pool when the cover is completely drawn over the pool;
  - 2. Be mechanically operated by a key or key and switch such that the cover cannot be drawn open or retracted without the use of a key;
  - 3. Be capable of supporting a 400 pound imposed load upon a completely drawn cover;
  - 4. Be installed with track, rollers, rails, guides, or other accessories necessary to accomplish subparagraphs D. 1. through 3. of this section, in accordance with the manufacturer's instructions, and
  - 5. Bear an identification tag indicating the name of the manufacturer, name of the installer, installation date and applicable safety standards, if any. (675 I.A.C. 20-4-27 Safety features.)

(1980 Code, Ch. 156, § 2.09) (Ord. 1995-7, passed 6-5-1995)

## **§ 2.10 ENVIRONMENTAL PERFORMANCE STANDARDS.**

- A. Scope of provisions: Every use, activity, process, or operation, located, or occurring in the city, or its jurisdictional area, shall comply with the environmental performance standards prescribed in this chapter, and no such use hereafter shall be altered or modified so as to conflict with, or other conflict with, such environmental performance standards. If, as of the date of adoption of this ordinance, the operations of any lawful existing use violates these environmental performance standards, such operations shall not in themselves make such use subject to this chapter.
- B. Administration and enforcement of environmental performance standards:
  - 1. Whenever, in the opinion of the Board of Public Works and Safety there is a reasonable probability that any use or occupancy violates these environmental performance standards, the property owner shall be given written notice of at least seven days duration that said use or occupancy must be corrected. In case of an emergency the Board of Public Works and Safety may take immediate action deemed appropriate to correct the violations. The Board of Public Works and Safety is hereby authorized to employ qualified technician or technicians to perform whatever investigations and analyses as are necessary to determine whether or not they are in fact being violated.
  - 2. In the event that a violation is found to exist, the violator shall be liable for the reasonable fee of the technicians employed to perform such investigations and analysis. Such fees may be recovered as a penalty in the same manner as, and in addition to, the penalties specified in Chapter 1 of this ordinance.

3. If a complaint is received regarding an alleged violation of any of the provisions of this chapter the Board of Public Works and Safety shall, as a condition precedent to further investigation, require that the complainant post an escrow deposit in the amount of \$200 to defray the cost of employing a qualified technician or technicians to perform such investigation and analyses as may be necessary to determine whether or not such violation exists.
  - (a) In the event that the complaint is substantiated, the escrow deposit shall be refunded to the depositor, and the reasonable fees associated with the investigation and analyses shall be recovered in the manner provided above.
  - (b) If the complaint proves unfounded, such fee shall be paid from the complainant's escrow deposit. Any remainder of such deposit shall be refunded to the complainant upon completion of the investigation.

C. Performance standards:

1. Vibration: Every use shall be so operated that the maximum ground vibration generated is not perceptible without instruments at any point on the lot line.
2. Noise: Every use shall be so operated that the pressure level of sound or noise generated, measured in decibels, shall not exceed the maximum decibel levels for the designated octave band as set forth in the following table for the appropriate area:

<b>Maximum Permitted Sound Pressure Level in Decibels</b>		
<b>Octave Band Cycles per Second</b>	<b>Within or Adjacent to Residential District</b>	<b>Within All Other Areas</b>
0 to 75	75	79
75 to 150	67	74
150 to 300	52	59
300 to 600	46	53
600 to 1,200	40	47
1,200 to 2,400	34	42
2,400 to 4,800	32	39

3. Odor: Every use shall be so operated that no controllable offensive or objectionable odor is emitted.
4. Smoke: Every use shall be so operated that no smoke from any source shall be emitted of a greater density than allowable by any federal or state requirements.
5. Toxic gases: Every use shall be so operated that there is no emission of toxic, noxious, or corrosive fumes or gases which are detrimental to any person or to the public or which would endanger the health, comfort, and safety of any such person or the public, or which would cause or have a tendency to cause injury or damage to persons, property, or business.
6. Emission of dirt, dust, fly ash, and other forms of particulate matter: The emission of dirt, dust, fly ash, and any other forms of particulate matter shall not exceed any federal or state regulations.

7. Radiation: Every use shall be so operated that there is no dangerous amount of radioactive emissions in accordance with all federal and state regulations.
8. Glare and heat: Any operation producing intense glare or heat shall be performed in an enclosure in such manner as to be imperceptible along any lot line without the use of instruments.
9. Hazardous materials: No hazardous materials as defined by state statutes or federal regulations shall be stored for long period of time or disposed of on the property.
10. Fire and explosion hazard:
  - (a) The storage or utilization of solid materials, ranging from incombustible to moderate burning, is permitted.
  - (b) The storage or utilization of solid materials, ranging from free or active burning, to intense burning is permitted provided the following conditions are met.
    - (1) The materials shall be stored or utilized within completely enclosed buildings or structures having incombustible exterior walls and handled in accordance with the standards and regulations of the fire protection district and the National Fire Protection Association or its successors.
    - (2) All such buildings shall be protected throughout by an automatic fire extinguishing system installed in accordance with the standards and regulations of the fire protection district and the National Fire Protection Association or its successors.
    - (3) Such materials, if stored outdoors, shall be no closer than 150 feet to the nearest lot line or in conformance with the standards and/or regulations of the fire protection district and the National Fire Protection Association or its successors.
  - (c) The storage or utilization of flammable liquids or materials which produce flammable or explosive vapors shall be permitted in accordance with the following limitations, exclusive of storage in underground tanks and storage of finished products in original sealed containers:
    - (1) Such materials or products shall be stored or utilized within closed tanks or completely enclosed buildings having incombustible exterior walls and handled in accordance with the standards and regulations of the fire protection district and the National Fire Protection Association or its successors, and, in addition, all such buildings shall be protected throughout by an automatic fire extinguishing system installed in accordance with the standards and regulations of the fire protection district and the National Fire Protection Association or its successors.
11. Electrical disturbances: No activity shall cause an electrical disturbance adversely affecting radio or other equipment in the vicinity.
12. Erosion: No erosion, which will carry objectionable substances onto neighboring properties or which will cause significant loss of topsoil or gullyng, shall be permitted.
13. Water pollution: Water pollution shall be subject to the standards established by the State Stream Pollution Control Board.

(1980 Code, Ch. 156, § 2.10) (Ord. 595, passed 9-19-1970; Am. Ord. 731, passed 7-8-1980) (Ord. 1995-7, passed 6-5-1995) Violations and Penalties: see Chapter 1.14

## **§ 2.11 NONCONFORMING USES.**

- A. Scope of provisions: The provisions of this chapter shall apply to all nonconforming uses, lands, and structures. A nonconforming land use or structure is one which existed lawfully, whether by variance or

otherwise, on the date this zoning ordinance or any amendment thereto became effective, and which fails to conform to one or more of the applicable regulations of the zoning ordinance or such amendment thereto. Such nonconformities may be incompatible with and detrimental to permitted land uses and structures and may inhibit present and fixture development of nearby properties; and they confer upon their owners and users a position of unfair advantage.

- B. Statement of intent: Existing nonconformities are not to be extended expanded or changed; however, their continued, lawful existence, within the requirements of this ordinance, is expressly acknowledged.
- C. Nonconforming uses of lots: When, on the date of adoption or amendment of this ordinance, an existing nonconforming use of a parcel or lot may be continued so long as it remains otherwise lawful but shall be subject to the following provisions:
  - 1. Enlargement: No such nonconforming use of parcel or lot shall be enlarged, expanded, or extended to occupy a greater area of land than was occupied on the date of adoption or amendment of this ordinance and no additional accessory use, building, or structure shall be established thereon.
  - 2. Relocation: No such nonconforming use of a parcel or lot shall be moved in whole or in part to any other portion of such parcel or lot not so occupied on the date of adoption of this ordinance or to a parcel or lot not in conformance with this ordinance.
  - 3. Discontinuance: If cessation of such nonconforming use exceeds more than 180 consecutive days, except where government action causes such cessation, the subsequent use of such parcel or lot shall conform to the regulation and provisions set by this ordinance for the district in which such parcel or lot is located. The Board of Zoning Appeals may grant an extension of up to another 180 days as a special exception for the continuance of a nonconforming use. For the purposes of the ordinance, cessation of the nonconforming use shall mean no further active use of the property in the principle nonconforming manner. Continued simple ownership or use of the property for some clearly secondary purpose, such as storage, shall be considered a continuance of the nonconforming use.
  - 4. Change: An existing nonconforming use of land shall not cause further departures from the zoning ordinance. Although an existing nonconforming use may continue, except as hereinafter limited, it may not be changed to another use, except to a use permitted in the district in which it is situated and provided it complies with all other requirements of this ordinance.
- D. Nonconforming buildings and structures: Where, on the date of adoption or amendment of this ordinance, a lawful building or structure exists that could not be built under the regulations of this ordinance by reasons of restrictions upon lot area, lot width, lot coverage, height, open spaces, off-street parking, loading spaces and setbacks, or other characteristics, such building or structure may be continued, so long as it remains otherwise lawful, subject to the following provisions:
  - 1. Enlargement: Such building or structure may be enlarged, expanded, extended, or altered only if the nonconformity is removed, except as otherwise provided herein. A building or structure may be improved to the extent that the proposed improvement does not increase the nonconformity of the particular setback or create a new and different nonconformity such as a different yard setback, parking, or so forth.
  - 2. Destruction: Should any such building or structure be destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.
  - 3. Relocation: Should any such building or structure be moved for any reason for any distance, it shall thereafter conform to the regulations of the district in which it is located after it is moved.

- E. Nonconforming uses of buildings and structures: Where, on the date of adoption or amendment of this ordinance, a lawful use of a building or structure exists that is no longer permissible under the regulations of this ordinance, such use may be continued so long as it remains otherwise lawful subject to the following provisions:
1. Enlargement: No existing building or structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, constructed, reconstructed, moved, or structurally extended or altered except in changing the use of such building or structure to a use permitted in the district in which such building or structure is located.
  2. Change in use not permitted: An existing nonconforming land use or structure shall not cause further departures from the zoning ordinance. Although an existing nonconforming use may continue, except as hereinafter limited, it may not be changed to another use, except a use permitted in the district in which it is situated and provided it complies with the requirements of that district.
  3. Discontinuance: When a nonconforming use of a building or structure is discontinued or abandoned for more than 180 consecutive days (except where government action prevents access to the premises) the building or structure shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- F. Repairs and maintenance: Nothing in this ordinance shall be deemed to prohibit the restoration of any structure and its use where such structure has been destroyed by any means out of the control of the owner to an extent less than 50% of its replacement value (excluding the value of the land, the cost of preparation of land, and the value of any foundation adaptable to a conforming use) at the time of destruction, provided the restoration of such structure and its use in no way increases any former nonconformity, and provided further that restoration of such structure is begun within six months of such destruction and diligently prosecuted to completion within one year following such destruction. Whenever such structure has been destroyed by any means out of the control of the owner to an extent of more than 50% of its replacement value (excluding the value of the land, the cost of land and the value of any foundation adaptable to a conforming use) at the time of destruction, as determined by the Building Inspector by any means within the control of the owner to any extent whatsoever, the structure shall not be restored except in full conformity with all regulations of the district in which such structure is situated. When a structure is determined to be substandard by the proper administrative official of the city under any applicable ordinance of the city, and the cost of placing the structure in condition to satisfy the standards under such ordinance shall exceed 50% of the reconstruction cost of the entire structure, such nonconforming structure shall not be restored for the purpose of continuing a nonconforming use.
- G. Change in ownership or tenancy: There may be a change of tenancy, ownership, or management of an existing nonconforming use, building, or structure, provided there is no change in the nature or character, extent, or intensity of such nonconforming use, building, or structure.
- H. Completion of pending construction and building permits: To avoid undue hardships, nothing in this ordinance shall be deemed to require a change in plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Nothing herein contained shall require any change in the plans or designated use of a building for which a building permit had been heretofore issued, or the plans or final subdivision plats which have been approved by the Board at the time of the passage of this ordinance.
- I. Substandard nonconforming lots-of-record: In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this ordinance, a single-family dwelling and

customary accessory buildings or structures may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership as of the date of adoption of this ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district. Yard dimensions and other requirements, not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance and if all or part of the lots do not meet the requirements for lot width and area as established by this ordinance, no portion of said parcel or lot shall be used or sold which does not meet lot width and area requirements established by this ordinance, nor shall any division of the parcel or lot be made which leaves remaining any parcel or lot with width or area below the requirements stated in the ordinance.

J. Existence of a nonconforming use or structure:

A nonconformity shall not be deemed to have existed on the date this zoning ordinance, or any amendment thereto, became effective; unless:

1. It was in being on a continuous basis and to its fullest extent on such date.
2. If such nonconformity is a use, such use had not been abandoned as herein defined.
3. If such use existed lawfully under the previous zoning ordinance.

In cases of doubt, and on specific questions raised, whether a nonconforming use exists shall be a question of fact and shall be decided by the Board of Zoning Appeals after notice, a public hearing, and receipt of a report and recommendation of the Planning Department.

K. Nonconforming uses not validated: A use in violation of a provision of the ordinance which this repeals shall not be validated as a nonconforming use by this ordinance and it shall conform to the provisions of this ordinance.

L. Non-Conformity as Basis for Variance: The existence of any present nonconformity anywhere in the city or its jurisdictional area, shall not itself be considered grounds for the issuance of a variance for other property.

M. Eventual conformance with environmental performance standards: Within five years of the date of the adoption of this ordinance or the date of adoption of any applicable amendments to this ordinance, any use which is or becomes a nonconforming use, shall be brought into conformance with the environmental performance standards established in § 2.10, environmental performance standard regulations, of this chapter.

(1980 Code, Ch. 156, § 2.11) (Ord. 1995-7, passed 6-5-1995)

**§ 2.12 CODE OF ETHICS.**

The Mayor or any member of the Common Council, Planning Commission, or Board of Zoning Appeals to whom some private benefit, direct or indirect, financial or otherwise, may come as a result of a public action concerning this ordinance, shall not be a participant in that action. The possibility, not the actuality, of a conflict shall govern. The individual experiencing a conflict of interest shall declare his or her interest, abstain from voting on the matter, and refrain from any deliberations on the matter. The individual shall not discuss the matter with a fellow official for the purpose of influencing a decision thereon.

(1980 Code, Ch. 156, § 2.12) (Ord. 1995-7, passed 6-5-1995)

**§ 2.13 ELECTRONIC COMMUNICATION TOWERS.**

A. Electronic communications towers shall be a permitted use in all the following districts:

1. I-2 Heavy Industrial District.
- B. Electronic communications towers shall be a special exception in the following districts:
1. A-1 Agricultural District.
  2. GB General Business District.
  3. I-1 Light Industrial District.
  4. In any district where the antennas are to be located upon pre-existing structures or buildings owned or operated by units of government or public utilities so long as the antennas and antenna support structures do not exceed the height or more than 100 feet from adjacent ground level.
  5. In any district, in a non-urban area, a term associated with I.C. 36-7-4-1103, **URBAN AREA** is defined in the Indiana Code as follows: all lands and lots within the corporate boundaries of a municipality, any other lands or lots used for residential purposes where there are at least eight residences within any quarter mile square area, and other lands or lots that have been or are planned for residential areas contiguous to the municipality.
- C. Electronic communication towers shall be bound by the standards below as well as the applicable requirements of the zoning district in which they are located except where otherwise noted in subsection 2, Development Standards below.
1. Procedural standards. All electronic communication towers shall meet the following requirements:
    - (a) The applicant for an electronic communication tower must demonstrate that they have exhausted all efforts to locate the proposed facilities upon existing antenna support structures in the geographical area of the proposed electronic communication towers. They must submit a plan for all their electronic communication towers throughout the jurisdictional area where the city exercises planning and zoning jurisdiction. That plan must show efforts to minimize the size and number of antenna support structures throughout the geographical area, taking into consideration existing technology.
    - (b) The placement of antennas upon existing antenna support structures may be administratively approved by the Planning Director.
    - (c) In the event an antenna support structure ceases to be used, the antenna support structure shall be removed within 180 days of termination of use.
  2. Development standards. All electronic communication towers shall meet the following requirements:
    - (a) The height of the antenna support structure shall not exceed 200 feet. The Board may approve an increase in this height requirement subject to the submittal of FAA and FCC approvals, and as long as the tower will not unreasonably interfere with any pre-existing private airports or landing strips.
    - (b) The antenna support structure shall be set back a minimum of 40 feet from the property line, unless the adjoining property is zoned or used for a residential use. If the antenna support structure adjoins property, which is zoned or used for residential use, the setback shall not be less than the height of the support structure.
    - (c) Except as required by the Federal Aviation Administration or Federal Communications Commission, the antenna support structure shall not be illuminated by any artificial means and shall not display strobe lights.
    - (d) No signs or advertising shall be placed upon an antenna support structure and associated equipment, buildings or structures.



- (e) The support structure and any antenna located on the support structure must be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment.  
(Unless regulated by FAA standards.)
- (f) All utility buildings and structures accessory to the antenna support structure must be architecturally designed to blend into the surrounding area.
- (g) A landscaping plan for the electronic communication tower shall be submitted with the application and shall be substantially similar to landscaping required for other uses in commercial and industrial zones.
- (h) All electronic communication towers shall be designed structurally, electrically, electronically, and in all other respects to accommodate the user's equipment and the equipment of at least two additional service providers.
- (i) A qualified and licensed engineer must approve the design of the antenna support structure and certify that it is constructed to comply with the requirements set out in paragraph (h) above.
- (j) All applications shall include a notarized letter of intent committing the antenna support structure owner or lessee on behalf of themselves and their successors in interest that the antenna support structure shall be shared with additional users if the additional user(s) agrees to meet reasonable terms and conditions of shared use.
- (k) No transmissions from an electronic communication tower shall interfere with any existing public safety communications.

3. Limitations on zoning authority.

- (a) The Board of Zoning Appeals in consideration of the special exception shall not consider any evidence or base a denial of the location of an electronic communication tower on any evidence concerning adverse environmental or health effects of radio frequency emissions so long as those emissions meet the standards of the Federal Communications Commission.
- (b) Nothing herein shall be construed as a prohibition of the location of electronic communication towers within the planning jurisdiction of the city.
- (c) Nothing herein shall be construed or applied to unreasonably discriminate between providers of functionally equivalent service, or services, which compete one against the other for various wireless communication services.

(1980 Code, Ch. 156, § 2.13) (Ord. 2001-22, passed 12-27-2001)

## CHAPTER 3: DISTRICTS

### § 3.01 ESTABLISHMENT OF DISTRICTS.

The city, and its jurisdictional area, is hereby divided into the following zoning districts as shown on the official zoning map, which together with all explanatory matter shown there on is hereby adopted by reference and declared part of this ordinance. It should be noted that the Flood Hazard District is an overlay district and is not shown on the official zoning map, but the city's flood plain map is produced by the U.S. Department of Housing and Urban Development. The city's Flood Hazard Boundary Map is Community No. 180300B, effective January 5, 1979, and the jurisdictional area's Flood Hazard Boundary Map is Community No. 180298 0004 A, effective September 9, 1977. Both are available through F.E.M.A., with a copy on file in the Planning and Building Department.

District Classification	Designation
Agricultural	A-1
Single-Family Residential	R-1
Two-Family Residential	R-2
Multiple-Family Residential	R-3
Local Business	LB
General Business	GB
Central Business District	CBD
Light Industrial	I-1
Heavy Industrial	I-2
Flood Hazard	FP

(1980 Code, Ch. 156, § 3.01) (Ord. 1995-7, passed 6-5-1995)

### § 3.02 CHANGES TO THE OFFICIAL ZONING MAP.

If, in accordance with § 3.04 of this ordinance, and of I.C. 36-7-4-600 *et seq.*, as amended, a change is made in a zoning district boundary, such change shall be made by the Director, or his or her designee, promptly after the ordinance authorizing such change shall have been adopted by the Common Council, with an entry upon the official zoning map.

(1980 Code, Ch. 156, § 3.02) (Ord. 1995-7, passed 6-5-1995)

### § 3.03 AUTHORITY OF THE OFFICIAL ZONING MAP.

The official zoning map shall be located in the offices of the Columbia City/Whitley County Joint Planning and Building Department, and shall be available to public inspection, and shall be, with the revised zoning ordinance, the final authority as to the current zoning status of any land, parcel, lot, district, use, building, or structure in the city and its jurisdictional area.

(1980 Code, Ch. 156, § 3.03) (Ord. 1995-7, passed 6-5-1995)

### § 3.04 REPLACEMENT OF THE OFFICIAL ZONING MAP.

In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes made there to, the Common Council may, by ordinance, adopt a new official zoning

map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions on the prior official zoning map, but no such corrections shall have the effect of amending the zoning ordinance or the prior official zoning map. The new official zoning map shall bear the following words:

“This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance (Ordinance Number 1995-7), adopted on June 5, 1995; this Map replaces and supersedes the previous Official Zoning Map.”

Unless the prior Official Zoning Map has been lost or totally destroyed, the prior map, or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment.

(1980 Code, Ch. 156, § 3.04) (Ord. 1995-7, passed 6-5-1995)

### **§ 3.05 INTERPRETATION OF DISTRICT REGULATIONS.**

The Board of Zoning Appeals shall interpret the provisions of this ordinance as they pertain to the location of district boundaries where uncertainty exists as to the location of the district boundaries in relation to the Official Zoning Map. The following rules for interpretation shall apply:

- A. A boundary indicated as approximately following the centerline of a highway, street, alley, or easement shall be construed as following such centerline.
- B. A boundary indicated as approximately following a recorded lot line or the line bounding a parcel shall be construed as following such line.
- C. A boundary indicated as approximately following the corporate boundary line of a city, village, school district, section, or township shall be construed as following such line.
- D. A boundary indicated as following a railroad line shall be construed as being midway between the main tracks.
- E. A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of change in a shoreline shall be construed as following the actual shoreline.
- F. A boundary indicated as following the centerline of a stream, river, lake, or other body of water shall be construed as following such centerline.
- G. A distance not specifically indicated on the official zoning map shall be determined by the scale of the map.
- H. Where a physical or cultural feature existing on the ground is at variance with that shown on the official zoning map, or in any other circumstance not covered by Paragraphs A. through G. above, the Board of Zoning Appeals shall interpret the zoning district boundary.

(1980 Code, Ch. 156, § 3.05) (Ord. 1995-7, passed 6-5-1995)

### **§ 3.06 APPLICATION OF REGULATIONS.**

The regulations established by this ordinance within each zoning district shall be minimum regulations for promoting and protecting the public health, safety, and general welfare and shall be uniform for each class of land or building, dwellings, and structures throughout each district. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this ordinance, the Board of Zoning Appeals shall have power in passing upon appeals to vary or modify any rules, regulations, or provisions of this ordinance so long as the intent and purposes of this ordinance shall be observed, public safety secured, and substantial justice done.

(1980 Code, Ch. 156, § 3.06) (Ord. 1995-7, passed 6-5-1995)

**§ 3.07 SCOPE OF PROVISIONS.**

The provisions of this ordinance shall apply to all uses, structures, improvements, and alterations currently existing approved by the city after enactment of this ordinance.

(1980 Code, Ch. 156, § 3.07) (Ord. 1995-7, passed 6-5-1995)

## CHAPTER 4: AGRICULTURAL DISTRICTS

### § 4.01 PURPOSE OF A-1 AGRICULTURAL DISTRICT.

This district is composed of those areas whose principal use is farming and single-family residences on large-sized lots which provide adequate space for private water and sewerage facilities. The regulations of this district are designed and intended to ensure harmony between the principal uses of this district.

(1980 Code, Ch. 156, § 4.01) (Ord. 1995-7, passed 6-5-1995)

### § 4.02 PERMITTED USES.

#### A. Accessory uses:

As allowed in all zoning districts. (Please see §§ 2.06–2.09, Accessory Buildings, Structures and Uses)  
Agricultural storage facilities

#### B. Agricultural uses:

Crop farming, including cropland research or test plots  
Dairies  
Egg production farms  
Forestry (including Christmas tree sales)  
Greenhouses, nurseries, and plant sales included  
Hatcheries (fish, poultry, and game birds)  
Livestock, pasturing and grazing  
Orchards  
Riding stables  
Roadside stand (temporary, seasonal)  
Veterinary hospitals  
Wineries

#### C. Residential uses:

Single-family dwelling  
Manufactured Home Type I as defined in § 5.08 C. through D.  
Cultural and recreational facilities (churches, parks and recreational facilities, libraries, museums, etc.)  
Home occupations, non-traffic generating  
Permanent utility structures for essential services  
Development disabilities residential facilities. See § 5.02 A.8.  
Residential accessory uses as provided by § 5.03  
One guest house, servants quarters or noncommercial apartment clearly subordinate to the principle dwelling structure

#### D. Open land uses:

Beaches (private or public)  
Conservation clubs  
Forestry and wildlife areas and nature preserves  
Hunting and game preserves  
Parks and playgrounds  
Recreational facilities (noncommercial)  
Transportation rights-of-way

(1980 Code, Ch. 156, § 4.02) (Ord. 1995-7, passed 6-5-1995)

### § 4.03 SPECIAL EXCEPTIONS.

The authorization of a building, structure or use that is not designated as permitted within a district, but if specifically listed, may be permitted if it meets special conditions, and upon application, is specifically authorized by the City Board of Zoning Appeals. The following buildings, structures, and uses can be permitted in any agricultural district provided a special exception is obtained by the criteria as set forth in Chapter 12, Board of Zoning Appeals.

A. Agricultural special exceptions:

- Agricultural equipment sales and service
- Agricultural chemical and fertilizer sales
- Animal and crop processing
- Confinement feeding
- Grain elevators and storage (commercial)
- Kennels (domesticated or wild)
- Livestock buyers offices
- Slaughterhouses
- Stockyards

B. Residential special exceptions:

- Alcoholism and drug abuse treatment centers apartments
- Bed and breakfast facilities
- Cemeteries, crematories, and mausoleum
- Child care for 5 to 15 children; state license required
- Children's homes and children's halfway houses
- Community services (ambulance depot, emergency, and protective shelters, fire station, water tower, water treatment plants, etc.)
- Condominiums
- Electronic communication tower
- Funeral homes
- Halfway house
- Home occupations, traffic generating
- Hospitals and clinics
- Manufactured/mobile home parks
- Mental health facilities
- Multi-family dwelling units
- Real estate office, including model homes
- Parking lots, for uses other than those permitted as of right in an agricultural district
- Personal care, including nursing home, adult care, child care, and retirement (self-care) home
- Public or private primary or secondary schools

C. Open land use special exceptions:

- Airports
- Aircraft sales, rental, leasing, and service
- Airline companies
- Auction barns
- Bait and tackle sales and service
- Boarding houses
- Boat sales, rental, and service

- Campgrounds
- Coal and coke (retail)
- Contractor's yard
- Clubs
- Golf course
- Landscape architect's offices
- Lodges and fraternity/sorority organizations
- Lumberyards
- Mining, metal ore, coal and coke, shaft
- Mining, limestone, marble, gravel, and other stone quarry
- Mining, petroleum and natural gas, well
- Railroad yards and stations
- Recreational facilities (commercial)
- Resorts
- Rifle and pistol ranges
- Sanitary landfills (not including hazardous waste)
- Swimming pool (public)
- Youth organization or center

D. Public structures and utilities special exceptions:

- Bomb shelters
- Correctional institutions
- Electric utility company office and buildings
- Highway maintenance garages
- Military installation
- Public utility buildings
- Radio and television towers
- Sewage treatment plant
- Water treatment plant

(1980 Code, Ch. 156, § 4.03) (Ord. 1995-7, passed 6-5-1995)

**§ 4.04 REGULATIONS AND PERFORMANCE STANDARDS.**

The following regulations shall apply in the A-1 Agricultural District.

- A. Lot area: No permitted use or special exception allowed in the A-1 District shall be located on lots containing an area less than 80,000 square feet. If there is a sewer available that will allow the lot to hook onto the sewer, then the lot shall contain not less than 20,000 square feet. If there are water and sewer lines available that will allow the lot to hook up two these utilities, then the lot shall contain not less than 10,000 square feet.
- B. Lot width: When a sewer is not available, the minimum lot width shall be 150 feet at the building line. The minimum lot width shall average 150 feet. In cases where the depth is less than the width, the lot depth shall average 150 feet. When a sewer is available, the minimum lot width shall be 100 feet at the building line. The lot width shall average 100 feet, and when the depth is less than the width, the lot depth shall average 100 feet. When water and sewer is available, the minimum lot width shall be 75 feet at the building line. The lot width shall average 75 feet, and when the depth is less than the width, the lot depth shall average 75 feet.
- C. Lot frontage: All lots within the A-1 District shall maintain a minimum of 50 feet of frontage on a publicly or privately maintained street. The minimum frontage requirement shall run continually to the building line.
- D. Yard and setback requirements:

1. Front yard: Not less than 40 feet from the property line, or 60 feet from the centerline of any city or county maintained road, or any private road.
  2. Side yards: Least width of either side yard shall not be less than 20 feet except in the case of a corner lot, where the side yard on the street side shall not be less than the required front yard setback. If there are water and/or sewer lines available that will allow the lot(s) to hook onto their facilities, then the least width of either side yard shall not be less than 10 feet, except in the case of a corner lot, where the side yard on the street side shall not be less than the required front yard setback.
  3. Rear yard: Not less than 30 feet.
- E. Height requirement: Except as otherwise provided, the following height requirements shall apply in this district.
1. For Dwellings and non-farm buildings and structures: No dwelling or non-farm structure shall exceed a height of 35 feet.
  2. For general and specialized farm buildings and structures: No general or specialized farm building or structure shall exceed a height of 50 feet.
- F. Ground floor area: The minimum ground floor area shall be 950 square feet for a single-story dwelling unit. The minimum ground floor area shall be 800 square feet for a multiple-story dwelling unit. The minimum ground floor area excludes all garages, porches, basements, and breezeways.
- G. Off-street parking: For residential uses, two parking spaces per dwelling unit; for nonresidential uses, as required by Chapter 10.
- H. General performance standards: As required by Chapter 2.

(1980 Code, Ch. 156, § 4.04) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2001-22, passed 12-27-2001)



## **CHAPTER 5: RESIDENTIAL DISTRICTS**

### **§ 5.01 PURPOSE OF RESIDENTIAL DISTRICT.**

The residential districts are designed to:

- A. Achieve the residential objectives of the Comprehensive Plan.
- B. Protect the character of residential areas by excluding inharmonious commercial and industrial activities.
- C. Achieve a suitable environment for family by permitting in residential areas appropriate neighborhood facilities, such as churches, schools, and certain cultural and recreational facilities.
- D. Preserve openness of the living areas and avoid overcrowding by requiring minimum yards, open spaces, lot areas, and by limiting the bulk of structures.
- E. Permit a variety of dwelling types and densities to meet the varying needs of families.
- F. Control the density of residential development to facilitate the planning for an economical provision of streets, utilities, and other public facilities.

(1980 Code, Ch. 156, § 5.01) (Ord. 1995-7, passed 6-5-1995)

### **§ 5.02 PERMITTED USES IN ALL RESIDENTIAL DISTRICTS.**

- A. Permitted uses.
  - 1. Agricultural uses generally including: Crop farming, forestry (excluding Christmas tree sales), residential greenhouses, livestock (pasturing and grazing) as regulated by Chapter 90 of the City Code of Ordinances, orchards, and wineries.
  - 2. Single-family detached dwelling.
  - 3. Manufactured Home Type I as defined in § 5.08 C. - D.
  - 4. Cultural and recreational facilities (churches, parks and recreational facilities, libraries, museums, etc.)
  - 5. Permanent utility structures for essential services.
  - 6. Home occupations, non-traffic generation. See Chapter 12, Board of Zoning Appeals.
  - 7. Model home, including information center.
  - 8. Development disabilities residential facilities are permitted in any district where dwellings are permitted, provided that the licensing and regulation of such facilities shall be accomplished through the Developmental Disabilities Residential Facilities Council of the State of Indiana, in accordance with the requirements of I.C. 12-28.
  - 9. Single-family attached dwelling, if constructed prior to the effective date of this Ordinance.

(1980 Code, Ch. 156, § 5.02) (Ord. 1995-7, passed 6-5-1995)

### **§ 5.03 ACCESSORY BUILDINGS, STRUCTURES AND USES PERMITTED IN ALL RESIDENTIAL DISTRICTS.**

Accessory buildings, structures, and uses which are subordinate and incidental to that of the primary use, and is a use other than human occupancy, are allowed under the provisions laid out in §§ 2.06 - 2.09. Special exceptions may be permitted as an accessory use provided they receive approval as provided in Chapter 12, Board of Zoning Appeals. In addition to those accessory uses in §§ 2.06 - 2.09, the following uses set forth are permitted as accessory uses.

- A. Child care, in home (four or less).
1. A maximum of four nonrelated children, may currently be cared for in the home without state licensing. Five to 15 children, excluding those who reside in the residence, may be cared for in the home if the resident obtains a special exception and maintains continuous state licensing.
  2. No person shall be employed other than a member of the immediate family residing on the premises or a substitute caregiver if primary caregiver is unavailable.
  3. No exterior alteration of the dwelling or any customary accessory structure shall be made which would detract from the residential character of the structures.
  4. State licensed child care homes in existence on the effective date of this ordinance, but which would be prohibited by these requirements, may continue as otherwise regulated herein.
- B. Signs. The following is a partial list of signs relating to residential areas only. All signs must meet the general sign requirements of § 11.09. For more permitted accessory uses information on height and location of signs, see Chapter 11.
1. Identification signs: One identification sign may be erected on each perimeter street frontage of a multi-family development, manufactured/mobile home park, single-family subdivision, or permitted nonresidential uses, including special exceptions. The sign shall not be permitted to exceed 50 square feet of display surface area. The sign shall not exceed 12 feet in height, and illumination, if any, shall be by a constant light. Additional or multiple signs may be permitted by the Executive Committee for one or more entrances. See Chapter 9, Development Plan Approval.
  2. Church, public or semi-public buildings, or public park identification sign: Not more than one sign per street frontage not exceeding 50 square feet in size per face. The sign shall not exceed 12 feet in height, and illumination, if any, shall be by constant light.
  3. Construction sign: During the period of construction, a temporary sign advertising the construction of improvements on the premises, may be erected on each perimeter street of frontage of the development. The sign shall not exceed 50 square feet in surface area, nor 12 feet in height, and illumination, if any shall be by constant light.
  4. Directional signs: Two signs per entry/exit not exceeding six square feet in size per face.
  5. Memorial or tablet sign: One sign not exceeding six square feet in size per face unless such signs are installed by the federal, state, county, or city government or agencies thereof
  6. Property real estate signs: One sign per lot frontage not exceeding six square feet in size per face.
  7. Special displays and other temporary signs: See § 11.11 of this ordinance.
  8. Informational signs, not exceeding two square feet in size per side nor a height of four feet from the ground, which identify the occupants, occupation, address, and/or information. Examples of permitted informational signs generally include: privacy sign, trespassing sign, seed sign, etc.
  9. Non-illuminated home occupation wall sign not exceeding two square feet wall-mounted on the dwelling; and if allowed with the special exception, one nonilluminated yard sign not exceeding six square feet in size per face. (See Chapter 12, Board of Zoning Appeals.)

(1980 Code, Ch. 156, § 5.03) (Ord. 1995-7, passed 6-5-1995)

**§ 5.04 SPECIAL EXCEPTIONS PERMITTED IN ALL RESIDENTIAL DISTRICTS.**

Special exceptions are the authorization of a building, structure, or use that is not designated as permitted within a district, but if specifically listed may be permitted if it meets special conditions, and upon application, is specifically authorized by the City Board of Zoning Appeals. The following buildings, structures, and uses can be permitted in any residential district provided a special exception is obtained by the criteria as set forth in Chapter 12, Board of Zoning Appeals:

Cemeteries

Child care for five to 15 children; state license required

Clinics

Community services (Ambulance depot, emergency and protective shelters, fire station, water tower, water treatment plants, etc.)

Electronic communication tower

Funeral homes

Home occupations, traffic generating

Hospitals

Mental health facilities

Nursing home

Parking lots, for uses other than those permitted as of right in a residential area

Public or private primary or secondary schools

Real estate office

(1980 Code, Ch. 156, § 5.04) (Ord. 1995-7, passed 6-5-1995)

**§ 5.05 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT.**

This district, although very suitable for agricultural uses in many locations, is designed to also permit low density single-family residential development, and is adaptable to urban and suburban locations.

- A. Regulations and performance standards: The following regulations shall apply in the R-1 Single-family Residential District in addition to the General Provisions in Chapter 2.
  - 1. Lot area: When a sewer is not available, no permitted use or special exception shall be allowed on a new lot in the R-1 District unless the proposed lot contains an area of at least 43,560 square feet (one acre). If there is a sewer available that will allow the lot to hook onto the sewer, then the lot shall contain not less than 20,000 square feet. If there are water and sewer lines available that will allow the lot to hook up two these utilities, then the lot shall contain not less than 10,000 square feet.
  - 2. Lot width: When a sewer is not available, the minimum lot width shall be 150 feet at the building line. The minimum lot width shall average 150 feet. In cases where the depth is less than the width, the lot depth shall average 150 feet. When a sewer is available, the minimum lot width shall be 100 feet at the building line. The lot width shall average 100 feet, and when the depth is less than the width, the lot depth shall average 100 feet. When water and sewer is available, the minimum lot width shall be 75 feet at the building line. The lot width shall average 75 feet, and when the depth is less than the width, the lot depth shall average 75 feet.
  - 3. Lot frontage: All lots within the R-1 District shall maintain a minimum of 50 feet of frontage on a publicly or privately maintained street or 35 feet when located on the radius of a cul-de-sac. The minimum frontage requirement shall run continually to the building line.
  - 4. Yard and setback requirements (see also §§ 2.04 - 2.06):
    - (a) Front yard: Not less than 35 feet from the property line.

(b) Side yards: Least width of either side yard shall not be less than 10 feet except in the case of a corner lot, where the side yard on the street side shall not be less than the required front yard setback.

(c) Rear yard: Not less than 10 feet.

5. Height requirement: Except as otherwise provided, the following height requirements shall apply to all buildings, structures, and uses in this district.

(a) All primary structures shall not exceed a height of 35 feet.

(b) General and specialized farm buildings and structures shall not exceed a height of 50 feet. (Reference section § 2.04 C.)

(c) Other accessory structures shall not exceed a height of 16 feet.

6. Ground floor area: The minimum ground floor area shall be 950 square feet for a single-story dwelling unit. The minimum ground floor area shall be 800 square feet for a multiple-story dwelling unit. The minimum ground floor area excludes all garages, porches, basements, and breezeways.

7. Lot coverage: The maximum lot coverage in a residential district is 30% of the entire lot.

8. Off-street parking: For residential uses, two parking spaces per dwelling unit, excluding garages. For nonresidential uses, see Chapter 10.

B. Permitted uses: The permitted uses include only those listed in § 5.02 permitted uses in all residential districts. The permitted accessory structures and buildings in all districts are listed in the General Provisions, §§ 2.06 - 2.09.

C. Accessory uses: Accessory uses include only those uses listed in § 5.03 of this chapter, Accessory Buildings, Structures, and Uses in all Residential Districts and §§ 2.06 - 2.09.

D. Special exceptions: Special exceptions include only those uses listed in § 5.04 C. of this section. The special exception criteria is set forth in Chapter 12, Board of Zoning Appeals.

(1980 Code, Ch. 156, § 5.05) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2001-22, passed 12-27-2001)

### **§ 5.06 R-2 TWO-FAMILY RESIDENTIAL DISTRICT.**

This district is designed to accommodate one-family and two-family dwellings in areas where other multi-family housing would not be desirable. This district may also be used to provide a transition area between single-family residential areas and more intensively used areas.

A. Regulations and performance standards: The following regulations shall apply in the R-2 Two-family Residential District in addition to the General Provisions in Chapter 2.

1. Lot area: When a sewer is not available, no permitted use or special exception shall be allowed on a new lot in the R-2 District unless the proposed lot contains an area of at least 43,560 square feet (one acre). If there is a sewer available that will allow the lot to hook onto the sewer, then the lot shall contain not less than 20,000 square feet. If there are water and lines available that will allow the lot to hook up to these utilities, then the lot shall contain not less than 8,500 square feet. The minimum lot area per family shall be 4,250 square feet.

2. Lot width: When a sewer is not available, the minimum lot width shall be 150 feet at the building line. The minimum lot width shall average 150 feet. In cases where the depth is less than the width, the lot depth shall average 150 feet. When a sewer is available, the minimum lot width shall be 90 feet at the building line. The lot width shall average 90 feet, and when the depth is less than the width, the lot depth shall average 90 feet. When water and sewer is available, the minimum lot width shall be 60 feet at the building

line. The lot width shall average 60 feet, and when the depth is less than the width, the lot depth shall average 60 feet.

3. Lot frontage: All lots within the R-2 District shall maintain a minimum of 50 feet of frontage on a publicly or privately maintained street or 35 feet when located on the radius of a cul-de-sac. The minimum frontage requirement shall run continually to the building line.
  4. Yard and setback requirements (see also §§ 2.04 – 2.06):
    - (a) Front yard: Not less than 30 feet from the property line.
    - (b) Side yards: Least width of either side yard shall not be less than 8 feet except in the case of a corner lot, where the side yard on the street side shall not be less than the required front yard setback.  
  
For a single-family attached dwelling, no side yard shall apply to the attached side of the primary structure.
    - (c) Rear yard: Not less than 10 feet.
  5. Height requirement: Except as otherwise provided, all primary buildings, structures, and uses in this district shall not exceed a height of 35 feet. Accessory structures shall not exceed a height of 16 feet.
  6. Ground floor area: The minimum ground floor area shall be 950 square feet for a single-story dwelling unit. The minimum ground floor area shall be 800 square feet for a multiple-story dwelling unit. The minimum ground floor area excludes all garages, porches, basements and breezeways. In a two-family dwelling, each dwelling unit shall have at least 750 square feet of ground floor area.
  7. Lot coverage: The maximum lot coverage in a residential district is 35% of the entire lot.
  8. Off-street parking: For residential uses, two parking spaces per dwelling unit, excluding garages. For nonresidential uses, see Chapter 10.
- B. Permitted uses: The permitted uses include all those permitted uses in the R-1 Single-Family District. In addition, single-family attached dwellings (containing no more than two dwelling units), two-family dwellings, duplexes and duplex condominiums are permitted uses. Prior to the issuance of an improvement location permit for the conversion of an existing single-family dwelling to a two-family dwelling, all provisions set forth herein for a two-family dwelling shall be met.
- C. Accessory uses: Accessory uses include only those uses listed in § 5.03, Accessory Buildings, Structures, and Uses in all Residential Districts and §§ 2.06 - 2.09.
- D. Special exceptions: In addition to the special exceptions listed in § 5.04 C (Special Exceptions Allowed in all Residential Districts), the R-2 Residential District allows for special exceptions of: alcoholism and drug abuse treatment centers, bed and breakfast facilities, and children's homes and halfway houses. The special exception criteria is set forth in Chapter 12, Board of Zoning Appeals.

(1980 Code, Ch. 156, § 5.06) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2001-22, passed 12-27-2001)

### **§ 5.07 R-3 MULTI-FAMILY RESIDENTIAL DISTRICT.**

The R-3 Multi-Family Residential District is intended to provide for medium to high density residential areas. This district may be used as a transitional area between residential and nonresidential areas while at the same time providing for multi-family housing in a predominantly low density rural area.

- A. Regulations and performance standards: The following regulations shall apply in the R-3 Multi-Family Residential District in addition to the general provisions in Chapter 2.

1. Lot area: The lot shall contain not less than 7,000 square feet. The minimum lot area per family shall be 3,500 square feet.
  2. Lot width: The minimum lot width shall be 50 feet at the building line. The lot width shall average 50 feet, and when the depth is less than the width, the lot depth shall average 50 feet.
  3. Lot frontage: All lots within the R-3 District shall maintain a minimum of 50 feet of frontage on a publicly or privately maintained street or 35 feet when located on the radius of a cul-de-sac. The minimum frontage requirement shall run continually to the building line.
  4. Yard and setback requirements (see also §§ 2.04 – 2.06):
    - (a) Front yard: Not less than 25 feet from the property line.
    - (b) Side yards: Least width of either side yard shall not be less than 7 feet except in the case of a corner lot, where the side yard on the street side shall not be less than the required front yard setback.  
 For a single-family attached dwelling, no side yard shall apply to the attached side(s) of the primary structure.
    - (c) Rear yard: Not less than 10 feet.
    - (d) Minimum side yard shall be increased by 7 feet and the minimum rear yard increased by 10 feet, respectively, for each story of height over two stories for residential structures.
  5. Height requirement: Except as otherwise provided, all buildings, structures, and uses shall not exceed a height of 50 feet. Accessory structures shall not exceed a height of 16 feet.
  6. Ground floor area: The minimum ground floor area shall be 950 square feet for a single-story dwelling unit. The minimum ground floor area shall be 800 square feet for a multiple-story dwelling unit. The minimum ground floor area excludes all garages, porches, basements and breezeways. In a multi-family dwelling, each dwelling unit shall have at least 750 square feet of floor area.
  7. Lot coverage: The maximum lot coverage in a Multi-Family Residential District is 50% of the entire lot.
  8. Off-street parking: For residential uses, two parking spaces per dwelling unit, excluding garages. For nonresidential uses, see Chapter 10.
  9. Recreational facilities: Not less than 10% of the gross area of the development, and not less than 10% of any expansion area, or subsequent phases, must be improved for recreational activity for the residents of the complex. The Executive Committee of the Plan Commission shall have final approval of the location and type of recreational facilities provided through the development plan approval.
- B. Permitted uses: The permitted uses are the same as those in the R-2 Two-Family District except that multi-family dwellings and single-family attached (containing more than two dwelling units) are permitted. Prior to the issuance of an improvement location permit for the conversion of an existing single-family or two-family dwelling to a multi-family dwelling, all provisions set forth herein for a multi-family dwelling shall be met.
- C. Accessory uses: Accessory uses include only those uses listed in § 5.03, Accessory Buildings, Structures, and Uses in all Residential Districts and §§ 2.06 - 2.09.
- D. Special exceptions:  
 In addition to the special exceptions listed in the R-1 and R-2 Residential Districts, the R-3 Multi-Family District allows for special exceptions of:  
 Alcoholism and drug abuse treatment centers  
 Children's homes and halfway houses

- Condominiums
- Halfway houses
- Mobile home parks

The special exception criteria is set forth in Chapter 12, Board of Zoning Appeals.

(1980 Code, Ch. 156, § 5.07) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2001-22, passed 12-27-2001)

**§ 5.08 MANUFACTURED HOUSING.**

- A. Intent: It is recognized that under I.C. 36-7-4-1106, 1988 Edition, certain forms of manufactured housing may not be totally barred from those zoning districts where other forms of residential housing are generally allowed. It is the intent of these regulations to identify those forms of manufactured homes which may be located outside of manufactured home developments as well as to identify those requirements and limitations applicable to them in conformance with state law.
- B. Definitions for manufactured housing:
  - 1. **MANUFACTURED HOME.** A dwelling unit, designed and built in a factory, which bears a seal certifying that it was built in compliance with the Federal Manufactured Housing Construction and Safety Standards Law (42 U.S.C. §§ 5401 *et seq.*). This seal is currently placed on the outside on the back left side. It is currently silver framed with a red background. (See illustration below.)



- 2. Modular home: A dwelling unit, designed and built in a factory, which bears an Indiana Modular Unit label, stating it was built in compliance with applicable state laws. This label is currently placed in the electrical box. (See illustrations below.)



3. Mobile home: For the purposes of this ordinance, any dwelling unit, designed and built in a factory before January 1, 1981; or a dwelling unit built in a factory, which bears an Indiana Mobile Unit label. This label is currently placed in the electrical box. (See illustration below.)



- C. Classification of qualifying manufactured homes: Qualifying manufactured homes shall be classified either a Type I or Type II manufactured home as defined herein.
1. Type I manufactured home: A Type I manufactured home shall be a dwelling unit consisting of a double section or larger multi-section unit. These units may be either federally inspected manufactured homes or state inspected modular homes for the purpose of this ordinance. Use of an “expando or add-a-room unit” in conjunction with a single-section manufactured home shall not be considered a qualifying dwelling unit for this classification.



2. Type II manufactured home: A Type II manufactured home shall be a dwelling unit consisting of a single section, either with or without expando or add-a-room units. A mobile home as defined in § 5.08 B. is a Type II manufactured home for the purpose of this ordinance.

D. Qualifying manufactured homes: Manufactured housing meeting the following criteria may be located outside of manufactured home developments and within those zoning districts where other forms of residential housing are allowed, subject to the requirements and limitations of the respective districts.

1. Such manufactured homes shall:

- (a) Have been constructed after January 1, 1981;
- (b) Have more than 950 square feet of occupied space;
- (c) Have siding material of a type customarily used on conventionally built residences, as specified in § 5.08 E.1. of this chapter;
- (d) Have roofing material of a type customarily used on conventionally built residences, as specified in § 5.08 E.2. of this chapter;
- (e) Be placed onto a permanent foundation in accordance with approved installation standards, as specified in § 5.08 E.3. of this chapter;
- (f) Utilize a permanent perimeter base enclosure in accordance with approved installation standards; as specified in § 5.08 E.4. of this chapter;
- (g) Have the wheels, axles, and hitch mechanisms removed;
- (h) Be anchored to the ground, in accordance with the State's One and Two Family Dwelling Code and manufacturer's specifications;
- (i) Have utilities connected in accordance with the State's One and Two Family Dwelling Code and manufacturer's specifications; and
- (j) Receive all required permits and inspections, and conform with the zoning ordinance and all other city ordinances.

E. Appearance/installation standards.

1. Approved siding materials:

Type I and II manufactured homes shall use one or more of the following siding materials:

- (a) Residential horizontal aluminum lap siding.
- (b) Residential horizontal vinyl lap siding.
- (c) Cedar, Redwood, or other decorative wood lap siding.
- (d) Wood grain, weather resistant, press board siding.
- (e) Stucco siding.
- (f) Brick or stone siding.

The Board of Zoning Appeals may approve other forms of residential siding as a special exception in those instances where it can be specifically shown by the applicant that the material proposed is compatible with that used on conventionally built housing in the immediate neighborhood of the proposed location.

Vertical, riveted, or welded metal siding shall not qualify for consideration under this provision.

2. Approved roofing materials:

Type I and II manufactured homes shall use one of the following roofing materials on a roof pitched according to the design specifications of the respective material:

- (a) Fiberglass shingles.
- (b) Shake shingles.
- (c) Asphalt shingles.
- (d) Tile materials.

The Board of Zoning Appeals may approve other forms of roofing materials as a special exception in those instances where it can be specifically shown by the applicant that the material proposed is compatible with that used on conventionally built housing in the immediate neighborhood of the proposed location. Tar paper, tar, or asphalt “build-up” roofs, or riveted or welded metal roofing shall not qualify for consideration under this provision.

3. Permanent foundation:

Type I and II manufactured homes shall be placed upon a permanent foundation. For the purposes of this ordinance, a “permanent foundation” is defined as a structural system that:

- (a) Transfers loads imposed by the home to firm substrata;
- (b) Has a lower surface placed below the frostline;
- (c) Is attached to the home in such a way as to secure the home to the foundation so that the home becomes a part of the real estate; and
- (d) Causes the home to be assessed for taxation as an improvement to the real estate.

The design and construction of these load-bearing foundations shall be in conformance with the requirements of the Indiana One and Two Family Dwelling Code, and with the manufacturer's installation specifications.

4. Permanent perimeter enclosure: Type I and II manufactured homes shall utilize a permanent perimeter enclosure. For the purposes of this ordinance, a “permanent perimeter enclosure” shall mean a structural system consisting of materials such as portland cement, mortared cement block, or mortared brick completely enclosing (with the exception of required openings) the space between the floor joists of the home and the under-floor grade. The permanent perimeter enclosure and the permanent foundation may be constructed as a unified structural system for those homes with a design compatible with such an approach. Design and construction of the permanent perimeter enclosure shall comply with the requirements of the Indiana One and Two Family Dwelling Code.

5. Structural alteration: Due to its integral design, any structural alteration or modification of a manufactured home after it is placed on the site shall be approved by the authorized County Building Administrator.

(1980 Code, Ch. 156, § 5.08) (Ord. 1995-7, passed 6-5-1995)

**§ 5.09 NONCONFORMING MANUFACTURED HOMES.**

A. Nonconforming homes: Where, on or before June 5, 1995, a manufactured or mobile home has been lawfully placed and maintained on a tract of land that would no longer be permissible under the provisions of this ordinance, such home may be continued to be used, at that location, so long as it conforms to the other applicable requirements of this ordinance.

- B. Replacement of nonconforming homes: If, following June 5, 1995, should a nonconforming manufactured or mobile home be removed, it shall only be replaced by a manufactured home conforming to the requirements of this ordinance.

(1980 Code, Ch. 156, § 5.09) (Ord. 1995-7, passed 6-5-1995)

**§ 5.10 MANUFACTURED/MOBILE HOME PARK.**

- A. Purpose: The Manufactured Mobile Home Park (MMHP) designation is intended to provide for and encourage, the organization and development of mobile homes and other pre-manufactured dwellings in a single-family residential neighborhood setting, and to:
  - 1. Bring about manufactured home developments which are an asset to the community and to prevent the development of those which would be a detriment to the community.
  - 2. To promote manufactured home developments with the character of residential neighborhoods.
  - 3. To protect the health, safety, and welfare of manufactured home residents and the surrounding community.
  - 4. To harmonize this type of residential development with other existing and proposed land uses.
  - 5. To assure adequate service by essential public facilities and services such as roads, police, water and sewers, drainage structures, and that the establishment of any manufactured home development shall not equal excessive public expense for the facilities and services.
- B. Location of manufactured/mobile home park: To adequately insure the purpose of the manufactured/mobile home park designation, applicants will be required to be in an R-3 Multi-Family Residential District and to acquire a special exception is set forth in Chapter 12, Board of Zoning Appeals.
- C. Limitation on permitted uses: Within all nonconforming parks, the permitted uses of such parks shall be limited to the following:
  - 1. Manufactured homes, mobile homes, and modular homes.
  - 2. Accessory buildings or structures, under park management and supervision, used only as office space, storage, laundry facilities, recreation facilities, garage storage, or other necessary service for park resident use only. An accessory building or structure shall not exceed 25 feet in height, or two stories; and shall meet the requirements of the City Building Code.
  - 3. Each residence may have one accessory building on a lot. The accessory building shall not exceed a height of 16 feet, nor two stories in height, nor be closer than 5 feet from any side or rear property line.
  - 4. Signs as regulated by Chapter 11, Signs.
- D. General regulations:
  - 1. Minimum development area: The total land area of a manufactured home development shall be not less than ten acres.
  - 2. Application of regulations: A manufactured home unit shall not be permitted to occupy a site, either initially when brought into a manufactured home development or upon addition to or replacement of an existing manufactured home, which violates the yard or area requirements established herein. It is recognized that due to the pre-manufactured nature of such homes, lots exceeding the minimum area requirements of this ordinance may be necessary to accommodate some models within the required yard setbacks. Recognizing this fact, it is assumed that suitable provision will be made by the developers of the manufactured home development in their advance planning to provide for such homes in their design. Based upon this guideline, the fact that the size of a particular home, or class of home, would create a

violation of any of the yard requirements of this ordinance when applied to a specific lot, shall not, in itself, be considered an adequate basis for the granting of a variance from such requirements. Further, it is the express intent of this ordinance to encourage and promote manufactured home developments similar in nature to and recognizable as, single-family residential neighborhoods. The mere desire of an individual to rezone a single lot, or a series of lots not clearly in conformance with the intent, shall not be considered adequate basis for a variance from the minimum development size requirements previously stated in this chapter.

3. Recorded plat required: No permit for the erection or location of a manufactured home within a manufactured/mobile home park shall be issued until a subdivision plat for the land encompassed by the manufactured home park has been approved in accordance with the requirements of the subdivision regulations. It is the intention of this requirement to provide for the eventual sale of the lots within the manufactured home development to the home owners who shall reside upon those lots. The recording of a site plan or other similar instrument shall not be considered as meeting this requirement.
4. Minimum accommodations: Recognizing that a variety of manufactured buildings exist not specifically designed for residential purposes, each manufactured home placed, erected or located within a manufactured home development shall contain, at a minimum, a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities, and plumbing and electrical connections designed for attachment to appropriate external systems.
5. Permanent foundation/perimeter enclosure required: All manufactured homes located within an approved manufactured home development shall be placed upon a permanent foundation and provided with a perimeter enclosure as defined by § 5.08 E.4. of this chapter. For the purposes of this ordinance, placement of a manufactured home upon uniform jacks or blocks, upon a concrete pad, skirted with sheet metal, aluminum, wood, or other temporary material, and secured by tiedowns, shall not be considered a permanent foundation and perimeter enclosure meeting this requirement.

E. Area regulations and performance standards:

1. Park area regulations and performance standards:
  - (a) The minimum area for a manufactured/mobile home park is ten acres.
  - (b) Buffer zone: A 40 feet wide buffer zone along the perimeter of the manufactured/mobile home park shall contain plantings so as to provide an opaque barrier, or screen, between the park and adjacent property and along adjacent roadways. No plantings or other visual barriers shall encroach beyond the home park property line. No home or accessory structure shall encroach upon the buffer zone.
  - (c) Manufactured homes shall be located on lots containing an area of at least 4,500 square feet, or more.
  - (d) For uses other than manufactured homes, the lot area shall be adequate to provide the yard area required to meet the setback requirements of this district and the off-street parking requirements contained in Chapter 10, but in no case shall be less than 4,500 square feet.
  - (e) Not less than 10%, exclusive of community building facilities, of the gross area of the park, and not less than 10% of any expansion area, must be improved for recreational activity for the residents of the park.
  - (f) Entrance exit: The park shall be provided with primary and secondary access points with suitable signage placed in a landscaped setting.
2. Individual lot area regulations and performance standards:

- (a) Minimum lot depth shall be 100 feet.
- (b) Minimum lot width at the minimum building setback line shall be 45 feet. Where a lot fronts on a cul-de-sac, a 35-foot lot width at the street right-of-way is required.
- (c) Front yard setback: Not less than 25 feet.
- (d) Side yards setback: Not less than eight feet on each side of the dwelling.
- (e) Rear yard setback: Not less than ten feet.
- (f) Height requirements: The height of structures within the park shall not exceed 25 feet or two stories. Accessory structures shall not exceed 16 feet.
- (g) Off-street parking: Off-street parking for two vehicles shall be provided for each home. In no case shall that portion of the paved area designated for the off-street parking encroach upon the street right-of-way.

F. Development standards:

1. Design and construction of improvements: All improvements, including but not limited to roadways, sidewalks, storm drainage facilities, water distribution facilities and sanitary sewer facilities shall be designed and constructed in conformance with the adopted standards and specifications of the city for public improvements whether intended as private improvements maintained by the owner(s) or for eventual dedication to the city.
2. Access: A lot within a manufactured home development shall have frontage on, and access to, a public or private street. Where double-frontage lots occur, access shall be limited to the minor street.
3. Sidewalks: Sidewalks not less than four feet in width shall be required on both sides of all interior streets. In those instances where the manufactured home development borders one side of an arterial or collector street, sidewalks conforming to this requirement shall only be required upon that side of the street.
4. Underground utilities: All electric, telephone, and other utilities extended within the home development to each lot shall be constructed underground. All water and sanitary sewage service connections shall not exceed ten feet in length above ground directly beneath the manufactured home, and shall be suitably protected against freezing.
5. Street trees required:  
A deciduous tree of a minimum of two inches in caliper as measured one foot above the ground level shall be planted on each lot within the manufactured/mobile home park.  
Some trees, such as ailanthus, silver maple, poplar, boxelder, catalpa or willow have roots which penetrate through or under the surface of any public place in the city, therefore they are hereby declared to be an undesirable species of tree for street planting.
6. Landscape maintenance: The landscaping materials depicted upon the approved plat shall be considered a binding element of the project. The developer, his or her successor, or subsequent owners of the overall development shall be responsible for its continued maintenance. Plant material which exhibits evidence of insect pests, disease, and/or damage shall be removed and replaced within the next planting season. This maintenance responsibility shall rest with the developer and subsequent owners for the duration of the manufactured/mobile home park.
7. Street lights: Street lights are required to be put in at the developers expense, as per Director of Community Development and/or Board of Public Works and Safety standards.

(1980 Code, Ch. 156, § 5.10) (Ord. 1995-7, passed 6-5-1995)

**§ 5.11 NONCONFORMING MANUFACTURED/MOBILE HOME PARKS.**

- A. General: Mobile home parks are a historic anachronism. Originally designed to serve the same function as today's recreational vehicle parks and campgrounds, changes in technology and the public's attitudes towards the use of mobile homes as residences have largely changed mobile home parks from locations of temporary occupancy to locations of permanent residence. Unfortunately, as mobile homes have become larger and more permanent, the design and organization of mobile home parks have not correspondingly changed to keep pace. As a result, such parks often reflect unacceptable density of development, lack of open space, substandard private improvements, and a general lack of amenities, among other problems, not conducive to the development of a single-family residential neighborhood.
- B. Intent: Nonconforming mobile home parks are declared by this chapter to be incompatible with the buildings, structures, and uses permitted by this ordinance. Such parks are not to be expanded and should be reduced to conformity as quickly as the fair interest to the parties involved will permit. With this background, it is the intent of this section to permit such nonconforming parks to continue until such time as they are discontinued, damaged (see § 5.11 G. of this chapter), or removed.
- C. Application of the regulations: Where, on the date of adoption, or amendment of this ordinance, a lawful mobile home park existed that is no longer permissible under the provisions of this ordinance, such mobile home park may continue so long as it remains otherwise lawful subject, to the following provisions.
  - 1. Violations not validated: A nonconforming mobile home park in violation of a provision of the ordinance which this repeals shall not be validated by the adoption of this ordinance.
  - 2. Enlargement: No such nonconforming mobile home park shall be enlarged, expanded, or extended to occupy on the date of adoption or amendment of this ordinance and no additional accessory use, building, or structure shall be established thereon, unless in complete compliance with the requirements of this ordinance. Nor shall the mobile homes within the existing site be rearranged to increase their number or density within the existing confines of the park.
  - 3. Relocation: No such nonconforming mobile home park shall be moved in whole or in part to any other portion of such parcel or lot not so occupied on the date of adoption of this ordinance.
  - 4. Destruction: Should any such nonconforming mobile home park be destroyed by any means to an extent of 50 or more percent of its replacement, it shall not be reconstructed except in conformity with the requirements of this ordinance (see § 5.11 B. of this chapter).
  - 5. Discontinuance: If such nonconforming mobile home park ceases to exist for any reason for a period of more than 180 consecutive days (except where government action causes such cessation) the subsequent use of such parcel or lot shall conform to the regulations and provisions set by this ordinance for the district in which such parcel or lot is located.
- D. Ownership: Nonconforming mobile home parks shall remain in one ownership and shall be primarily designed for the purpose of renting spaces for the placement of mobile home dwelling units. In no instance shall a nonconforming mobile home park be sold as individual lots for permanent mobile home residence.
- E. Minimum distances: Within all nonconforming mobile home parks, the minimum distances maintained between mobile homes shall be maintained as they currently exist on the date of adoption of this ordinance, subject to no existing violation being present from the previous ordinance which this ordinance repeals. In no case shall the mobile homes within a nonconforming mobile home park be rearranged to increase their number or density within the existing confines of the park. In addition, these minimum distances shall be subject to the

health and safety requirements of the city's adopted Building Fire Codes, applicable state laws, and/or a development plan previously approved by the city.

- F. Minimum accommodations: All mobile homes within nonconforming mobile home parks shall be subject to the requirements of § 5.10 D.4. of this chapter.
- G. Limitation on permitted uses: Within all nonconforming mobile home parks, the permitted uses of such park shall be limited to the following:
  - 1. Manufactured homes, mobile homes and modular homes.
  - 2. Accessory buildings or structures, under park management and supervision, used only as office space, storage, laundry facilities, recreation facilities, garage storage, or other necessary service for park resident use only. An accessory building or structure shall not exceed 25 feet in height, nor two stories; and shall meet the requirements of the City Building Code.
  - 3. Each residence may have one accessory building on a lot. The accessory building shall not exceed a height of 16 feet, nor two stories in height, nor be closer than 5 feet from any side or rear property line.
  - 4. Signs as regulated by Chapter 11.
- H. Periodic replacement of mobile homes: Recognizing the mobile home parks are designed for the purpose of renting or leasing locations for mobile homes owned by others, it is understood that, from time-to-time, existing mobile homes within the park will be replaced. Such replacements are permissible, provided the other requirements of this ordinance are maintained.
- I. Park maintenance: Park owners and management are required to maintain the physical and natural facilities and features of the park in a neat, orderly, and safe condition.
- J. Parking: No parking area or parking space which exists at the time this ordinance becomes effective or which subsequent thereto is provided for the purpose of complying with the provisions of this ordinance shall thereafter be relinquished or reduced in any manner.
- K. Siding/skirting: All manufactured or mobile homes without a permanent perimeter enclosure shall have an approved foundation siding/skirting enclosing the entire perimeter of the home. Foundation siding/skirting and back-up framing shall be of weather-resistant, noncombustible, or self-extinguishing materials, which blend with the exterior siding of the home. Below grade level and for a minimum distance of six inches above finish grade, the materials shall be unaffected by decay or oxidation. The siding shall be installed in accordance with the manufacturer's recommendations or approved equal standards. The siding shall be ventilated by openings, which shall have a net area of not less than one and one-half square feet for each linear feet of exterior perimeter. The openings shall be covered with corrosion resistant wire mesh not larger than ½ inch in any dimension. The under-floor area shall be provided with an 18-inch by 24-inch minimum size access crawl hole, which shall not be blocked by pipes, ducts, or other construction interfering with the accessibility of the under-floor space, or other approved access mechanism.
- L. Support system: All mobile homes not placed on a permanent foundation, shall be installed on a support system in conformance with the manufacturer's installation specifications or with the support system regulations in the ANSI/NFPA 501a 1977 Installations Standards.
- M. Existence of a nonconforming mobile home park: In cases of doubt, and on specific questions raised concerning whether a mobile home park has nonconforming status, or if an element of such park has nonconforming status, it shall be treated as a question of fact and shall be decided by the Board of Zoning Appeals.

(1980 Code, Ch. 156, § 5.11) (Ord. 1995-7, passed 6-5-1995)

**§ 5.12 CONTINUATION OF HISTORIC PUDS.**

Where a residential Planned Unit Development (“PUD”), formerly known as “Planned Unit Project”, was approved as a Special Exception prior to the effective date of this Ordinance, the development standards set forth in the Special Exception approval shall continue to be in effect regardless of the current zoning classification. Any standards not specified in the approval shall be governed by the current zoning classification.

The standards of such a Special Exception PUD shall cease to be in effect if the PUD is modified so as to alter the essential character of the original approved PUD, as determined by the Director. At such time, the provisions of the current zoning classification and/or Section 2.11 apply.



## CHAPTER 6: BUSINESS DISTRICTS

### § 6.01 PURPOSE OF THE BUSINESS DISTRICTS.

- A. Achieve the commercial objectives of the Comprehensive Plan.
- B. Meet the needs for commercial services and goods of the trade area.
- C. Preserve and promote the development of efficient commercial facilities and encourage a compatible relationship between commercial facilities and other land uses and thoroughfares by:
  - 1. Differentiating the types and purposes of commercial activities.
  - 2. Establishing bulk and area controls.
  - 3. Requiring off-street loading and parking facilities as required in Chapter 10.
  - 4. Controlling the number, area, location, and types of signs as required in Chapter 11.
  - 5. Protecting the character of commercial districts and their peculiar suitability for commercial uses.

(1980 Code, Ch. 156, § 6.01) (Ord. 1995-7, passed 6-5-1995)

### § 6.02 LOCAL BUSINESS DISTRICT.

The Local Business District (LB) is designed to meet the day-to-day convenience shopping and service needs of persons living in nearby residential areas. Uses allowed in this district will, in general, be a less intense use than those allowed in the General Business District.

#### A. Permitted uses include:

##### 1. Residential uses, including:

Single-family dwelling

Two-family dwelling

Manufactured Home Type I as defined in § 5.08 C.

Cultural and recreational facilities, including: Churches, parks and recreational facilities, libraries, museums, zoos

Home occupations, traffic and non-traffic generating

Permanent utility structures for essential services

Public or private primary or secondary schools

Development disabilities residential facilities. See § 5.02 A.8.

Residential accessory uses as provided by § 5.03 and §§ 2.06 - 2.09

##### 2. Local business uses which are primarily of a retail or service nature and specifically classified or implied in the following categories of uses:

###### (a) Business services, including:

Bank

Office building

Postal station

Telephone/telegraph exchange or public utility substation

Utility company business office

###### (b) Clinic.

###### (c) Clothing service, including:

Dry cleaning establishment

- Dressmaking
- Millinery
- Self-service laundry and dry cleaning
- Shoe repair shop
- Tailor and pressing shop
- (d) Equipment service, including:
  - Electric appliance shop and sales
  - Radio or television shop and sales
  - Record shop and sales
- (e) Food service, including:
  - Bakery
  - Cold storage lockers, for individual use
  - Delicatessen
  - Grocery
  - Meat market
  - Restaurant, excluding drive through windows and drive-ins.
- (f) Funeral home.
- (g) Personal service, including:
  - Barber shop
  - Beauty shop
  - Physical fitness facility
  - Photographic studio
- (h) Pet shop or pet grooming, (not including a kennel).
- (i) Recreational uses, including:
  - Billiard room
  - Bowling alley
  - Dancing academy
  - Sport shops including bait sales
- (j) Restaurant, excluding drive-through windows and drive-ins.
- (k) Retail service, retail stores, including:
  - Apparel shop
  - Antique shop
  - Drug store
  - Flower and/or gift shop
  - Hardware or paint store
  - Jewelry store
  - News dealer
  - Shoe store
  - Show room and sales area for articles to be sold at retail
  - Stationer
  - Toy store
  - Variety store

(l) Studio business, including:

- Art shop
- Interior decorating
- Music shop

B. Performance standards: The following regulations shall apply in the Local Business District (LB) in addition to the general provisions in Chapter 2. Commercial accessory uses are subject to the same provisions as the principal use unless otherwise noted in this ordinance.

1. Lot area: The lot shall contain not less than 5,000 square feet.
2. Lot width: The minimum lot width shall be 50 feet and when the depth is less than the width, the lot depth shall be 50 feet.
3. Lot frontage: All lots within the LB District shall maintain a minimum of 50 feet of frontage on a publicly or privately maintained street.
4. Yard and setback requirements:
  - (a) Front yard: Not less than 25 feet from the property line.
  - (b) Side yards: Least width of either side yard shall not be less than ten feet except in the case of a corner lot, where the side yard on the street side shall not be less than the required front yard setback.
  - (c) Rear yard: Not less than ten feet.
5. Height requirement: Except as otherwise provided, the following height requirements shall apply to all buildings, structures, and uses in this district.
  - (a) All primary structures shall not exceed a height of 50 feet.
6. Ground floor area: The minimum ground floor area is not applicable to business districts for business uses. The minimum ground floor area shall be 950 square feet for a single-story dwelling unit. The minimum ground floor area shall be 800 square feet for a multiple-story dwelling unit. The minimum ground floor area excludes all garages, porches, basements and breezeways. In a multi-family dwelling, each dwelling unit shall have at least 750 square feet of floor area.
7. Lot coverage: The maximum lot coverage in a Local Business District is 50% of the entire lot.

C. Other regulations:

1. Off-street parking: For residential uses, two parking spaces per dwelling unit, excluding garages. Other off-street parking requirements as set forth in Chapter 10.
2. Sign requirement: Sign requirements as set forth in Chapter 11.
3. Operations in an enclosed building: All operations shall be conducted within a fully enclosed building. The Board of Zoning Appeals may allow for outdoor storage in conjunction with a permitted use as a special exception as set forth in Chapter 12, Board of Zoning Appeals.
4. Building size: The enclosed building shall be less than 3,000 square feet.
5. Hours of operations: All business operations shall be conducted between the hours of 6:00 a.m. and 9:00 p.m. The Board of Zoning Appeals may extend hours by the means of a variance as set forth in Chapter 12, Board of Zoning Appeals.
6. Multi-family dwellings: Multi-family dwelling with a special exception as set forth in Chapter 12, Board of Zoning Appeals.

(1980 Code, Ch. 156, § 6.02) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2001-22, passed 12-27-2001)

**§ 6.03 GENERAL BUSINESS DISTRICT.**

The General Business District (GB) provides sites for heavier types of business and commercial uses.

A. Permitted uses include:

1. Residential uses, including:
  - Single-family dwelling
  - Two-family dwelling
  - Manufactured Home Type I as defined in § 5.07 C.
  - Cultural and recreational facilities, including: Churches, parks and recreational facilities, libraries, museums, zoos
  - Home occupations, traffic and non-traffic generating
  - Permanent utility structures for essential services
  - Public or private primary or secondary schools
  - Development disabilities residential facilities. See § 5.02 A.8.
  - Residential accessory uses as provided by § 5.03 and §§ 2.06 - 2.09.
2. Local business uses, as defined in § 6.02 A.2. of this chapter.
3. General business uses which are primarily of a retail or service nature and specifically classified or implied in the following categories of uses:
  - (a) Automobile service, including:
    - Automobile service center
    - Dealers, new or used
    - Parking garage
    - Repair: major or minor
    - Salesroom: including mobile home, recreation vehicle or trailer sales
  - (b) Business recreational uses, including:
    - Billiard room
    - Bowling alley
    - Club or lodge
    - Dancing academy
    - Sport shops including bait sales
  - (c) Farm implement and construction (machinery) new or used and service building.
  - (d) Food service, including:
    - Supermarket; or any other food service requiring more than 3,000 square feet
  - (e) Hotels and motels
  - (f) Medical services, including:
    - Clinics
    - Hospitals
  - (g) Restaurant, including drive- throughs.
  - (h) Retail store and service, including:
    - Department stores
    - Shopping centers

- (i) Storage warehouse, including self- service storage facility.
- (j) Truck service center.
- (k) Wholesale establishment.

B. Performance standards: The following regulations shall apply in the General Business District (GB) in addition to the General Provisions in Chapter 2. Commercial accessory uses are subject to the same provisions as the principal use unless otherwise noted in this ordinance.

1. Lot area: The lot shall contain not less than 5,000 square feet.
2. Lot width: The minimum lot width shall be 50 feet and when the depth is less than the width, the lot depth shall be 50 feet.
3. Lot frontage: All lots within the GB District shall maintain a minimum of 50 feet of frontage on a publicly or privately maintained street.
4. Yard and setback requirements:
  - (a) Front yard: Not less than 25 feet from the property line.
  - (b) Side yards: Least width of either side yard shall not be less than ten feet except in the case of a corner lot, where the side yard on the street side shall not be less than the required front yard setback.
  - (c) Rear yard: Not less than ten feet.
5. Height requirement: Except as otherwise provided, the following height requirements shall apply to all buildings, structures, and uses in this district.
  - (a) All primary structures shall not exceed a height of 50 feet.
6. Ground floor area: The minimum ground floor area is not applicable to business districts for business uses. The minimum ground floor area shall be 950 square feet for a single-story dwelling unit. The minimum ground floor area shall be 800 square feet for a multiple-story dwelling unit. The minimum ground floor area excludes all garages, porches, basements and breezeways. In a multi-family dwelling, each dwelling unit shall have at least 750 square feet of floor area.
7. Lot coverage: The maximum lot coverage in a General Business District is 50% of the entire lot.

C. Other regulations:

1. Off-street parking: For residential uses, two parking spaces per dwelling unit, excluding garages. Other off-street parking requirements as set forth in Chapter 10.
2. Sign requirements: Sign requirements as set forth in Chapter 11.
3. Operations in an enclosed building: All operations shall be conducted within a fully enclosed building. The Board of Zoning Appeals may allow for outdoor storage and/or retail use in conjunction with a permitted use as a special exception as set forth in Chapter 12, Board of Zoning Appeals.
4. Special exceptions: In addition to the permitted commercial uses, special exceptions may be granted for alcoholism and drug abuse treatment centers, apartments, children's homes and halfway houses, halfway houses, multi-family dwellings, and electronic communication towers. See Chapter 12, Board of Zoning Appeals.
5. Sexually oriented business.

- (a) No person shall cause or permit the establishment of any of the sexually oriented businesses as defined in Chapter 13 unless that business is specifically approved as a special exception by the Board of Zoning Appeals. This business may be established only within those conditions set by the Board of Zoning Appeals.
- (b) The terminology “establishment of a sexually-oriented business” shall be defined to include within it's meaning the opening of such business as a new business; the relocation of such business; the enlargement of such business, in either scope or area; and/or the conversion of an existing business location to any of the “sexually oriented” uses as defined in Chapter 13.

(1980 Code, Ch. 156, § 6.03) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2001-22, passed 12-27-2001)

**§ 6.04 CENTRAL BUSINESS DISTRICT.**

A. The Central Business District is designed to:

- 1. Accommodate and encourage the most desirable, most productive, most intense use of land, without regard to the regulation of percent of land coverage or parking space requirements within the central core area of the city.
- 2. Preserve and promote the public and private investment of the existing central core area.

B. Permitted uses: Permitted uses are the same as those for the General Business District under § 6.03 A.1. - 3. of this Chapter.

C. Performance standards: The following regulations shall apply in the Central Business District (CBD) in addition to the General Provisions in Chapter 2. Commercial accessory uses are subject to the same provisions as the principal use unless otherwise noted in this ordinance.

- 1. Height requirement: Except as otherwise provided, the following height requirements shall apply to all buildings, structures, and uses in this district.

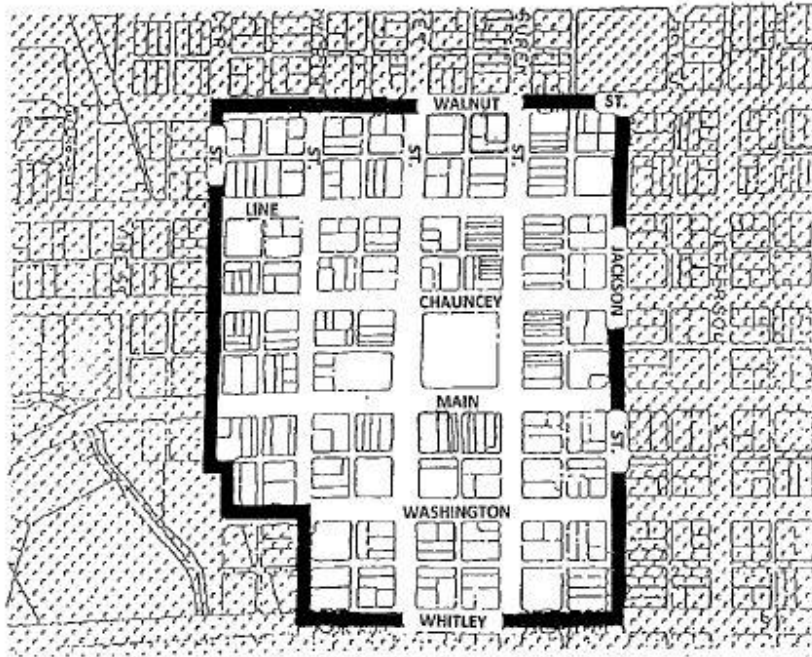
(a) All primary structures shall not exceed a height of 50 feet.

- 2. Ground floor area: The minimum ground floor area is not applicable to business districts for business uses. The minimum ground floor area shall be 950 square feet for a single-story dwelling unit. The minimum ground floor area shall be 800 square feet for a multiple-story dwelling unit. The minimum ground floor area excludes all garages, porches, basements, and breezeways. In a multi-family dwelling, each dwelling unit shall have at least 750 square feet of floor area.

D. Other regulations: Other regulations are the same as for the General Business District in § 6.03 B., except for:

- 1. The CBD is exempt from the off-street parking and loading requirements in Chapter 10.
- 2. The CBD setbacks are the same as for the General Business District, except that currently existing structures may add on so long as the do not encroach any further into a required setback and any new structural development may go before the Executive Committee for approval of a closer setback.

E. The CBD was established by city Ordinance Number 984, which contains those properties located in the following map (Figure 6.1) as part of the City Central Business District Economic Revitalization Area.



**FIGURE 6.1**  
**Central Business District**

Before additional area, contiguous to that area presently designated CBD, be considered for inclusion within the CBD District consideration should be given to the appropriateness of the General Business District. This alternate designation is intended to create a less congested district than that of the CBD.

(1980 Code, § 6.04) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2001-22, passed 12-27-2001)

## CHAPTER 7: INDUSTRIAL DISTRICTS

### § 7.01 PURPOSE OF THE INDUSTRIAL DISTRICTS.

The industrial district is designated to provide suitable space for existing industries as well as land for future industrial expansion. The district is divided into two classifications:

- A. I-1 Light Industrial: This zone provides areas for manufacturing, fabricating, processing, distributing, and storage of materials or products which are not injurious, noxious, or offensive to the health and safety of humans, animals, or vegetation due to the emission of smoke, dust, gas, fumes, odors, or vibrations beyond the limits of the premises on which that industry is located.
- B. I-2 Heavy Industrial: This zone provides areas for manufacturing, processing, heavy repair, dismantling, storage, or disposing of raw materials, manufactured products, or wastes which are not injurious to the health or safety of humans or animals, or injurious to vegetation, and which are not considered a nuisance.

(1980 Code, Ch. 156, § 7.01) (Ord. 1995-7, passed 6-5-1995)

### § 7.02 PERMITTED USES.

The permitted uses that are listed for the various districts shall be according to the common meaning of the term or according to the definitions given in Chapter 13. Uses not specifically listed, implied or defined to be included in the categories under this subchapter shall not be permitted.

- A. I-1 Light Industrial District:
  - Accessory uses
  - Essential services
  - Greenhouses and nurseries
  - Light manufacturing
  - Offices
  - Parking lots
  - Public utility buildings
  - Research and testing labs
  - Warehouses (including mini-warehouses or self-storage)
  - Wholesale businesses
- B. I-2 Heavy Industrial District: The Heavy Industrial District permitted uses includes all those permitted in the I-1 Light Industrial District listed in 7.02 A.; and:
  - Agriculture
  - Contractor's office
  - Electronic communication tower
  - Grain elevators
  - Heavy manufacturing
  - Recycling center and transfer station
  - Supply yards
  - Truck and railroad terminals

(1980 Code, Ch. 156, § 7.02) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2001-22, passed 12-27-2001)

### § 7.03 SPECIAL EXCEPTIONS.

The special exceptions for the I-1 and I-2 Zoning Districts that may be permitted by the Board of Zoning Appeals are shown below. The Board of Zoning Appeals shall follow the provisions of Chapter 12, Board of Zoning Appeals, when considering any application for a special exception.



- A. I-1 Light Industrial District special exceptions:
  - Bulk fuel storage of petroleum products, limited to local distribution in amounts subject to the Board of Zoning Appeals discretion and approval
  - Contractor's office
  - Electronic communication tower
  - Fire stations
  - Motels and hotels
  - Municipal buildings
  - Recycling center and transfer station
  - Transfer station
  - Restaurant
  - Supply yards
  - Truck and railroad terminals
  - Water and sewage treatment plant
- B. I-2 Heavy Industrial District special exception: The I-2 Heavy Industrial District special exceptions include all those permitted in the I-1 Light Industrial District, § 7.03 A.; and:
  - Airports
  - Regional bulk fuel storage and distribution terminal
  - Concrete mixing
  - Manufacture and processing of explosive materials mineral extraction
  - Salvage yard
  - Scrap metal processing facility
  - Stockyards and slaughterhouse
  - Vehicle impound lot

(1980 Code, Ch. 156, § 7.03) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2001-22, passed 12-27-2001; Am. Ord. 2005-26, passed 6-14-2005)

**§ 7.04 INDUSTRIAL PERFORMANCE STANDARDS.**

All uses within the I-1 Light Industrial District and the I-2 Heavy Industrial District shall comply with the requirements of this section:

- A. Performance standards: The following regulations shall apply in the industrial districts in addition to the general provisions in Chapter 2. Industrial accessory uses are subject to the same provisions as the principal use unless otherwise noted in this ordinance.
  1. Lot area: The lot shall contain not less than 20,000 square feet.
  2. Lot width: The minimum lot width shall be 100 feet and when the depth is less than the width, the lot depth shall be 100 feet.
  3. Lot frontage: All lots within the industrial districts shall maintain a minimum of 50 feet of frontage on a publicly or privately maintained street. The minimum frontage requirement shall run continually to the building line.
  4. Yard and setback requirements:
    - (a) Front yard: Not less than 50 feet from the property line or the end of the right-of-way, whichever is greater.
    - (b) Side yards: Not less than 25 feet, plus buffering where applicable.

(c) Rear yard: Not less than 25 feet, plus buffering where applicable.

5. Height requirement: Except as otherwise provided, the following height requirements shall apply to all buildings, structures, and uses in this district.

(a) All primary structures shall not exceed a height of 50 feet.

6. Ground floor area: The minimum ground floor area is not applicable to industrial districts.

7. Lot coverage: The maximum lot coverage in an industrial district is 50% of the entire lot.

B. Other regulations:

1. Off-street parking: Off-street parking and loading requirements as set forth in Chapter 10.

2. Sign requirement: Sign requirements as set forth in Chapter 11.

3. Operations in an enclosed building: All operations shall be conducted within a fully enclosed building. The Board of Zoning Appeals may allow for outdoor storage in conjunction with a permitted use as a special exception as set forth in Chapter 12, Board of Zoning Appeals.

4. Buffering: Where a side or rear yard abuts a residential or agricultural district, an additional 25 feet of setback shall be required. Alternatively, in lieu of the additional 25 feet of setback, the usage of at least two (2) of the following buffering options shall be used along the yard with the reduced setback:

(a) 1½” caliper deciduous shade trees, spaced 30 feet on center or evergreen trees 6 feet in height at the time of planting, spaced 20 feet on center.

(b) 8 shrubs per 100 lineal feet of yard.

(c) Opaque fencing, at least 6 feet in height.

(d) Additional 10 feet of setback.

It is recognized that standardized requirements are not always responsive to all situations and circumstances. In order to provide an avenue for the development of approaches to buffering appropriate to specific locations, the Executive Committee of the Plan Commission shall have the authority under this section to approve alternative buffering plans during review of a proposed Development Plan. Such plans may vary the arrangement of buffering, may make use of architectural components, and/or utilize topography and existing site characteristics to provide for a unique and functional design equivalent to or exceeding that required by the code.

(1980 Code, Ch. 156, § 7.04) (Ord. 1995-7, passed 6-5-1995)

## **CHAPTER 8: FLOOD HAZARD OVERLAY DISTRICT**

### **STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

#### **§ 8.01 STATUTORY AUTHORIZATION.**

The Indiana Legislature has in I.C. 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Common Council of Columbia City does hereby adopt the following floodplain management regulations.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

#### **§ 8.02 FINDINGS OF FACT.**

1. The flood hazard areas of Columbia City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

#### **§ 8.03 STATEMENT OF PURPOSE.**

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters.
4. Control filling, grading, dredging, and other development which may increase erosion or flood damage.
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
6. Make federal flood insurance available for structures and their contents in the city by fulfilling the requirements of the National Flood Insurance Program.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

#### **§ 8.04 OBJECTIVES.**

The objectives of this ordinance are:

1. To protect human life and health.
2. To minimize expenditure of public money for costly flood control projects.

3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
4. To minimize prolonged business interruptions.
5. To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges, located in floodplains.
6. To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize flood-blight areas.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

**§ 8.05 DEFINITIONS.**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage, and to give this ordinance its most reasonable application.

**A ZONE** means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

1. **ZONE A:** Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.
2. **ZONE AE and A1-A30:** Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30.)
3. **ZONE AO:** Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain), where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.
4. **ZONE AH:** Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding), where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.
5. **ZONE AR:** Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.
6. **ZONE A99:** Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

**ACCESSORY STRUCTURE (APPURTENANT STRUCTURE)** means a structure with a floor area of 400 square feet or less that is located on the same parcel of property as the principal structure, and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and shall be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

**ADDITION (TO AN EXISTING STRUCTURE)** means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and

roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

**APPEAL** means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

**AREA OF SHALLOW FLOODING** means a designated AO or AH Zone on the community's flood insurance rate map (FIRM), with base flood depths from one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**BASE FLOOD** means the flood having a one percent chance of being equaled or exceeded in any given year.

**BASE FLOOD ELEVATION (BFE)** means the elevation of the one-percent annual chance flood.

**BASEMENT** means that portion of a structure having its floor sub-grade (below ground level) on all sides.

**BOUNDARY RIVER** means the part of the Ohio River that forms the boundary between Kentucky and Indiana.

**BOUNDARY RIVER FLOODWAY** means the floodway of a boundary river.

**BUILDING** - see **STRUCTURE**.

**COMMUNITY** means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

**COMMUNITY RATING SYSTEM (CRS)** means a program developed by the Federal Insurance Administration to provide incentives for those communities in the regular program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

**CRITICAL FACILITY** means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

**D ZONE** means unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities, but is not required by regulation in this zone.

**DEVELOPMENT** means any man-made change to improved or unimproved real estate, including but not limited to:

1. construction, reconstruction, or placement of a structure or any addition to a structure;
2. installing a manufactured home on a site, preparing a site for a manufactured home, or installing a recreational vehicle on a site for more than 180 days;
3. installing utilities, erection of walls and fences, construction of roads, or similar projects;
4. construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
5. mining, dredging, filling, grading, excavation, or drilling operations;
6. construction and/or reconstruction of bridges or culverts;
7. storage of materials; or
8. any other activity that might change the direction, height, or velocity of flood or surface waters.

**DEVELOPMENT** does not include activities, such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices, that do not involve filling, grading, excavation, or the construction of permanent structures.

**ELEVATED STRUCTURE** means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

**ELEVATION CERTIFICATE** is a certified statement that verifies a structure's elevation information.

**EMERGENCY PROGRAM** means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FEMA** means the Federal Emergency Management Agency.

**FLOOD** means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

**FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)** means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

**FLOOD INSURANCE RATE MAP (FIRM)** means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY (FIS)** is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

**FLOOD-PRONE AREA** means any land area acknowledged by a community as being susceptible to inundation by water from any source (see **FLOOD**).

**FLOOD PROTECTION GRADE (FPG)** is the elevation of the regulatory flood plus two feet at any given location in the SFHA (see **FREEBOARD**).

**FLOODPLAIN** means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

**FLOODPLAIN MANAGEMENT** means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**FLOODPLAIN MANAGEMENT REGULATIONS** means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

**FLOODPROOFING (DRY FLOODPROOFING)** is a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation, with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris-impact forces.

**FLOODPROOFING CERTIFICATE** is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a registered professional engineer or architect.

**FLOODWAY** is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

**FREEBOARD** means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

**FRINGE** is those portions of the floodplain lying outside the floodway.

**HARDSHIP** (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The Columbia City Board of Zoning Appeals requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**HIGHEST ADJACENT GRADE** means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

**HISTORIC STRUCTURE** means any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

**INCREASED COST OF COMPLIANCE (ICC)** means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

**LETTER OF FINAL DETERMINATION (LFD)** means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

**LETTER OF MAP CHANGE (LOMC)** is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:

1. **LETTER OF MAP AMENDMENT (LOMA)** means an amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property-specific elevation data. A LOMA is only issued by FEMA.
2. **LETTER OF MAP REVISION (LOMR)** means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
3. **LETTER OF MAP REVISION BASED ON FILL (LOMR-F)** means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

**LOWEST ADJACENT GRADE** means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

**LOWEST FLOOR** means the lowest elevation described among the following:

1. the top of the lowest level of the structure;
2. the top of the basement floor;
3. the top of the garage floor, if the garage is the lowest level of the structure;
4. the top of the first floor of a structure elevated on pilings or pillars;
5. the top of the floor level of any enclosure, other than a basement, below an elevated structure, where the walls of the enclosure provide any resistance to the flow of floodwaters, unless:
  - (a) the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters, by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
  - (b) the total net area of all openings shall be at least one square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and
  - (c) such enclosed space shall be usable solely for the parking of vehicles and building access.

**MANUFACTURED HOME** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term **MANUFACTURED HOME** does not include a **RECREATIONAL VEHICLE**.

**MANUFACTURED HOME PARK OR SUBDIVISION** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MARKET VALUE** means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.



**MITIGATION** means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is two-fold: to protect people and structures, and to minimize the cost of disaster response and recovery.

**NATIONAL FLOOD INSURANCE PROGRAM (NFIP)** is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.

**NATIONAL GEODETIC VERTICAL DATUM (NGVD) OF 1929** as corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the floodplain.

**NEW CONSTRUCTION** means any structure for which the “start of construction” commenced after the effective date of the community’s first floodplain ordinance.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community’s first floodplain ordinance.

**NON-BOUNDARY RIVER FLOODWAY** means the floodway of any river or stream other than a boundary river.

**NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88)** as adopted in 1993, is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

**OBSTRUCTION** includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**ONE-PERCENT ANNUAL CHANCE FLOOD** is the flood that has a one-percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See **REGULATORY FLOOD**.

**PHYSICAL MAP REVISION (PMR)** is an official republication of a community’s FEMA map to effect changes to base (one-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

**PUBLIC SAFETY AND NUISANCE** means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin.

**RECREATIONAL VEHICLE** means a vehicle which is:

1. built on a single chassis;
2. 400 square feet or less, when measured at the largest horizontal projections;
3. designed to be self-propelled or permanently towable by a light-duty truck; and
4. designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

**REGULAR PROGRAM** means the phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available, based upon risk zones and elevations determined in a FIS.

**REGULATORY FLOOD** means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Section 8.07 of this ordinance. The **REGULATORY FLOOD** is also known by the terms **BASE FLOOD**, **ONE-PERCENT ANNUAL CHANCE FLOOD**, and **100-YEAR FLOOD**.

**REPETITIVE LOSS** means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

**SECTION 1316** is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict and development or occupancy in flood-prone areas.

**SPECIAL FLOOD HAZARD AREA (SFHA)** means those lands within the jurisdictions of Columbia City subject to inundation by the regulatory flood. The SFHAs of Columbia City are generally identified as such on the Whitley County, Indiana, and Incorporated Areas Flood Insurance Rate Map, dated May 4, 2015, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO.)

**START OF CONSTRUCTION** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE** means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

**SUBSTANTIAL DAMAGE** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage", regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements, or any

alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

**SUSPENSION** means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

**VARIANCE** is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

**VIOLATION** means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

**WATERCOURSE** means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**X ZONE** means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

**ZONE** means a geographical area shown on a FHBM or FIRM that reflects the severity or type of flooding in the area.

**ZONE A** - see **A ZONE**.

**ZONE B, C, AND X** means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities, but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.)

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

## **GENERAL PROVISIONS**

### **§ 8.06 LANDS TO WHICH THIS ORDINANCE APPLIES.**

This ordinance shall apply to all SFHAs and known flood-prone areas within the jurisdiction of Columbia City.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

### **§ 8.07 BASIS FOR ESTABLISHING REGULATORY FLOOD DATA.**

This ordinance’s protection standard is the regulatory flood. The best available regulatory flood data is listed below.

1. The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of Columbia City, delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Whitley County, Indiana, and Incorporated Areas, dated May 4, 2015, and the corresponding Flood Insurance Rate Map, dated May 4, 2015, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.
2. The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of Columbia City, delineated as an “A Zone” on the Whitley County, Indiana, and Incorporated Areas Flood Insurance Rate Map, dated May 4, 2015, as well as any future updates, amendments, or revisions,

prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, that party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

3. In the absence of a published FEMA map, or the absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood-prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.
4. Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective, less restrictive flood hazard data provided by FEMA.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

#### **§ 8.08 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.**

A floodplain development permit shall be required, in conformance with the provisions of this ordinance, prior to the commencement of any development activities in areas of special flood hazard.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

#### **§ 8.09 COMPLIANCE.**

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

#### **§ 8.10 ABROGATION AND GREATER RESTRICTIONS.**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

#### **§ 8.11 DISCREPANCY BETWEEN MAPPED FLOODPLAIN AND ACTUAL GROUND ELEVATIONS.**

1. In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.
2. If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
3. If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner should be advised to apply for a LOMA.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

## **§ 8.12 INTERPRETATION.**

In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements.
2. Liberally construed in favor of the governing body.
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

## **§ 8.13 WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of Columbia City, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

## **§ 8.14 PENALTIES FOR VIOLATION.**

Failure to obtain a floodplain development permit in the SFHA or failure to comply with the requirements of a floodplain development permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for Columbia City. All violations shall be punishable by a fine not exceeding \$50.00 for each offense.

1. A separate offense shall be deemed to occur for each day the violation continues to exist.
2. The Columbia City Common Council shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a standard flood insurance policy to be suspended.
3. Nothing herein shall prevent the city from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

## **ADMINISTRATION**

### **§ 8.15 DESIGNATION OF ADMINISTRATOR.**

The Common Council of Columbia City hereby appoints the Executive Director of the Whitley County Joint Planning and Building Department to administer and implement the provisions of this ordinance, and is herein referred to as the Floodplain Administrator.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

### **§ 8.16 PERMIT PROCEDURES.**

Application for a floodplain development permit shall be made to the Floodplain Administrator, on forms furnished by him or her, prior to any development activities, and may include, but not be limited to, the following: plans in duplicate, drawn to scale, showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

1. Application Stage.

- (a) A description of the proposed development.
- (b) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
- (c) A legal description of the property site.
- (d) A site development plan, showing existing and proposed development locations, and existing and proposed land grades.
- (e) Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
- (f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
- (g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required, and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See § 8.17 (6) for additional information.)

2. Construction Stage. Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. The Floodplain Administrator shall review the lowest floor elevation survey data submitted. The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk.

Upon establishment of the floodproofed elevation of a floodproofed structure, it shall be the duty of the applicant to submit to the Floodplain Administrator a floodproofing certificate. Certification shall be prepared by or under the direct supervision of a registered professional engineer and certified by same. (The Floodplain Administrator shall review the floodproofing certification submitted.) The applicant shall correct any deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the floodproofing certification or failure to make correction required shall be cause to issue a stop-work order for the project.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

**§ 8.17 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.**

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The Administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:

- 1. Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied.
- 2. Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.
- 3. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Sections 8.22 and 8.24 (1) of this ordinance, and maintain a record

of such authorization (a copy of either the actual permit/authorization or the floodplain analysis/regulatory assessment).

4. Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.
5. Maintain and track permit records involving additions and improvements to residences located in the floodway.
6. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.
7. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance.
8. Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
9. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
10. Review certified plans and specifications for compliance.
11. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 8.16.
12. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Section 8.16.
13. Perform a minimum of three inspections to ensure that all applicable ordinance and floodplain development requirements have been satisfied. The first upon the establishment of the flood protection grade reference mark at the development site; the second upon the establishment of the structure’s footprint/establishment of the lowest floor; and the final inspection upon completion and submission of the required finished construction elevation certificate. Authorized city officials shall have the right to enter and inspect properties located in the SFHA.
14. Stop-work orders.
  - (a) Upon notice from the Floodplain Administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
  - (b) Such notice shall be in writing and shall be given to the owner of the property, or to his or her agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
15. Revocation of permits.
  - (a) The Floodplain Administrator may revoke a permit or approval, issued under the provisions of this ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
  - (b) The Floodplain Administrator may revoke a permit upon determination by the Floodplain Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or

replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

## **PROVISIONS FOR FLOOD HAZARD REDUCTION**

### **§ 8.18 GENERAL STANDARDS.**

In all SFHAs and known flood-prone areas, the following provisions are required:

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
2. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
4. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
5. Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
9. Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in this ordinance.
10. Parking lots, driveways, and sidewalks within the SFHA shall be constructed with permeable materials.
11. Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of one to one) due to the fill or structure.
  - (a) The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located.
  - (b) Under certain circumstances, the excavation may be allowed to take place outside of, but adjacent to, the floodplain, provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory floodwater, will not be subject to ponding when not inundated by floodwater, and that it shall not be refilled.



- (c) The excavation shall provide for true storage of floodwater, but shall not be subject to ponding when not inundated by floodwater.
- (d) The fill or structure shall not obstruct a drainageway leading to the floodplain.
- (e) The grading around the excavation shall be such that the excavated area is accessible to the regulatory floodwater.
- (f) The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding, and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement.
- (g) Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator with a certified survey of the excavation and fill sites, demonstrating the fill and excavation comply with Provisions for Flood Hazard Reduction (Sections 8.18 through 8.25).

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

**§ 8.19 SPECIFIC STANDARDS.**

In all SFHAs, the following provisions are required:

1. In addition to the requirements of Section 8.18, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
  - (a) Construction or placement of any new structure having a floor area greater than 400 square feet.
  - (b) Addition or improvement made to any existing structure, where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).
  - (c) Reconstruction or repairs made to a damaged structure, where the costs of restoring the structure to its before-damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.
  - (d) Installing a travel trailer or recreational vehicle on a site for more than 180 days.
  - (e) Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.
  - (f) Reconstruction or repairs made to a repetitive-loss structure.
  - (g) Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.
2. Residential Structures. New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor, including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 8.19 (4).
3. Non-Residential Structures. New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement,

elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movement of floodwaters shall be provided in accordance with the standards of Section 8.19 (4). Structures located in all “A Zones” may be floodproofed in lieu of being elevated, if done in accordance with the following:

- (a) A registered professional engineer or architect shall certify that the structure has been designed so that, below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in Section 8.17 (12).
- (b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

4. Elevated Structures. New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

Elevated structures, with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade, shall be designed to preclude finished living space, and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

- (a) Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
- (b) The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
- (c) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
- (d) Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
- (e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (f) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
- (g) Openings are to be not less than three inches in any direction in the plane of the wall. This requirement applies to a hole in the wall, excluding any device that may be inserted, such as typical foundation air vent device.
- (h) Property owners shall be required to execute a flood openings/venting affidavit, acknowledging that all openings will be maintained as flood vents, and that the elimination or alteration of the openings in any way will violate the requirements of Section 8.19 (4). Periodic inspections will be conducted by the Floodplain Administrator to ensure compliance. The affidavit shall be recorded in the office of the Whitley County Recorder.
- (i) Property owners shall be required to execute and record with the structure’s deed a non-conversion agreement, declaring that the area below the lowest floor (where the interior height of the enclosure exceeds six feet) shall not be improved, finished or otherwise converted; the community will have the

right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the Whitley County Recorder.

5. Structures Constructed on Fill. A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:
  - (a) The fill shall be placed in layers no greater than one foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.
  - (b) The fill should extend at least ten feet beyond the foundation of the structure before sloping below the BFE.
  - (c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three horizontal to one vertical.
  - (d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
  - (e) The top of the lowest floor, including basements, shall be at or above the FPG.
  - (f) Fill shall be composed of clean granular or earthen material.
6. Standards for Manufactured Homes and Recreational Vehicles. Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:
  - (a) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood:
    - (i) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG, and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
    - (ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space, and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic forces on exterior walls as required for elevated structures in Section 8.19 (4).
    - (iii) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
  - (b) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:
    - (i) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade, and are securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
    - (ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space, and designed to allow for the entry and exit of

floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 8.19 (4).

(iii) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

(c) Recreational vehicles placed on a site shall either:

(i) be on site for less than 180 days; and

(ii) be fully licensed and ready for highway use (defined as being on its wheels or jacking system, attached to the site only by quick disconnect-type utilities and security devices, and having no permanently attached additions); or

(iii) meet the requirements for “manufactured homes” as stated earlier in this section.

7. Accessory Structures. Relief from the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:

(a) Shall not be used for human habitation.

(b) Shall be constructed of flood-resistant materials.

(c) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.

(d) Shall be firmly anchored to prevent flotation.

(e) Service facilities, such as electrical and heating equipment, shall be elevated or floodproofed to or above the FPG.

(f) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 8.19 (4).

8. Above-Ground Gas or Liquid Storage Tanks. All above-ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

## **§ 8.20 STANDARDS FOR SUBDIVISION PROPOSALS.**

1. All subdivision proposals shall be consistent with the need to minimize flood damage.

2. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems, located and constructed to minimize flood damage.

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

4. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) that are greater than the lesser of 50 lots or five acres.

5. All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.

6. All subdivision proposals shall ensure safe access into/out of the SFHA for pedestrians and vehicles (especially emergency responders).

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

### **§ 8.21 CRITICAL FACILITY.**

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

### **§ 8.22 STANDARDS FOR IDENTIFIED FLOODWAYS.**

Located within SFHAs, established in Section 8.07, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources, and apply for a permit for construction in a floodway. Under the provisions of I.C. 14-28-1, a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities, such as filling, grading, clearing and paving etc., undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (I.C. 14-28-1-26 allows construction of a non-substantial addition/improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit or letter or authorization (when applicable) has been issued by the Indiana Department of Natural Resources, granting approval for construction in the floodway. Once a permit for construction in a floodway has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in Provisions for Flood Hazard Reduction (Sections 8.18 through 8.25) of this ordinance have been met. The floodplain development permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed that, acting alone or in combination with existing or future development, will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse affect is defined as an increase in the elevation of the regulatory flood by at least fifteen-hundredths (0.15) of a foot, as determined by comparing the regulatory flood elevation under the project condition, to that under the natural or pre-floodway condition, as proven with hydraulic analyses.

For all projects involving channel modifications or fill (including levees) the city shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found in 44 C.F.R. § 65.12.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

### **§ 8.23 STANDARDS FOR IDENTIFIED FRINGE.**

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in Provisions for Flood Hazard Reduction of this

ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

**§ 8.24 STANDARDS FOR SFHAS WITHOUT ESTABLISHED BASE FLOOD ELEVATION AND/OR FLOODWAYS/FRINGES.**

1. Drainage area upstream of the site is greater than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway, or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended flood protection grade, has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a floodplain development permit may be issued, provided the conditions of the floodplain development permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources, and the provisions contained in Provisions for Flood Hazard Reduction of this ordinance have been met.

2. Drainage area upstream of the site is less than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis, showing the limits of the floodplain and one-percent annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in Provisions for Flood Hazard Reduction of this ordinance have been met.

3. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the regulatory flood more than 0.14 of one foot, and shall not increase flood damages or potential flood damages.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

**§ 8.25 STANDARDS FOR FLOOD PRONE AREAS.**

All development in known flood-prone areas not identified on FEMA maps, or where no FEMA-published map is available, shall meet applicable standards as required per Provisions for Flood Hazard Reduction.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

**VARIANCE PROCEDURES**

**§ 8.26 DESIGNATION OF VARIANCE AND APPEALS BOARD.**

The Columbia City Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this ordinance.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

**§ 8.27 DUTIES OF VARIANCE AND APPEALS BOARD.**

The Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the Board may appeal such decision to the Whitley County Circuit Court.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

**§ 8.28 VARIANCE PROCEDURES.**

In passing upon such applications, the Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

1. The danger of life and property due to flooding or erosion damage.
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
3. The importance of the services provided by the proposed facility to the community.
4. The necessity to the facility of a waterfront location, where applicable.
5. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
6. The compatibility of the proposed use with existing and anticipated development.
7. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
8. The safety of access to the property in times of flood for ordinary and emergency vehicles.
9. The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
10. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

**§ 8.29 CONDITIONS FOR VARIANCES.**

1. Variances shall only be issued when there is:
  - (a) A showing of good and sufficient cause.
  - (b) A determination that failure to grant the variance would result in exceptional hardship.
  - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
2. No variance for a residential use within a floodway subject to Section 8.22 or Section 8.24 (1) of this ordinance may be granted.
3. Any variance granted in a floodway subject to Section 8.22 or Section 8.24 (1) of this ordinance will require a permit from the Indiana Department of Natural Resources.

4. Variances to the provisions for flood hazard reduction of Section 8.19 may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
5. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
6. Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
7. Any application to whom a variance is granted shall be given written notice, specifying the difference between the flood protection grade and the elevation to which the lowest floor is to be built, and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (see Section 8.30).
8. The Floodplain Administrator shall maintain the records of appeal actions and, upon request, shall report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources (see Section 8.30).

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

**§ 8.30 VARIANCE NOTIFICATION.**

Any applicant to whom a variance is granted, which allows the lowest floor of a structure to be built below the flood protection grade, shall be given written notice, over the signature of a community official, that:

1. The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance, up to amounts as high as \$25 for \$100 of insurance coverage; and
2. Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder, and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

**§ 8.31 HISTORIC STRUCTURE.**

Variances may be issued for the repair or rehabilitation of “historic structures”, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an “historic structure”, and the variance is the minimum to preserve the historic character and design of the structure.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

**§ 8.32 SPECIAL CONDITIONS.**

Upon the consideration of the factors listed in Sections 8.26 through 8.32, and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)



**§ 8.33 SEVERABILITY.**

If any section, clause, sentence, or phrase of the ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this ordinance.

(Ord. 2012-16, passed 6-26-2012; Am. Ord. 2015-10, passed 3-24-2015; Am. Ord. 2015-11, passed 3-24-2015)

## **CHAPTER 9: DEVELOPMENT PLAN APPROVAL**

### **§ 9.01 INTENT.**

It is recognized by this ordinance that there is a value to the public in establishing safe and convenient traffic movement to and from higher density sites, both within the site and on the access streets; that there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses; that there is a value in insuring that new development is an investment in the continued quality of life of the community rather than a cost; and further, that there are benefits to the public in conserving natural resources. Toward this end, the review and approval of a development plan by the Executive Committee of the Plan Commission is required of certain buildings and types of development that can be expected to have an impact on natural resources, traffic patterns, and intensity, adjacent land uses, and the character of future urban development.

(1980 Code, Ch. 156, § 9.01) (Ord. 1995-7, passed 6-5-1995)

### **§ 9.02 BUILDINGS, STRUCTURES, AND USES REQUIRING DEVELOPMENT PLAN.**

Neither an improvement location permit nor a building permit shall be issued for the construction of the following buildings, structures, or uses until a development plan in accordance with the requirements of this ordinance has been reviewed and approved by the Executive Committee of the Plan Commission:

- A. Construction of any primary commercial or industrial building.
- B. Construction of an addition to a commercial or industrial building of 5,000 square feet of gross floor area; or, the construction of a secondary commercial or industrial building of square feet of gross floor area.
- C. Construction of a multiple-family building containing three or more dwelling units.
- D. Construction of an addition or renovation of an existing residential structure which would increase the total number of dwelling units within the structure to three or more. This includes rooming or boarding establishments.
- E. Construction of three or more residential structures on one lot, parcel, or tract of land, where each structure contains two or more dwelling units.
- F. Construction in the Central Business District where the proposed development does not conform to the setback lines.
- G. Additional or multiple signs may be permitted by the Executive Committee for one or more entrances to a residential development.

(1980 Code, Ch. 156, § 9.02) (Ord. 1995-7, passed 6-5-1995)

### **§ 9.03 DEVELOPMENT PLAN; APPLICATION AND REQUIREMENTS.**

An application for development plan approval shall be filed in the office of the Joint Planning and Building Department upon the form provided. An application shall include four copies of a drawing(s) measuring not more than 24 inches by 36 inches, drawn to a scale as large as practical, and including the following information:

- A. Existing conditions:
  - 1. Scale, date, north arrow, vicinity map, and title of the project.
  - 2. The boundaries, dimensions, and total gross acreage of the property.
  - 3. The relationship of the project to the surrounding road system, including the width of adjacent roadways.

4. The location and dimensions of existing manmade features such as roads, utilities, and structures, on both the petitioned site and adjacent properties, along with indication as to which features on the petitioned site are to be removed.
5. The location and dimensions of existing easements, watercourses, county drains, water and sewer lines, and other existing important physical features in and adjoining the project.
6. The location and delineation of existing trees 12 inches in diameter; or larger, as measured three feet above the ground, and information as to which trees will be removed. Existing woods may be indicated as such on the plan.
7. Identification of the land use and zoning of the petitioned site and adjacent properties.

B. Proposed conditions:

1. The location, dimensions, and height of the proposed main and accessory buildings, their relation to one another and to any existing structures to remain on the site. The distance from all proposed buildings and structures to the adjacent property lines.
2. The location of the 100-year flood plain and finished floor elevations, where applicable.
3. The internal circulation pattern for both vehicular and pedestrian traffic, including existing and proposed streets, driveways, and the location, size, and number of parking spaces in the off-street parking areas and the identification of service islands, service parking, and loading zones in accordance with Chapter 10.
4. Total project density for residential projects, or building floor area by the use intended for commercial and industrial projects.
5. Percentage of landscaping/open space areas and percentage of impervious surface areas to the total area of the site.
6. Landscaping areas, common open space areas, and buffer yard areas.  
Note: A separate landscape plan may be required in those instances where the size and complexity of the proposed project indicate the need for additional detail.
7. Size, location, and orientation of all signs.
8. Location, height, and type of all exterior lighting.
9. Location, area, and type of screening for all exterior trash collection and/or recyclable collection areas.
10. The names and addresses of the developer(s), the property-owner(s), and the designer(s) of the plan.
11. Proposal for sanitary sewer, storm sewer, water, gas, and electrical services:
12. Identification of additional roadway needs, including improvements necessary to adequately access and service the site. In reviewing such a proposal, the Plan Commission may require the preparation of a Transportation Impact Study, at the applicant's expense; to identify the traffic impacts and problems which are likely to be generated by the proposal, and to identify all improvements required to insure safe ingress and egress from the proposed development; elimination of hazards; and the maintenance of adequate street capacities.
13. The proposed phasing of construction for the project, if applicable, including:
  - (a) The approximate date when construction of each phase of the project will be started and completed.
  - (b) The order in which the phases of the project will be built and the anticipated overall completion date for the total project.

- (c) The minimum area and the approximate location of common open space and public location of common open-space and public improvements that will be required at each stage.

14. One aerial map of the site:

15. A legal description of the property proposed for the development.

C. Drainage plan.

- 1. Contours of the site with elevations of the predeveloped site and the proposed finished grades.
- 2. The size of the watershed.
- 3. Calculations of the storm water run-off and retention/detention needs based upon the rational method.
- 4. Proposals for the management and retention/detention of storm water drainage.

(1980 Code, Ch. 156, § 9.03) (Ord. 1995-7, passed 6-5-1995)

**§ 9.04 APPROVAL PROCESS.**

- A. Executive Committee: An Executive Committee of the Plan Commission shall be established to review development plans. In exercising its authority over the review of Development Plans; the Executive Committee shall exercise all the powers and authority of the Plan Commission. The Executive Director of the Joint Planning and Building Department or the President of the Executive Committee may call a meeting of the Executive Committee in order to expeditiously review submitted Development Plans. The Executive Committee shall be established and govern its operation in accordance with the Plan Commission “Rules of Procedure.”
- B. Pre-application conference: Prior to filing any application for development plan approval, the prospective applicant should request a pre-application conference with the Joint Planning and Building Department staffs. Such a request should include a general description of the nature, location, and extent of the proposed project and a list of any professional consultants assisting the applicant in respect to the development plan. The pre-application conference is intended to decrease costs for the applicant by eliminating any problems involved in the early stages of the development process.
- C. The formal application:
  - 1. Staff review:
    - (a) Upon submission of the formal application, development plan, and all other required materials, to the Joint Planning and Building Department, the Planning Department staff shall initiate an administrative review of the request by all affected city and/or county departments, the results of which shall be reported to the Executive Committee for its consideration.
    - (b) The City's Director of Development and/or the Board of Public Works and Safety in the city limits or the County Engineer in the county, shall review the drainage plan and submit a written report to the Executive Committee. The City's Director of Community Development and/or the Board of Public Works and Safety or the County Engineer, as may be applicable, may require additional information or documentation from the applicant, if necessary, to adequately review the drainage plan.
  - 2. Executive Committee review: Upon receiving the application, development plan, staff report, and associated documents from the Planning Department staff, the Executive Committee shall review the request based upon:
    - (a) Consistency with the minimum development standards established by the zoning ordinance.

- (b) Compatibility with surrounding structures and land uses.
- (c) The design standards established in the Plan Commission's "Rules of Procedure."
- (d) General planning, zoning, and engineering standards established by the Comprehensive Plan, zoning ordinance, subdivision regulations, and other applicable city ordinances.

After considering the potential impacts of the proposed project on the character of the neighborhood, traffic conditions, public utility facilities, and such other matters pertaining to the general health, welfare, and safety of the city in light of the above referenced criteria, the Executive Committee shall render a decision on the application, either denying it, approving it, or approving it with specific stated conditions. During its review, the Executive Committee may consider comments from interested parties on the application. The Executive Committee may also continue their review from time to time as they may deem necessary.

- 3. Appeal from Executive Committee decision: Any person aggrieved of any decision of the Executive Committee in exercising their authority to review and approve development plans or any officer or department of the government effected by any decision of the Executive Committee, may appeal that decision to the full Plan Commission, providing that the appeal is submitted in writing to the office of the Joint Planning and Building Department no later than ten calendar days following the date of the Executive Committee's decision. Upon the receipt of such an appeal, the staff of the Joint Planning and Building Department shall place the appeal upon the Plan Commission's next agenda for their consideration.

D. Modifications to an approved development plan:

- 1. An approved development plan may be amended upon written application to the Joint Planning and Building Department.
- 2. The Department shall review the proposed modifications to certify whether they comply with all standards and requirements of the zoning ordinance and that no substantial deviation from the approved development plan has occurred. A "substantial deviation" shall include, but is not limited to:
  - (a) Modification of building locations which would affect setback distances or buffering from adjacent property.
  - (b) Relocation of an access point to the site.
  - (c) A major redesign of the parking areas and/or vehicular use areas.
  - (d) Fundamental change in the overall concept of the development.
    - (1) If the Department determines that the proposed modification is inconsistent with the standards and requirements of the zoning ordinance, or a substantial modification exists, the modified development plan must be resubmitted for approval to the Executive Committee prior to the issuance of an improvement location or building permit.
    - (2) If the Department determines that the proposed modification is consistent with the standards and requirements of the zoning ordinance, and that a substantial deviation does not exist, then the Department may approve the modified development plan and issuance of improvement location and building permits may occur.

(1980 Code, Ch. 156, § 9.04) (Ord. 1995-7, passed 6-5-1995)

### **§ 9.05 PERIOD OF VALIDITY.**

- A. Development plan approval expires if an improvement location permit is not issued within two years from the date of its approval.
- B. Upon request, and after good cause is shown, the time within which an improvement location permit must be secured may be extended by the Executive Committee.
- C. If the period of validity has expired without either the issuance of an improvement location permit or an extension being granted, the Department shall file with the records of the Plan Commission a certificate of noncompliance and no improvement location or building permit shall be issued until a new development plan application is approved.

(1980 Code, Ch. 156, § 9.05) (Ord. 1995-7, passed 6-5-1995)

### **§ 9.06 CONTRACTUAL AGREEMENT.**

- A. The filing of a proposed development plan for approval constitutes an agreement by the owner and applicant, their successors and assigns, that if the development plan is approved by the Executive Committee, permits issued for the improvement of the property and the activities subsequent thereto, shall be conformance with the approved development plan.
- B. An approved development plan authorizes only the arrangement and construction set forth in such approved plans and applications. Arrangement and construction different from the approved development plan, including any approved modifications thereto, shall constitute a violation of this ordinance.
- C. The approved development plan shall have the full force and effect of the zoning ordinance. Any violations shall be grounds for the Planning and Building Department to issue stop work orders, withhold further permits, and take all actions necessary for the assessment of all penalties and fines as outlined in § 1.14 of this ordinance.

(1980 Code, Ch. 156, § 9.06) (Ord. 1995-7, passed 6-5-1995)

### **§ 9.07 PERFORMANCE GUARANTEE.**

As a condition of approval of the development plan, and in those instances in which significant improvements relating to the project, exclusive of building(s), will be delayed for an extended period due to the season of the year, weather conditions, or other unavoidable problems, the Executive Committee may require a deposit by the applicant with the City of Columbia City and/or the Whitley County Board of Commissioners, as may be applicable, in the form of cash, certified check, or other surety as may be acceptable to the city and/or the Board of Commissioners, in an amount to insure performance of any obligations of the applicant to make improvements shown upon the development plan or attested to in any accompanying documents.

- A. Amount: The amount of the guarantee shall be established by the City Board of Public Works and Safety and/or the Whitley County Board of Commissioners, as may be applicable, and shall be sufficient to insure completion of the improvements within the time period specified by this ordinance.
- B. Legal form: The performance guarantee shall be of current form as prescribed by the Joint Planning and Building Department office.
- C. Approval: Final approval of the amount, nature, and form of the performance guarantee shall rest with the Executive Committee.
- D. Release of guarantee: Following final approval of the performance guarantee by the Executive Committee, the City Board of Public Works and Safety and/or the Board of County Commissioners may rebate to the applicant the amount of any deposits equivalent to the ratio of work completed to the entire improvements

secured, as verified by the Director of Community Development and/or the Whitley County Engineer. Such rebates shall not exceed 90% of the total deposit held. Upon full completion of all improvements secured in conformance with all applicable standards and specifications, as verified by the Director of Community Development and/or the Whitley County Engineer, as may be applicable, the City Board of Public Works and Safety and/or the Whitley County Board of Commissioners, as may be applicable, may authorize and release the final 10%.

(1980 Code, Ch. 156, § 9.07) (Ord. 1995-7, passed 6-5-1995)

**§ 9.08 DEVELOPMENT PLAN REVIEW DESIGN STANDARDS.**

The Plan Commission shall establish design standards which are to be utilized by the applicant when preparing a development plan and by the Executive Committee when reviewing a development plan. The design standards shall be a part of the “Rules of Procedure.”

(1980 Code, Ch. 156, § 9.08) (Ord. 1995-7, passed 6-5-1995)

## **CHAPTER 10: OFF-STREET PARKING AND LOADING REQUIREMENTS**

### **§ 10.01 APPLICABILITY.**

For every use, activity, or structure permitted by this ordinance and for all buildings or structures erected in accordance therewith, there shall be provided sufficient space for access and off-street standing, parking, circulation, unloading and loading of motor vehicles that may be expected to transport their occupants, whether as patrons, residents, customers, employees, guests, or otherwise, to an establishment, activity or place of residence at any time under normal conditions for any purpose. When a use is expanded, accessory off-street parking and loading shall be provided in accordance with the regulations herein for the area of capacity of such expansion.

(1980 Code, Ch. 156, § 10.01) (Ord. 1995-7, passed 6-5-1995)

### **§ 10.02 SITE PLAN REQUIRED.**

Every building permit application for a new or enlarged building or structure shall include therewith a parking site and landscape plan, with the exception of single-family residences. In addition, such parking site and landscape plan requirements shall also apply to new, enlarged, or remodeled parking facilities serving existing buildings or structures. Application for approval of such a plan, shall include for review and approval by the Plan Commission staff any and all existing parking facilities currently serving said buildings, structures, and uses for conformity with these regulations as well.

A. Parking plan requirements: The plan shall specifically include the following:

1. Delineation of individual parking and loading spaces by adequate striping.
2. Circulation area necessary to serve spaces.
3. Access to streets and property to be served.
4. Driveway and traffic aisle width, location of all curbs and curbing materials.
5. Dimensions, continuity, and type of materials or required screening.
6. Grading, drainage, surfacing, and subgrade details.
7. Delineation of obstacles to parking and circulation in finished parking area.
8. Specification as to signs and bumper guards.
9. Landscaping and screening details (see § 10.04 of this chapter for landscaping requirements for parking lots).
10. Critical dimensions indicating setback and parking lot design layout.
11. The square footage of all existing and proposed buildings, as well as the dimensions and use types for multiple-use buildings.
12. The total number of employees on the maximum shift.
13. Any other information required by staff as it relates to the specific application.

(1980 Code, Ch. 156, § 10.02) (Ord. 1995-7, passed 6-5-1995)

### **§ 10.03 DESIGN REQUIREMENTS.**

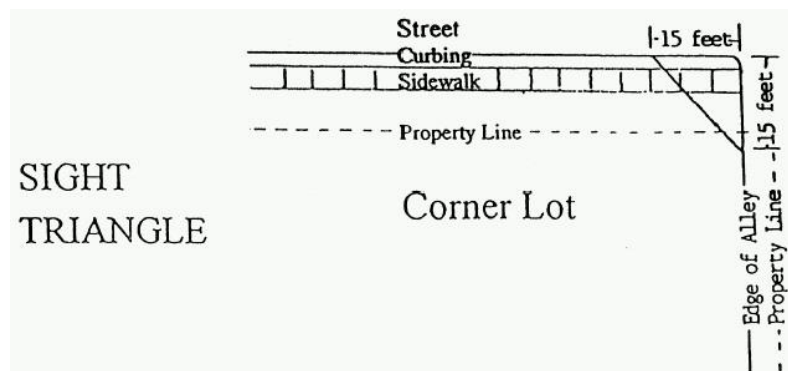
A. Surface material: Areas used for standing, parking, and maneuvering of vehicles shall have portland concrete or asphaltic concrete surfaces, maintained adequately for all weather use, and so drained as to avoid flow of



water across sidewalks or as sheet flow onto adjacent properties. All driveways and access points to public or private streets shall be paved.

Exception:

1. Single-family residences with driveways exceeding 76 feet in length except that they shall pave the curb cut to the back of the sidewalk or a distance of 10 feet, whichever is greater;
  2. Vehicle storage lots for the fleet storage of vehicles under one ownership, with the approval of the Board of Zoning Appeals as a special exception.
- B. Access to parking areas: All off-street parking spaces, with the exception of single-family residences, that make it necessary to back out directly into a public road are prohibited. The use of alleyways as an access to a commercial, industrial, or multi-family parking lot or spaces, is specifically prohibited without the express permission of the Director of Community Development and/or the Board of Public Works and Safety.
- C. Sight triangle: On a corner lot in any district, development shall conform to the requirements of the sight triangle in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 2 feet and 8 feet above the grades at the back of the curb of intersecting streets, within the triangular area formed by the edge of the pavement or its curbing when applicable and a line connecting them at 15 feet from their point of intersection, or at equivalent points on private streets, driveways, or entry/exit points into lots, except that the sight triangle requirements may be modified by the Director of Community Development and/or the Board of Public Works and Safety or the County Commissioners when deemed necessary for traffic safety. Parking areas shall not extend into the required sight triangle.
- D. Access near street corners: No entrance or exit for any commercial, industrial, or multi-family off-street parking area with over four parking spaces, nor any loading berth, shall be located within 75 feet of the end of the turn radius at the corner of any two streets. On corner lots where 75 feet is not available, driveways shall be placed adjacent to the interior, or side, property line the furthest distance attainable away from the street corner subject to review and modification by the Director of Community Development and/or the Board of Public Works and Safety in the city limits or the County Commissioners depending on the jurisdiction.



- E. Drainage: The manner of site drainage proposed shall be subject to review and approval by the City's Director of Community Development or the County Engineer, with appeal to the Board of Public Works and Safety or County Commissioners within their respective jurisdiction.
- F. Lighting: Lighting shall be provided to illuminate any off-street parking or loading spaces to be used at night in accordance with the following standards:
1. The light from any luminary (the light source and its enclosure, including any reflectors or other devices for the control of light, but excluding bracket arms or posts for supporter mounting) shall be shaded,

shielded, or directed to prevent direct light from being cast upon any adjacent properties and to prevent glare or other objectionable conditions detrimental to surrounding areas.

2. Lighting fixtures shall not exceed 25 feet in height unless specifically approved by the Director of Community Development and/or Board of Public Works and Safety.
3. No luminary shall have any blinking, flashing, or fluttering lights or other illumination device which has a changing light intensity, brightness, or color.
4. Neither the direct, nor reflected light from any luminary shall create a disabling glare causing traffic hazards to motor vehicle operators on public thoroughfares.
5. All proposed luminary shall be of either the high or low pressure sodium-type, or fixture of similar energy-savings nature.

G. Setback: Unless otherwise provided by specific provisions of this ordinance, all required parking spaces may be located in required front yard, side yard, or rear yard areas, provided that a five-foot buffer between separate ownership's. However, in no instance shall a parking lot be located in a required transition strip (see § 10.04, Screening and Landscaping Regulations).

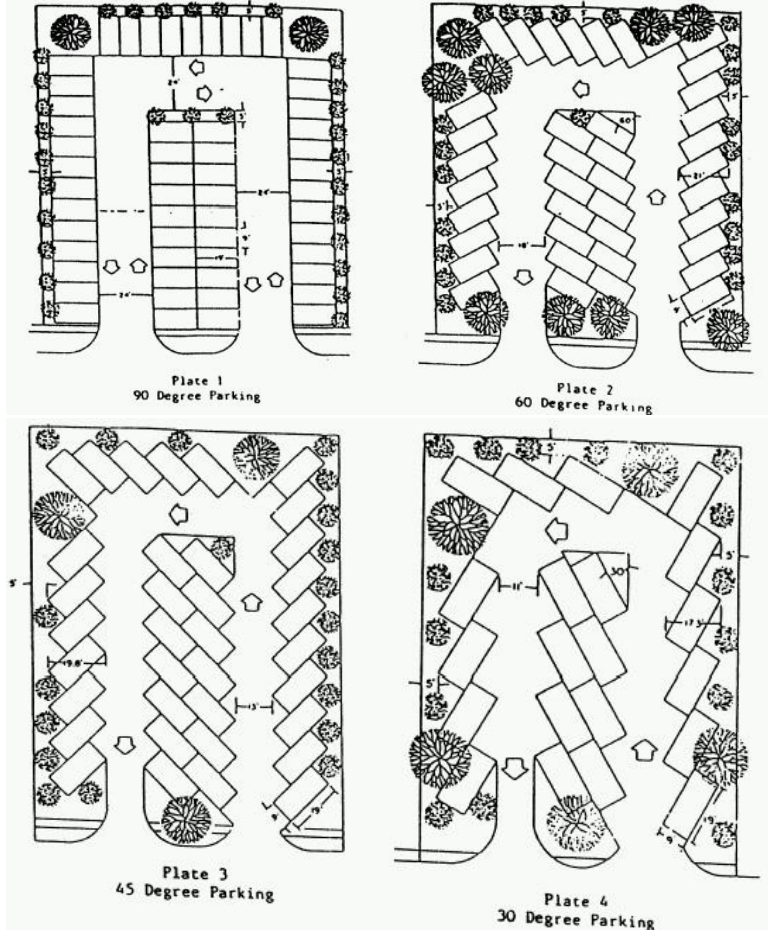
Exception: Where the proposed parking area will be located within the side yard or front yard adjacent to a similarly zoned property and where internal access will be provided between the two properties through the recording of appropriate cross easements, the five-foot setback requirement along the common side property line need not apply. The front yard setback on both properties, however, will be maintained. Following the recording of the cross-easement document(s), a copy of the document(s) will be filed in the Plan Commission office.

H. Striping required: Open parking spaces for multiple-family dwellings (containing three or more dwelling units) and all nonresidential uses shall be delineated by pavement striping and must meet minimal parking stall sizes as described below.

I. Minimum parking space dimensions:

1. If 90-degree parking space:  
Stall depth 19' 0"  
Stall width 9' 0" See Plate 1  
Aisle width 24' 0"
2. If 60-degree parking space:  
Stall depth 19' 0"  
Stall width 9' 0" See Plate 2  
Aisle width 18' 0"
3. If 45-degree parking space:  
Stall depth 19' 8"  
Stall width 9' 0" See Plate 3  
Aisle width 13' 0"
4. If 30-degree parking space:  
Stall depth 19' 0"  
Stall width 9' 0" See Plate 4  
Aisle width 11' 0"

5. If parallel parking space:  
 Stall depth 8' 0"  
 Stall width 23' 0"  
 Aisle width 12' 0"  
 or if adjacent to angle parking, use largest width.



J. Handicapped parking: The number, size, and location of handicapped parking spaces shall be provided in accordance with the Indiana Handicapped Accessibility Code, Indiana Administrative Code, Sections 134.1 and 134.2.

(1980 Code, Ch. 156, § 10.03) (Ord. 1995-7, passed 6-5-1995)

**§ 10.04 SCREENING AND LANDSCAPING.**

All parking and loading areas shall be properly screened and landscaped as hereinafter set forth. It is the purpose and intent of this section to require adequate protection for contiguous property against undesirable effects from the creation and operation of parking or loading areas and to protect, improve, and preserve the appearance and character of the surrounding neighborhoods and of the city through the screening effects and aesthetic qualities of such landscaping.

- A. The landscaping shall include, to the extent necessary to further the intent of this section, shrubs, bushes, hedges, trees, decorative walls, or fencing as set forth below.

- B. The frontage along the entire parking or loading area adjacent to any public or private street shall be landscaped with the provision of deciduous, hardwood street trees at not more than 35 feet on center located either within the right-of-way if approved by the Board of Public Works and Safety, or parallel to the right-of-way on the subject property.
- C. When off-street parking or loading areas for any use other than one-family and two-family residential uses are located adjacent to a residential district, there shall be provided along the lot line a continuous, solid fence, masonry wall, hedge, or equivalent landscaped berm to prevent the direct light from automobile headlights being cast on adjacent residential units. No landscaped hedge shall be less than 4 feet in height at planting, nor placed more than 24 inches on center to maximize screening from adjacent property(s). Any solid fence, masonry wall, or landscaped earthen berm shall be constructed with a minimum height of 6 feet and not more than 8 feet. However, no such screening device shall exceed three feet within 15 feet of the public right-of-way or internal traffic lanes of parking lots.
- D. In addition to any landscaped front, side, or rear yard areas required by this, or any other section of the ordinance, for parking areas encompassing, 30 or more parking spaces, interior landscaped areas shall be provided within the parking lot. The minimum gross total area of all interior landscaping required shall be based upon a unit figure often ten square feet per parking space. The total amount of required landscaping may then be divided into individual landscaped areas, providing the following requirements are met:
  1. Each interior landscaped plot shall be raised and curbed, shall contain a minimum of 50 square feet, and shall have a minimum width of 5 feet.
  2. The ends of parking rows abutting circulation aisles shall be defined by interior landscaped plots whenever possible.
  3. Each interior landscape plot shall contain at least one deciduous shade tree of a type and size required by this ordinance or as recommended by City Tree Board.
  4. There shall be one interior landscape plot within and up to every 100 lineal feet of parking for each parking row. This requirement may be modified by the Executive Committee.
- E. Deciduous shade trees shall have a minimum caliper of one and one-half inches in the trunk measured one foot above the ground with a clear trunk of at least five feet where provided for screening, buffering, or aesthetic effect. Evergreen trees shall be a minimum of six feet in height at planting. All trees shall be properly planted and staked. The number of such trees shall be determined by the application of the above mentioned landscape standards; provided, however, that in no instance shall there be less than two such trees in conjunction with the development of any parking facility or lot.
- F. Interior planting bed areas, which are used for the planting of trees, or which are used for landscaping treatment generally, may be treated with either grass and/or other types of vegetative ground cover, mulch, bark, decorative stone, or open spaced paves on a sand and gravel base located beneath and surrounding trees and shrubs.
- G. All landscaping shall be permanently maintained in good condition with at least the same quality and quantity of landscaping as initially approved. In the event that landscaping approved as part of site plan review should die and is not replaced by the property-owner in a timely fashion, taking into consideration the season of the year, it shall be deemed a violation of this ordinance and subject to the penalties outlined in § 1.14, legal provisions.
- H. A perimeter landscaped buffer strip shall be provided and maintained at a width of not less than five feet between a parking lot or driveway and the abutting property line at a side or rear yard. Said landscaped strip shall be at least ten feet in width along any front or side property line abutting a public or private street,

subject to the exception provided in § 10.04 G. other more restrictive standards for yards or buffering shall govern where required by this ordinance.

Note: A landscaped buffer strip shall be constituted by the actual placement of landscape planting materials and shall not consist of simply a grassed area.

- I. All landscaped areas in parking areas or adjacent to parking or loading areas, or that can be encroached upon by a motor vehicle, shall be provided with a permanent portland cement concrete curb as approved by the City's Director of Community Development and/or the Board of Public Works and Safety to restrict the destruction of the landscaped areas by vehicles. Adequate scuppers and/or weep holes shall be provided through the curbing to permit drainage.
- J. Innovative landscape plans: It is recognized that standardized requirements are not always responsive to all situations and circumstances. In order to provide an avenue for the development of creative approaches to landscaping, the Plan Director, in conjunction with the City's Director of Community Development and/or the Board of Public Works and Safety shall have the authority under this section to approve innovative landscape plan. Such plans may vary the arrangement and location of landscaping and landscape areas, such as clustering of trees, berming, and locating of plots for traffic-control purposes that provide for a unique and functional designs using topography and existing site characteristics provided the total area of all landscaping and the total amount of landscape materials is maintained.

In those instances where a plan is denied, or the applicant is aggrieved of any decision of the Plan Director and City's Director of Community Development, the applicant may appeal said decision to the Board of Zoning Appeals.

(1980 Code, Ch. 156, § 10.04) (Ord. 1995-7, passed 6-5-1995)

#### **§ 10.05 ADMINISTRATIVE REQUIREMENTS.**

- A. Determination of required number of spaces:
  - 1. Fractional spaces: When determination of the number of off-street parking spaces required by this regulation results in a fractional space, the fraction of one-half or less may be disregarded, and a fraction in excess of one-half shall be counted as one parking space.
  - 2. Floor area: Floor area, when used as a measurement for determining the number of parking spaces for office, merchandising, or service uses, shall mean the gross floor area used, or intended to be used for service to the public as patrons or patients, including areas occupied by fixtures and equipment used for display or sale of merchandise. It shall not include areas used principally for non-public purposes such as storage, processing or packaging of merchandise, show windows, or rest rooms or utilities, dressing, fitting, or alteration rooms. Within restaurants, kitchen areas will not be included. The burden shall rest with the applicant to provide the detailed information necessary to prove what should or should not be included.
  - 3. Beds: Bassinets shall not be counted as beds in determining the number of parking spaces based upon the number of beds.
  - 4. Employees: Employees, when used as a measurement for determining the number of parking spaces for a new or established expanding business, shall be considered the total number of employees present upon the property during the maximum shift.
- B. Parking exception for churches: Off-street parking facilities required for churches may be reduced by 50% where churches are located in nonresidential districts and within 300 feet of usable public or private off-street parking areas, and further provided that an agreement filed on record with the County Recorder is provided

reflecting that the use of such accessory parking facilities by the church will be permitted by the property owner. For the purposes of this ordinance, the term “church” shall be considered a building used principally for religious worship, but shall not include or mean an undertaker's chapel, funeral building, a religious educational building, day care center, group home of any nature, or any other similar venture.

- C. Parking for multiple use buildings: The number of parking spaces required for land or buildings used for two or more purposes, shall be the sum of the requirements for various uses, computed in accordance with this ordinance. Parking facilities for one use shall not be considered as providing the required parking facilities for any other use, except churches.
- D. Use of required parking spaces: Required accessory off-street parking facilities provided for the commercial and industrial uses hereinafter listed (in § 10.05 B. and C. of this chapter) shall be solely for the parking of motor vehicles in operating condition of patrons, occupants, or employees of such uses and shall not be used for the storage of other vehicles, boats, motor homes, campers, mobile homes, or materials or for the parking of delivery trucks or tractor trailers used in conducting the business or use. In no case shall any parking spaces devoted to the principal use of a lot be leased, rented, or sold for the purpose of use by any other person, firm, company, corporation, or use other than those located upon the property.

Exception: In the event of special limited time sales or seasonal events, the Board of Public Works and Safety may grant a temporary permit for a specified period, with the opportunity for renewal for a longer period.

- E. Number of entrances and exits: There shall be not more than one entrance and one exit or one combined entrance and exit along any street. In the instance of multiple properties along street frontage, the Director of Community Development and/or the Board of Public Works and Safety may require the use of joint access points and the recording of appropriate cross-easements at their discretion. Concerning corner lots located at the intersection of a major and minor road, the access to the parking area shall be limited to the minor road. In the instance of the intersection of two major roads, the access to the parking area shall be as approved by the Director of Community Development and/or the Board of Public Works and Safety for the alleviation of traffic congestion and interference of traffic movement along the related street.
- F. Accessory parking lots: All required off- street parking or loading spaces shall be provided on the same parcel of land occupied by the use or building to which it is appurtenant; provided, however, that where there are, in the judgment of the Board of Zoning Appeals, practical difficulties in satisfying the requirement for parking space and/or if the public safety or convenience would be better served by another location, the Board of Zoning Appeals may authorize an alternate location for any portion of the required parking for a nonresidential use which will adequately serve the conditions:
  - 1. Required accessory off-street parking facilities may be provided elsewhere than on the lot on which the principal use served is located, provided that the property occupied as parking is in the same possession as the principal use served, either by deed, by easement, or by long-term lease which has a term equal to or exceeding the projected life of the facility occupied by the principal use, and further provide that the owner shall be bound by covenants filed on record in the office of the Whitley County Recorder, requiring the owners, heirs, or assigns, to maintain the required number of off-street parking spaces during the existence of such principal use is provided to the Planning and Building Department.
  - 2. Pedestrian access shall be available within a walking distance of not more than 300 feet measured from the nearest point of public access accessory parking area.
  - 3. Such separated parking space shall be usable without causing unreasonable traffic congestion, detriment to any residential neighborhood or hazard to pedestrians or vehicular traffic.
  - 4. All accessory parking lots shall be located on property zoned within the same, or similar, zoning district.

- G. Changes in use: No off-street parking space required under this ordinance shall be used for any other purpose. Where a change in use creates greater parking requirements than the amount being provided, an occupancy permit shall not be issued until provision is made for the increased amount of required off-street parking.
- H. Additions to buildings, structures, or uses: Where an addition is made to an existing structure served by an existing, nonconforming parking lot, only the additional parking required for the proposed addition shall conform to all of the requirements of the ordinance. The existing parking area shall not be required to be reconstructed to come into conformance with the current off-street parking requirements as a result of the addition, with the exception of the paving requirements of § 10.03 of this chapter. However, these paving requirements shall only apply to customer or tenant parking and the access drives to the street.
- I. Existing parking: No parking area or parking space which exists at the time this ordinance becomes effective or which subsequent thereto is provided for the purpose of complying with the provisions of this ordinance shall thereafter be relinquished or reduced in any manner below the requirements established by this ordinance.
- J. Maintenance of parking facilities: Any persons operating or owning a parking lot shall keep it free, as may be practical, of dust, loose particles, trash, debris, and broken glass, and shall promptly remove the snow and ice from the surface of the parking lot. Such persons shall also keep all adjacent sidewalks free from dirt, ice, sleet, and snow and shall keep the sidewalks in a safe condition for use by pedestrians. All signs, markers, or any other methods used to indicate direction of traffic movement and location of parking spaces shall be maintained in a neat and legible condition. Likewise any walls, landscaping, including trees and shrubbery, as well as surfacing and curbing of the parking lot, shall be maintained in good condition throughout its use for parking purposes, and the Director of Community Development and/or the Board of Public Works and Safety shall have the authority to prohibit the use of the area for parking purposes unless and until proper maintenance, repair, or rehabilitation is completed, including the replacement of any landscaping material which may die from time to time, or the failure of the landscape irrigation or surface drainage system within the parking area.
- K. Shared parking: Notwithstanding the parking requirements set out in § 10.05 of this chapter, the number of parking spaces may be reduced by 20%, at the discretion of the Board of Zoning Appeals, if the developer demonstrates that the parking required is so located and designed such that shared parking within the proposed development meets the minimum requirements of this chapter. A reduction in required parking shall not be permitted in those instances where the Board of Zoning Appeals determines that there is a potential for changes in use, over the short term, creating a change in the basic mixture of uses upon which the justification for shared parking is based.

Note: For the purposes of this section, adequate data shall be considered a professionally prepared survey, conducted under replicable conditions, which yield a statistically significant result.

(1980 Code, Ch. 156, § 10.05) (Ord. 1995-7, passed 6-5-1995)

**§ 10.06 SCHEDULE OF REQUIRED PARKING SPACES.**

At the time of erection of a new building, the enlargement of an existing building, or the change in use of any existing structure within any zoning district within the city, off-street parking shall be provided as required by this section.

Exception: Those properties within the Central Business District Economic Revitalization Area, as established by City Ordinance Number 984, (see Plate 5) shall be exempt from these requirements as they pertain to the number of parking spaces required to be provided, such other requirements of § 10.03 of this chapter as they pertain to design requirements shall apply.

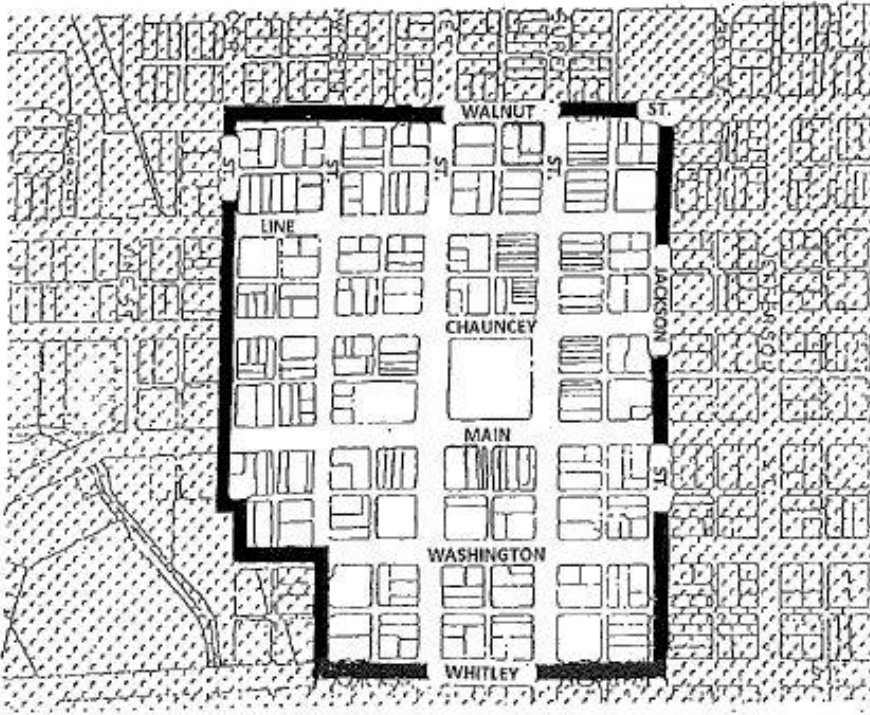


PLATE 5

Central Business District Economic Revitalization Area

Established by City Ordinance Number 984, shall be exempt from these requirements as they pertain to the number of parking spaces. However, in those instances where off-street parking will be provided, such other requirements of this chapter as they pertain to design requirements shall apply.

A. Residential and lodging uses:

1. Dwellings (one-family, two-family, multi-family, mobile home, or city authorized emergency dwelling).  
Two spaces per dwelling unit, excluding garages.
2. Dormitories, congregate housing or group homes.  
One space for every two beds, plus one space for every 1,000 square feet of floor area.
3. Motel/hotel.  
One space per guest room plus one space per every two employees on the maximum shift.
4. Rooming or boarding house.  
One space for each guest room, but no fewer than two total spaces in any event.

B. Commercial uses:

1. Indoor retail uses.  
Six spaces for each 1,000 square feet of floor area, except as otherwise herein noted.



2. Personal service uses.  
Five spaces per 1,000 square feet of floor area except as otherwise herein noted.
3. General offices.  
Five spaces per 1,000 square feet of floor area.
4. Financial institutions.  
Five spaces per 1,000 square feet of floor area, plus one space for each automatic teller unit. In addition, where the use involves drive-up banking, five stacking spaces shall be provided for each drive-up window or delivery station.
5. Automobile, truck, recreational vehicle, and equipment sales and service facility.  
One parking space per 3,000 square feet of open sales lot area devoted to the sale, display, or rental of said vehicles or equipment; or four spaces for every 1,000 square feet of interior showroom, whichever is greater; plus three spaces for every service bay in garage repair areas, as well as one space for every two employees on the maximum shift.
6. Automobile service station.  
One space for each fuel dispenser nozzle, plus three spaces for each service bay, or similar facility plus one space for each vehicle used directly in conduct of the business or stored on the premises, as well as one space for every two employees on the maximum shift.
7. Automobile, truck, recreational vehicle quick repair facility.  
Three spaces for each service bay, or similar facility plus one space for each vehicle used directly in conduct of the business or stored on the premises. Parking for employees is to be one space for every two employees on the maximum work shift. There shall also be five stacking spaces for each service bay.
8. Car wash, mechanical.  
Ten customer parking spaces, plus stacking area five times the capacity of the car wash.
9. Car wash, self service.  
Three stacking spaces for each car washing stall and two drying spaces for each car washing stall.
10. Clubs, lodges.  
Spaces equivalent to the combined requirements of the uses being conducted, such as hotel, restaurant, auditorium, etc.
11. Food markets under 5,000 square feet in floor area.  
Six spaces for every 1,000 square feet of floor area. In those instances where the use involves a drive-up window, five stacking spaces shall be provided for each window or delivery station.
12. Food markets over 5,000 square feet in floor area.  
Seven spaces for every 1,000 square feet of floor area.
13. Funeral homes, mortuaries.  
One space for every four seats in the auditorium or chapel with ten total spaces provided minimum.
14. General contracting services.  
Four spaces for every 1,000 square feet of floor area, plus two spaces for every three employees on the maximum shift, plus one space for every vehicle customarily used in operation of the use or stored upon the property.

15. Research facilities and laboratories.

Four spaces for every 1,000 square feet of floor area up to 50,000 square feet, plus two spaces for every 1,000 square feet of floor area over 50,000 square feet.

16. Restaurants, bars, taverns without drive-through or carry-out facilities.

Sixteen spaces per 1,000 square feet of seating area, plus two spaces for every three employees on the maximum shift.

17. Restaurants, bars, taverns with drive-through or carry-out facilities.

Thirty spaces for every 1,000 square feet, of seating area plus two spaces for every three employees on the maximum shift. There will be ten stacking spaces for each drive-in window or delivery station.

18. Vehicle storage lots.

Two spaces for every three employees on the maximum shift, plus one space for every vehicle customarily used in the conduct of the business or stored upon the premises.

19. Veterinary clinics, animal hospitals, kennels.

Four spaces for every doctor plus one space for every additional employee.

C. Industrial and transportation related uses:

1. Manufacturing plants.

One space for every employee on the maximum shift, plus one space for every 400 square feet of floor area.

2. Storage warehouses.

One space for every 1,000 square feet of floor area within the warehouse, plus four spaces for every 1,000 square feet of floor area in office use.

3. Terminal (air, bus, railroad, truck, and heliport).

One space for every 200 square feet of lobby area, plus two spaces for every three employees on the maximum shift, plus one space for every vehicle used in the operation of the use or stored on the premises.

4. Storage or extraction of raw materials.

Two spaces for every three employees on the maximum shift, plus one space for every vehicle used in the operation of the use, or stored on the premises.

D. Cultural and recreational uses:

1. Amusement parks.

One square foot of parking for each square foot of public activity area.

2. Athletic fields.

Thirty spaces for every diamond or athletic field, or one space for every eight seats, whichever is greater. (One seat is equal to two feet of bench length.)

3. Auditoriums, theaters, meeting rooms and places for public assembly (except as noted herein.)

One space for every four seats or one space for every 50 square feet gross floor area when there is no fixed seating.

4. Bowling alleys.

Five spaces for every alley.

5. Camping.

One dust-free 10 by 30 space for every campsite.

6. Community centers and private, not-for-profit recreation centers, including gymnasiums and indoor swimming pools.  
Four spaces for every 1,000 square feet of gross floor area.
7. Fairgrounds.  
Sufficient open land convertible to parking such that no vehicle need be parked on any street.
8. Golf course.  
Space equivalent to 1% of the total land area. Parking areas along roads or private drives internal to the use may be used to fulfill this requirement.
9. Miniature golf courses.  
Two spaces per hole, plus one space for each two employees on the maximum workshift.
10. Golf driving ranges.  
Two spaces for every tee.
11. Gymnasium without bleachers or fixed seating (except as noted herein).  
One space for every 100 square feet gross floor area.
12. Handball, racquetball courts.  
Three spaces for every court.
13. Ice and roller rinks.  
One space for every 100 square feet of skating area or playing surface.
14. Indoor soccer.  
Fifty spaces for every playing field, plus one space for every three seats of spectator seating (one seat equals two feet of bench length), plus two spaces for every three employees on the maximum shift, but in no case less than 100 spaces.
15. Parks, playgrounds, picnic grounds.  
Space equivalent to one percent of the total land area. Parking area available along park roads or private drives integral to the use may be used to fulfill this requirement.
16. Racetracks.  
One space for every four seats. (One seat is equal to two feet of bench length.)
17. Retreats, centers.  
Four spaces for every 1,000 square feet gross floor area.
18. Retreats, having dormitories.  
One space for every dormitory dwelling unit, plus two spaces for every three employees on the maximum shift, plus one space for every vehicle customarily used in operation of the use or stored on the premises.
19. Retreats, without dormitories.  
Sufficient parking area such that no vehicle need be parked on any street.
20. Stadiums, sports arenas, and gymnasiums with spectator facilities.  
One space for every four seats. (One seat is equal to two feet of bench length.)
21. Swimming pools.  
Two spaces for every 100 square feet of water area.
22. Tennis courts.  
Four spaces for every court.

E. Institutional uses:

1. Churches.

One space for every four seats, (one seat equals two feet of bench length) plus one space for every vehicle customarily used in operation of the use or stored on the premises.

2. Fire stations.

One space for every employee on the maximum shift.

3. Group homes.

One space for every three beds, plus one space for every two employee on the maximum shift.

4. Hospitals.

Two spaces for every three beds, plus one space for every staff doctor and employee on maximum shift.

5. Libraries, reading rooms.

Five spaces for every 1,000 square feet of gross floor area, one space six seats in an accessory auditorium, and two spaces for every three employees on the maximum shift.

6. Nursing homes.

One space for every five beds, one space for every self-care unit, and one space for every two employees on the maximum shift.

7. Police stations.

One space for every one employee on the maximum shift, plus one space for every vehicle customarily used in operation of the use or stored on the premises, one visitor space per 1,000 square feet.

8. Postal stations.

Four spaces for every customer service station, two spaces for every three employees on the maximum shift, plus one space for every vehicle customarily used in operation of the use or stored on the premises.

9. Schools, public and private, all grades and vocational.

One space for every employee, and one space for every three students over 16 years of age plus one space per bus stored at the facility.

10. Schools, special.

One space for every employee.

(1980 Code, Ch. 156, § 10.06) (Ord. 1995-7, passed 6-5-1995)

**§ 10.07 SCHEDULE OF OFF-STREET LOADING SPACES.**

A. Offices and personal or community service establishments: One loading space shall be provided for each such use, including schools, medical or dental clinics, auditoriums or clubs, etc., having greater than 6,000 square feet of gross floor space.

B. Residential or housing uses: Any building or project containing more than 50 multi-family dwelling units shall provide one loading berth for each 200 units or fraction thereof. No loading space is required for any building or project containing less than 50 apartment dwelling units.

C. Industrial or commercial uses: Every building or use of land consisting of over 3,000 square feet of gross floor area designed or adaptable for retail business purposes, or warehouse, wholesale or manufacturing use shall be provided with loading space as follows:

Total Gross Floor Area	Number of Loading Spaces Required
------------------------	-----------------------------------

Up to 15,000 sq. ft	1 space
15,000 to 50,000 sq. ft	2 spaces
50,000 to 100,000 sq. ft	3 spaces
Each additional 100,000 sq. ft	1 additional space

- D. Other similar uses: The Plan Commission shall determine to which of the above categories of loading regulation any specific use, including designated conditional uses, shall belong, or determine other appropriate standards to be recommended to the Common Council of the city and/or the County Commissioners for addition to this section by amendment of this ordinance whenever the above regulations prove inapplicable.
- E. Design criteria: Each loading space shall be not less than feet in width and 40 feet in length, and shall have a height clear of obstructions, of 14 feet. Loading spaces shall be surfaced with portland cement or asphaltic concrete and shall be so laid out that trucks utilizing same shall be able to maneuver into abutting docks.

(1980 Code, § 10.07)

## CHAPTER 11: SIGNS

### § 11.01 INTENT.

It is the intent of this chapter to regulate and control the location, erection, number, and maintenance of signs and matters relating thereto within the city in order to promote public safety, health, and general welfare of the community. These regulations are specifically designed to:

- A. Provide for uniform regulation and orderly development of signs consistent with established policies and ordinances of the city.
- B. Prohibit hazardous and dangerous signs.
- C. Provide a desirable and attractive living environment through harmonious and uniform signage.

(1980 Code, Ch. 156, § 11.01) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2013-15, passed 5-28-2013)

### § 11.02 SCOPE.

- A. The provisions of this chapter shall govern the erection, alteration, and maintenance of all signs and outdoor display structures, together with their appurtenant and auxiliary devices, with respect to location, size, content, construction, structure, and fire safety.
- B. The provisions of this chapter shall not apply to:
  - 1. Flags of any nation, state, county, city, or other governmental unit and any not-for-profit organization.
  - 2. Temporary decorations or displays celebrating the occasion of traditionally a patriotic, religious, or local holidays or events.
  - 3. The action, construction, and maintenance of official traffic fire and police signs, signals, and devices and markings of the state, county, or city.
  - 4. Nonilluminated directional or informational signs of a public nature.
  - 5. Political signs or signs announcing political candidates or issues, provided that such signs must be removed within ten days after the election.
  - 6. Residential garage, patio, or yard sale signs not to exceed six square feet and located upon the premises where the sale is taking place.
  - 7. Property real estate signs not exceeding six square feet in area on each street frontage of a lot, which advertise the sale, rental, or lease of the premises upon which said signs are located only. The real estate signs shall not exceed six feet in height, and shall not be illuminated in any way.
  - 8. Bulletin boards not over 32 square feet in area, for public, charitable, or religious institutions which are located on the premises of said institutions. The bulletin board shall not exceed 12 feet in height, and illumination, if any, shall be by constant light.
  - 9. Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.
  - 10. Professional name plates, or occupational signs, and home occupation signs not exceeding two square foot in area, wall-mounted and unlit, adjacent to the main entrance of the building.

(1980 Code, Ch. 156, § 11.02) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2013-15, passed 5-28-2013)

**§ 11.03 ADMINISTRATION AND ENFORCEMENT.**

- A. Administration: Except where herein otherwise stated, the provisions of this section shall be administered by the Columbia City/Whitley County Joint Planning and Building Department, or by its designee.

The Department (or its authorized representative) is hereby empowered in performance of Departmental functions to enter upon any land in the city for the purpose of making inspections, examinations, and surveys, or to place and maintain thereon markers, notices, or signs required to effect provisions of this chapter. The above authorized person shall be required to present proper credentials upon demand when entering upon any land or structure for the purpose of this chapter.

- B. Duties of the Columbia City/Whitley County Joint Planning and Building Department: The Department shall have the power to grant sign permits, and to make inspections of buildings or premises necessary to carry out the Departments duties in the enforcement of this chapter.

It shall be improper for the Department to approve plans or issue any permits or certificates for any sign until such plans have been inspected in detail and found to be in conformance with this chapter, nor shall the Department vary or change any terms of this chapter.

If the Department shall find that any of the provisions of this chapter are being violated, the Department shall notify in writing the person responsible for such violations, indicating the nature of the violation. The Department shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal signage; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.

- C. Permit required: It shall be unlawful to commence or to proceed with the erection, construction, reconstruction, conversion, alteration, enlargement, extension, or moving of any sign or sign structure or any portion thereof without first having applied in writing to the Department for a sign permit to do so and a sign permit has been granted therefore. Primary responsibility for securing the necessary permits shall be the property owner's. However, if the property owner should contract part or all of the proposed work, it shall become the responsibility of the person or firm hired to ensure that all required permits and approvals have been secured prior to any work being initiated.

Blank forms shall be provided by the Department for the use of those applying for permits as provided in this chapter. Any permits issued by the Department shall be on standard forms for such purpose. There shall be a separate permit for each project site, for which sign(s) are to be constructed, altered, or erected.

Any sign permit under which no construction work has been commenced within six months after the date of issuance of said permit or under which proposed construction has not been completed within one year of the time of issuance shall expire by limitation.

- D. Voiding of sign permit: A permit may be revoked by the Department at any time prior to the completion of the sign for which the same was issued, when it shall appear to him or her that there is any departure from the plans, specifications, or conditions, as required under terms of the permit, that the same was procured by false representation, or that any provisions of this ordinance are being violated. Written notice of such revocation shall be served upon the owner, his or her agent, or contractor, or upon any person employed of the building or structure for which such permit was issued, via a stop work order, which shall be posted in a prominent location, and thereafter no such construction shall proceed.
- E. Compliance with sign permits: Sign permits issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in the approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this section as provided herein.

- F. Violations: If it is found that a sign is in violation of this ordinance, the Department, or its designee, shall give notice to the owner of the sign, or if the owner cannot be located, to the owner or property management agent of the premises on which the sign is located or, if the sign erection is not complete, to the sign is located or, either personally, by United States mail, or by posting such a notice on the premises, such notice stating:
1. The violation found;
  2. That the violations must be brought into compliance within the requirements of this and all other city ordinances within ten days from the date of such notice;
  3. The requirements which must be met; and
  4. That any person found to be in violation of any provision of this ordinance shall be subject to the penalties established in § 1.14 of this ordinance.

(1980 Code, Ch. 156, § 11.03) (Ord. 1995-7, passed 6-5-1995; Ord. 2013-15, passed 5-28-2013)

#### **§ 11.04 PROHIBITED SIGNS.**

The following signs and advertising devices are hereby declared to be unlawful:

- A. Any sign erected in a location prohibited by this chapter;
- B. Any sign erected in a public easement or right-of-way;
- C. Any sign erected so as to prevent free ingress to or egress from any door or window, or any other exit way required by the building or fire codes of the city;
- D. Any sign attached to any public utility pole, tree, fire hydrant, curb, sidewalk, or other surface located on public property;
- E. Any sign erected in any location where, by reason of its location, will obstruct the view of any authorized traffic sign, signal, or other traffic-control device. Nor may any sign, by reason of its shape, position, or color interfere with or be confused with any authorized traffic signal sign or device. Further, no sign shall be erected in a location where it will obstruct vision of the public right-of-way to a vehicle operator during ingress to, egress from, or while traveling on the public right-of-way;
- F. Any on-premises sign advertising an article or product not manufactured, assembled, processed, repaired, or sold or a service not rendered upon the premises upon which the sign is located, and not located or constructed such as to quality as a “standard outdoor advertising structure or billboard;”
- G. Any sign or advertising device such as banners and pennants affixed on poles, wires, ropes, or streamers, wind-operated devices, fluttering signs, pinwheels, streamers, banners, street banners, and “A” frames or other portable signs of like nature, and other similar contraptions or techniques except as allowed through the provisions of § 11.11;
- H. Off-site or off-premises signs except as provided in this section;
- I. Signs that display flashing, intermittent, or animated lighting or illumination, or any illumination which simulates or displays motion, except those permitted electronic message centers;
- J. Portable signs, signs not permanently affixed to the ground;
- K. Signs which contain characters, or cartoons, or contain statements, words, or pictures of any obscene, indecent, prurient, or immoral character.

(1980 Code, Ch. 156, § 11.04) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2013-15, passed 5-28-2013)



### **§ 11.05 NONCONFORMING SIGNS.**

Any sign legally existing prior to enactment of this chapter but which shall violate any provision of this chapter, may continue to be maintained and used after passage of this chapter subject to the following provisions.

- A. Enlargement: No nonconforming sign shall be enlarged, expanded, or extended to occupy a greater square footage of height than was occupied on the date of adoption or amendment of this chapter.
- B. Relocation: No nonconforming sign shall be moved in whole or in part to any other portion of the lot, parcel, or building not so occupied on the date of adoption of this ordinance, except that any such sign which is hereafter required to be moved by a governmental body for the purpose of construction, relocation, widening, or improvement of a street, highway, or other public purpose, may be relocated once and allowed to be maintained and used as before.
- C. Discontinuance: If the business or service advertised or identified by a nonconforming sign ceases to be conducted for a period exceeding 30 calendar days, the nonconforming sign shall be classified as an “Abandoned Sign” and removed. See § 11.07 D.
- D. Destruction: Should any nonconforming sign be destroyed by any means to an extent of up to 50% of its surface area or structure, it shall not be reconstructed, except in conformance with the requirements of this ordinance. See § 2.11 D.2.
- E. Violations not made valid: Any sign which is prohibited by this ordinance, and was erected in violation of the requirements of the previous sign ordinance shall not be considered to be granted nonconforming status by the passage of this ordinance.
- F. In any instance, in cases of doubt or a specific question raised, whether a nonconforming sign exists, shall be a question of fact, and shall be determined on appeal to the Board of Zoning Appeals.

(1980 Code, Ch. 156, § 11.05) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2013-15, passed 5-28-2013)

### **§ 11.06 APPEALS.**

- A. Any aggrieved person, firm, corporation, or any governmental officer, department, board, or bureau may appeal a decision of the Department before the Board of Zoning Appeals as established and in conformance with the requirements of Chapter 12 of this ordinance, subject to the further requirements of this section:
- B. Grounds for granting a variance. The Board of Zoning Appeals may grant variances from this ordinance for any permitted form of signage where it is found that because of the limitations on character, size, or dimensions of a sign, or the regulations controlling the erection or installation of a sign, the applicant would be subject to undue hardship. Undue hardship is not considered the loss of possible advantage, economic loss or gain, or mere inconvenience to the applicant.
- C. Appeals from decisions of the Board of Zoning Appeals shall be to the circuit court in conformance with the requirements of Chapter 12 of this ordinance.

(1980 Code, Ch. 156, § 11.06) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2013-15, passed 5-28-2013)

### **§ 11.07 GENERAL SIGN REQUIREMENTS.**

- A. Structural requirements: All signs shall comply with the pertinent requirements of the City Building Code.
- B. Safety: Any existing sign which is or becomes an immediate danger or hazard to persons or property because of being in an unsafe condition, or which obstructs any fire escape, window, or door, is subject to immediate removal without notice and at the expense of the property and/or sign owner.

- C. Maintenance: Each sign shall be maintained in a safe, presentable, and good condition. All existing signs shall be painted every two years except where the sign is of a noncorroding material, galvanized, or otherwise treated to prevent rust. Broken panels, missing letters, flaking or peeling paint, and other visual damage to a sign shall be repaired within 45 days of occurrence or within 10 days' notification by the Department, Director of Community Development, and/or the Board of Public Works and Safety, weather permitting.
- D. Abandoned signs: Any sign or sign structure which advertises a business no longer conducted or service no longer rendered, or a product no longer sold on the premises or lot shall be classified an abandoned sign and shall be removed by the owner, agent, or person having beneficial use of the premises or lot upon which the sign is located within ten days following written notice by the Department, Director of Community Development, and/or the Board of Public Works and Safety concerning its removal.
- E. Illumination: Neither the direct nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares.
- F. State right-of-way requirements: All signs erected within the jurisdiction of state right-of-way requirements shall meet both state and city requirements. Signs shall not project over any city or county public right-of-way.
- G. Lot lines: Signs shall not project over lot lines.

(1980 Code, Ch. 156, § 11.07) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2013-15, passed 5-28-2013)

**§ 11.08 SEVERABILITY.**

If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this chapter.

(1980 Code, Ch. 156, § 11.08) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2013-15, passed 5-28-2013)

**§ 11.09 RESIDENTIAL AND AGRICULTURAL SIGNAGE.**

One-, two-, multi-family residential, and agricultural signs must comply with the general sign provisions in § 11.07 of this chapter. The allowable signage includes all permitted uses in § 11.02 of this chapter.

**A. Allowable signs:**

1. Identification signs: One identification sign may be erected on each perimeter street frontage of a multi-family development, manufactured/mobile home park, single-family subdivision, or permitted nonresidential uses, including special exceptions. The sign shall not be permitted to exceed 32 square feet of display surface area. The sign shall not exceed 12 feet in height, and illumination, if any, shall be by a constant light. Additional or multiple signs may be permitted by the Executive Committee for one or more entrances. See Chapter 9, Development Plan Approval.
2. Church, public or semi-public buildings, or public park identification sign: Not more than one sign per street frontage not exceeding 50 square feet in size per face. The sign shall not exceed 12 feet in height, and illumination, if any, shall be by constant light.
3. Construction sign: During the period of construction, a temporary sign advertising the construction of improvements on the premises, may be erected on each perimeter street of frontage of the development. The sign shall not exceed 32 square feet in surface area, nor 12 feet in height, and illumination, if any shall be by constant light.
4. Directional signs: Two signs per entry/exit not exceeding six square feet in size per face.

5. Memorial or tablet sign: One sign not exceeding six square feet in size per face unless such signs are installed by the federal, state, county, or city government or agencies thereof.
6. Property real estate signs: One sign per lot frontage not exceeding six square feet in size per face.
7. Special displays and other temporary signs: See § 11.12 of this chapter.
8. Informational signs not exceeding two square feet in size per side nor a height of four feet from the ground which identify the occupants, occupation, address, and/or information. Examples of permitted informational signs generally include: privacy sign, trespassing sign, seed sign, etc.
9. Nonilluminated home occupation wall sign not exceeding two square feet wall-mounted on the dwelling, and; if allowed with the special exception, one nonilluminated yard sign not exceeding six square feet in size per face. (See Chapter 12, Board of Zoning Appeals.)

B. Location and height:

1. No sign placed upon the ground shall be located closer than ten feet to any property line and shall meet the sight triangle requirements of § 10.03 C. of this ordinance.
2. No sign attached to the wall of a building or other structure shall extend above the roof line of that building or structure.
3. For residential signs without a specific height standard, the sign(s) shall not exceed eight feet in height from the surrounding grade to the highest point of the sign.
4. Direction signs: No sign shall exceed three and one-half feet above the elevation of the adjacent driveway at the point where it meets the street right-of-way.
5. Memorial or tablet signs: No sign shall exceed six feet in height from the surrounding grade to the highest point on the sign.
6. Property real estate signs: No sign shall exceed six feet in height from the surrounding grade to the highest point on the sign.

C. Other requirements:

1. Mobile construction signs: Signs identifying mechanics, painters, architects, engineers, and similar artisans and workmen which are attached to or on trailers on the site of construction shall be permitted provided that upon completion of the project the trailer must be removed within one week. These trailers shall not be located closer than ten feet to the property line if such signs are visible from the street.
2. Residential construction project sign:
  - (a) On-site sign: Such sign shall be removed either at such time as the permanent subdivision entrance sign is erected, or when 80% of the lots and/or dwelling units have been sold, whichever circumstance occurs first.
  - (b) Off-site signs: Such signs shall be removed either within two years from the date of issuance of the sign permit, or when 80% of the lots and/or dwelling units have been sold, whichever circumstance occurs first.
3. Property real estate signs: Shall be removed within ten days following the date of closing or lease initiation.

4. Directional sign: May contain the street address and/or name of the business center or the name of the use of the building, trademark, logo, or similar matter, provided that not more than 50% of the sign area is used for this purpose.

(1980 Code, Ch. 156, § 11.09) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2013-15, passed 5-28-2013)

### **§ 11.10 BUSINESS AND INDUSTRIAL SIGNAGE.**

Commercial signs must comply with the general sign provisions in § 11.07 of this chapter. The allowable signage includes all permitted uses in § 11.02 of this chapter.

#### **A. Allowable signs:**

1. Pole signs: One pole sign per lot and shall not have an aggregate (total from each side combined) surface area greater than three square feet for each foot of width of the principal structure on the premises. Total pole signage shall not exceed 300 square feet.
2. Ground-mounted signs: One ground mounted sign per lot may be substituted for the allowable pole sign. Same surface area requirements as for pole signs.
3. Attached signs: One attached sign for each side of the building not exceeding 10% of the total square footage of the building face upon which it is placed.
4. Window/door signs: Shall not cover more than 50% of the total window area or door to which they are applied.
5. Under canopy sign: One sign not exceeding two square feet in size displaying the name, occupation, address, and/or service located upon the premises.
6. Directories: For buildings with multiple occupancies, a directory sign may be substituted in lieu of the allowable pole sign subject to review and approval by the Board of Zoning Appeals as to height and overall square footage.
7. Electronic message centers shall be allowed with the following restrictions:
  - (a) No electronic message shall change more rapidly than once every one and one-half seconds.
  - (b) No message shall require more than ten (10) seconds to display any message in its entirety.
  - (c) The message shall not display or appear to move toward or away from the viewer, expand or contract, bounce, rotate, spin, twist or otherwise portray movement or animation as it comes onto, is displayed on, or leaves the message center.
  - (d) The message center shall not appear to flash, undulate, pulse, or portray explosions, fireworks, flashes of light or blinking or chasing lights, unless a Special Exception is approved by the Board of Zoning Appeals.
  - (e) Electronic message centers are allowed at community centers, schools, parks and fire stations regardless of zoning classification.
  - (f) One (1) electronic message center per lot or parcel is allowable.
  - (g) The maximum height of an electronic message center shall not exceed the height allowable in the district.
  - (h) Electronic message centers are prohibited in Agricultural Districts (A-1) and Residential Districts (R-1, R-2 and R-3).

(i) The allowable size of an electronic message center shall be in accordance with Figure 11.08.

<i>Zoning Classification</i>	<i>Street Classification</i>	<i>Maximum Allowable Size of Electronic Message Center</i>
I-1, I-2, CBD, LB, GB	Local street	50 square feet
	Collector street	65 square feet
	Arterial road	85 square feet
	County-maintained	65 square feet

Note: Street classification shall be determined by the road on which the message center will be viewed.

**B. Location and height.**

1. Pole signs: Such signs shall not exceed 30 feet in height from the surrounding grade to the highest point on the sign and the overhang shall not be located any closer than 1 foot to any property line. Such signs shall meet the sight triangle requirements of Chapter 10.
2. Ground-mounted sign: Such signs shall not exceed six feet in height from the surrounding grade to the highest point on the sign and shall be located no closer than one foot to any property line. Such signs shall meet the sight triangle requirements of Chapter 10.
3. Attached signs: Shall be face mounted on the building wall, projecting not more than 12 inches from the face of the building. Such signs shall not project above the parapet wall, mansard, or other roof line, shall maintain a clearance of eight feet above the ground or pavement, and shall be recessed where involving a pitched roof location.
4. Window/door signs: Such signs may be attached to either the interior or exterior of a window or glass door and shall be maintained in good repair.
5. Under canopy signs: Such signs may be attached to the building or canopy and shall maintain a head clearance of eight feet.
6. Directories: As approved by the Board of Zoning Appeals.

**C. Other requirements.**

1. Canopy use: An attached or detached canopy sign may be used as an attached and/or pole sign. However, the canopy's size does not add to the width or face of the building when calculating for allowable signage.
2. Portable signs: The use of portable signs for the advertisement of cigarettes, food, or other sundry items is specifically prohibited.
3. Changeable copy signs: A manual changeable copy sign may be incorporated as an integral part of the permanent pole, ground, or attached signage permitted upon the property.

(1980 Code, Ch. 156, § 11.10) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2013-15, passed 5-28-2013)

**§ 11.11 SPECIAL DISPLAYS AND OTHER TEMPORARY SIGNS.**

Banners and pennants are a permitted use. However; the Board of Public Works and Safety can require removal of such banners and pennants if they are not kept in a safe and orderly fashion. The following temporary signs may be approved by the Board of Public Works and Safety for up to a 30-day time period. Such signs may be

extended beyond the 30-day time period, but only upon review and approval by the Board of Zoning Appeals as a special exception.

- A. Signs announcing openings.
- B. Seasonal or special occasion signs such as special events and special business hours.
- C. Yard signs, such as “Siding by...”.
- D. Subdivision directional signs not exceeding three square feet in size per face.
- E. All other temporary signs not specifically referenced in this ordinance.
- F. Portable signs, signs not permanently affixed to the ground.

(1980 Code, Ch. 156, § 11.11) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2013-15, passed 5-28-2013)

**§ 11.12 STANDARD OUTDOOR ADVERTISING STRUCTURE (BILLBOARDS).**

- A. Where permitted: Advertising signs complying with all the requirements of this ordinance shall only be allowed if they are located on U.S. Highway 30 or north of U.S. 30 on State Road 9 or south of Swihart Street on State Road 9. Additionally, they are required to be in a local business, general business, or industrial zoning district.
- B. Area and height:
  - 1. On U.S. Highway 30: The maximum area for any one sign shall not exceed 672 square feet in size per face excluding extensions and embellishments, with a maximum height of 14 feet and a maximum width of 48 feet inclusive of border and trim, but excluding the base, apron, supports, and other structural members.  
On State Road 9: The maximum area for one sign shall not exceed 300 feet per face.
  - 2. On U.S. Highway 30: Extensions to the top of advertising signs are permitted. However, in no case shall any extensions exceed 96 square feet in total feet in total area or extend more than 5½ feet in height above top of said sign. Other extensions are permitted as follows:
    - (a) Side extension: Two feet on each side.
    - (b) Bottom extension: One foot.
    - (c) Embellishments to advertising signs shall not exceed one foot out from the facing of said sign.  
On State Road 9: No extensions allowed.
  - 3. On U.S. Highway 30: The maximum height shall not exceed 50 feet from the highest point on the sign to surrounding grade or street level, whichever is higher.  
On State Road 9: The maximum height shall not exceed 35 feet from the highest point on the sign to surrounding grade or street level, whichever is higher.
  - 4. The maximum size limitations shall apply to each side of a sign structure, and signs may be placed back-to-back or in V-Type construction with not more than three side-by-side displays to each facing but such sign structures shall be considered as one sign. A group of not more than two advertising signs shall be permitted on one sign structure. However, there shall be no vertical stacking signs.
- C. Location:
  - 1. No such sign shall be erected within 1,000 lineal feet of an existing sign on the same side of the road.

2. No such sign shall be located within 500 lineal feet of a residential zoning district along the street on which the sign is intended to be located.
3. No sign shall be located in such a manner as to obstruct or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device or obstruct or physically interfere with a motor vehicle operator's view of approaching, merging, or intersecting traffic.
4. No such sign shall be placed closer than 500 feet to an intersection with a limited access highway and measured from the nearest edge of the right-of-way. No such sign shall be so located to obstruct the vision of traffic using entrance ways, driveways, or any public road intersection.
5. On U.S. Highway 30: The minimum front yard setback for such signs shall be a minimum of 50 feet from any public right-of-way and/or private roadway easement.  
On State Road 9: The minimum front yard setback for such signs shall be a minimum of 20 feet from any public right-of-way and/or private roadway easement.
6. No sign shall be located on any public or private utility easement, road, drainage easement or railroad right-of-way.
7. All lineal distances required by this section shall be measured from the nearest outside edge of the subject sign, whether a support, structural member, or the sign surface itself to the nearest outside edge of the corresponding sign, building, right-of-way or easement involved.

D. Prohibited outdoor advertising structure signage:

1. Roof-mounted signs or signs affixed directly to the side of any building.
  2. Flashing signs, including automatic changing signs such as time, temperature, and date signs as well as electronically controlled message centers, unless approved as a Special Exception by the Board of Zoning Appeals.
  3. Fluttering signs, pinwheels, pennants, streamers, and banners.
  4. Moving signs or swinging signs.
  5. Signs which contain characters, cartoons, or statements, words, or pictures of any obscene, indecent, prurient or immoral character.
  6. Signs which contain or are an imitation of an official traffic sign or signal, or which are of a size, location, movement, content, coloring, or manner of illumination which may be confused with or constructed as a traffic-control device, or which may hide from view any traffic or street sign or signal.
  7. Any sign constructed or located in such a manner such that it becomes an immediate hazard or danger to persons or property because of being in an unsafe condition, or which obstructs any window, door, or fire escape of a building. Such signs will be subject to immediate removal by the Commissioner or his or her designee, without notice, at the expense of the property owners.
- E. Maintenance: All signs and sign supports shall be maintained in good repair so as to prevent rust, peeling, flaking, or fading. Broken panels, missing letters, flaking or peeling paint, and other visual damage to a sign shall be repaired within 45 days of occurrence or within 30 days of notice from the Planning Department or the Board of Public Works and Safety.
- F. Illumination: Neither the direct nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares, nor shall the light sources be oriented such that either direct or reflected light creates a nuisance to adjoining properties.

- G. Plans required: An application to erect such a sign shall be accompanied by the following:
1. A set of plans, to scale, approved, and sealed by a licensed engineer in the state, providing all necessary construction and electrical details of the sign and sign structure, including height.
  2. A site plan, to scale containing:
    - (a) The proposed location of the sign upon the property.
    - (b) The distance from the proposed sign location to any buildings upon the property, and adjoining street right-of-way lines, and driveway entrances.
    - (c) The distance from the proposed sign location to the next nearest billboard sign on either side of the street in either direction.
    - (d) The distance from the proposed sign location to the nearest street intersection in either direction.
  3. A representation of the proposed sign, to scale, including the width and length of the sign faces, and height from surrounding grade.
- H. Construction specifications: Henceforth, any such sign erected under this ordinance shall be a single pedestal type, constructed of nonflammable material, excluding wood. Construction of the sign and material specifications shall comply with the following sections of the “Indiana Department of Highways Standard Specifications: 802, 803, 909.14, 909.19, and 912.10,” as applicable, and must meet the structural requirements of the City’s Building Code.

(1980 Code, Ch. 156, § 11.12) (Ord. 1995-7, passed 6-5-1995; Am. Ord. 2013-15, passed 5-28-2013)



## **CHAPTER 12: THE BOARD OF ZONING APPEALS**

### **§ 12.01 CONTINUANCE; AUTHORITY OF BOARD.**

The Board of Zoning Appeals (Board) is continued in accordance with the provisions of I.C. 36-7-4-901(h) and amendments thereof.

(1980 Code, Ch. 156, § 12.01) (Ord. 1995-7, passed 6-5-1995)

### **§ 12.02 GENERAL.**

In accordance with state law, the Mayor shall appoint a Board of Zoning Appeals. The Board of Zoning Appeals may adopt rules to govern its procedure. The Board of Zoning Appeals shall hold meetings, keep minutes, and pursuant to notice, shall conduct hearings, compel the attendance of witnesses, take testimony, and render decisions in writing, all as required by law. When permitting any variance, special exception, appeal, change of a nonconforming use, or other provision as provided by this ordinance, the Board may impose such conditions and requirements as it deems necessary for the protection of adjacent property and the public interest. Any person filing an appeal or proceeding with the Board shall assume any cost of public notice that is required.

(1980 Code, Ch. 156, § 12.02) (Ord. 1995-7, passed 6-5-1995)

### **§ 12.03 MEMBERS AND TERMS OF OFFICE.**

The Columbia City Board of Zoning Appeals shall consist of and continue as a five-member board appointed as follows:

Three citizen members appointed by the executive of the municipality, of whom one must be a member of the Plan Commission and two must not be members of the Plan Commission.

One citizen member appointed by the fiscal body of the municipality, who must not be a member of the Plan Commission.

One citizen member appointed by the Plan Commission who must be a member of the Plan Commission other than the member appointed by the executive of the municipality. (See I.C. 36-7-4-902.)

The original members of the Board shall serve for the following terms: One for one year; one for two years; one for three years; and two for four years:

Upon the expiration of the term of an original member of the Board, his or her successor shall serve for a term of four years. Members of the Board shall be taxpayers and residents of the city and its two-mile jurisdictional area.

(1980 Code, Ch. 156, § 12.03) (Ord. 1995-7, passed 6-5-1995)

### **§ 12.04 PRESIDENT AND SECRETARY.**

The President of the Board shall be elected by the board members in the first meeting of each year. The office of President shall be limited to one year and no President shall serve more than four consecutive terms. The President or acting President may administer oaths and compel the attendance of witnesses. The Department's staff member(s) present at the meeting shall serve as the Secretary who shall keep its records and files. In the event the President and Vice-President are absent and a quorum of members are present, the Secretary, without voting privileges, may preside administratively so that the meeting can go forward as planned. The Board may select or appoint other such officers as it deems necessary.

(1980 Code, Ch. 156, § 12.04) (Ord. 1995-7, passed 6-5-1995)

## **§ 12.05 MEETINGS.**

Meetings of the Board shall be held at the call of the President, provided that whenever three or more members of the Board request the President to summon a meeting of the Board, the President shall call a meeting; provided further that the Secretary of the Board shall keep minutes of its proceedings and official actions, and shall keep records of its examinations and findings, and shall file the same in the office of the Board or such other public place within the city where public records are filed; provided further that the presence of three members of the Board shall constitute a quorum for transacting business and taking official action; provided further that the concurring vote of at least three members of the Board shall be necessary to affect a ruling of the Board.

At any meeting of the Board or at any hearing held by the Board, any interested person may appear and be heard either in person or by representative agent or attorney.

(1980 Code, Ch. 156, § 12.05) (Ord. 1995-7, passed 6-5-1995)

## **§ 12.06 REMOVAL AND VACANCIES.**

The Mayor shall have the power to remove any member of the Board from office for cause and after a public hearing. Vacancies on the Board shall be filled for the unexpired term of the member whose place has become vacant.

(1980 Code, Ch. 156, § 12.06) (Ord. 1995-7, passed 6-5-1995)

## **§ 12.07 VARIANCES.**

A. The Board of Zoning Appeals shall have the power to authorize variances from the development standards (such as height, bulk, setback requirements, etc.) of this ordinance. The Board of Zoning Appeals may attach such conditions to the variances as it deems necessary to assure compliance with the purpose of this ordinance. A variance may be permitted if all the following requirements are met:

1. Literal enforcement of the ordinance would result in an unnecessary hardship with respect to the property.
2. Such unnecessary hardship results because of unique characteristics of the property.
3. The variance would not change the land use of the property or the character of the neighborhood.
4. The variance observes the spirit of this ordinance, produces substantial justice and is not contrary to the public interest.

B. Conditions of variances:

1. The petitioner shall provide a site plan, photographs, and such other documentation to assist in the clarification of the petitioner's request for a variance.
2. If an improvement location permit and/or building permit is not secured within six months of the granting of the variance, the variance becomes null and void. The applicant must secure another variance prior to the issuance of another improvement location permit and/or building permit.
3. The variance is only good for one set of improvement location permit(s) and/or building permit(s) for which the variance was granted. The improvement location permit and/or building permit(s) is good for one year from the date it is obtained. If any further expansion, extension, enlargement, addition, alteration, or structure is needed, then the applicant must receive a new variance.
4. A variance granted by the Board of Zoning Appeals shall run with the land until such time as:
  - (a) The use of the variance ends, or
  - (b) The property conforms with the ordinance as written.

5. Where an owner has failed to comply with any condition and/or commitment permitted or required by the grant of variance, the Board may authorize such action as it may deem appropriate to obtain compliance by the owner with the condition or commitment of the grant, or with the terms of this ordinance in the same manner as if the variance had not been granted.
6. Any variances granted prior to this ordinance are subject to the current provisions of this ordinance.
7. In addition to the conditions specified above, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, and all standards as specified in the flood plain ordinance (see Chapter 8).

(1980 Code, Ch. 156, § 12.07) (Ord. 1995-7, passed 6-5-1995)

**§ 12.08 SPECIAL EXCEPTIONS.**

- A. The Board of Zoning Appeals shall have the power to authorize special exceptions, and to attach such conditions to the special exceptions as it deems necessary to assure compliance with the purpose of this ordinance. This may include prohibiting or limiting such things as signage, area, screening, outside lighting, hours of operation, etc. A special exception may be permitted if all the following requirements are met:
  1. The special exception shall be listed as such in the listing associated with the chapter for the district requested.
  2. The special exception shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the environmental performance standards of § 2.10 of this chapter.
  3. The special exception shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.
  4. The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood.
  5. The special exception shall preserve the purpose of this ordinance.
- B. Conditions of special exceptions:
  1. The petitioner shall provide a site plan, photographs, and such other documentation to assist in the clarification of the petitioner's request for a special exception.
  2. If an improvement location permit and/or building permit is not secured within six months of the granting of the special exception, the special exception is null and void. The applicant must secure another special exception prior to the issuance of another improvement location permit and/or building permit.
  3. The special exception is only good for one set of improvement location permit(s) and/or building permit(s) for which the special exception was granted. If any further expansion, extension, enlargement, addition, alteration, or structure is needed, then the applicant must receive a new special exception.
  4. If a special exception ceases or is discontinued at the site for a 12-month period during which time it is not succeeded by the same specifically approved special exception, then the authorization is void and another special exception is required.
  5. A special exception may be terminated by the Board of Zoning Appeals, upon filing of an application therefore by an interested person or the Administrator, and upon finding at a public hearing, with notice to the property owner, that the terms of this ordinance, or conditions of approval or commitments have not been complied with.

6. All special exceptions shall be approved for the originating applicant for a specific location, and may not be transferred to any other location by that applicant. Should the property upon which the special exception be sold or conveyed to a different ownership, a new special exception will be required.
7. Any special exceptions granted prior to this ordinance are subject to the current provisions of this ordinance.

(1980 Code, Ch. 156, § 12.08) (Ord. 1995-7, passed 6-5-1995)

#### **§ 12.09 APPEALS.**

The Board shall hear, review, and determine appeals from:

- A. Any order, requirement, decision, or determination made by an administrative official, hearing officer, or staff member under the zoning ordinance.
- B. Any order, requirement, decision, or determination made by an administrative board or other body, except a Plan Commission, in relation to the enforcement of the zoning ordinance.
- C. Any order, requirement, decision, or determination made by an administrative board or other body, except a Plan Commission, in relation to the enforcement of an ordinance requiring the procurement of an improvement location permit.
- D. All appeals from a decision of the Board of Zoning Appeals shall be made pursuant to I.C. 36-7-4-1001 through 36-7-4-1020, as amended. The person aggrieved by a decision of such Board of Zoning Appeals shall present the petition provided for in I.C. 36-7-4-1003, as amended, to the court within 30 days after the entry of the decision of the Board of Zoning Appeals.

(1980 Code, Ch. 156, § 12.09) (Ord. 1995-7, passed 6-5-1995)

#### **§ 12.10 HOME OCCUPATIONS.**

A commercial or professional activity, regardless of whether engaged in for profit, conducted by one or more residents in his, her, or their dwelling, or structure accessory thereto, and is clearly incidental and secondary to the use of the principal structure for dwelling purposes, and is located within a residentially or agriculturally zoned district may be classified as a home occupation.

- A. General restrictions and limitations: Home occupations shall be permitted as an accessory use to a permitted residential use in any residentially or agriculturally zoned district subject to the requirements of this section.
  1. Home occupations shall be entirely operated from an enclosed, four-walled structure, provided that all doors (including garage doors greater than four feet in width) shall be kept closed during use of the structure for a home occupation, except during incidental use for ingress and egress.
  2. Such use shall not occupy a total floor area greater than the amount of square footage represented by 20% of the total square footage of the principal structure whether operated from within the dwelling or in an accessory structure. For the purposes of this section, “total floor area of the dwelling” shall not include basements or cellars (whether finished for habitation or not), garages (whether attached or detached), attics, or other non-habitable portions of the residence. For the purposes of this section, the total floor area occupied by the home occupation activity shall include the total floor area of any room or rooms, where the home occupation is conducted or supplies, material, inventory, or equipment is stored.
  3. The use of the property for an accessory home occupation shall be clearly incidental and subordinate to its principal use as a residence by its occupants, and shall not dominate or cause variations in the residential character of the property, principal structure, or surrounding neighborhood.

4. There shall be no visible evidence of the home occupation, including but not limited to alterations to the exterior of the residence which changes the character thereof as a residence, exterior displays, or the outdoor storage of materials or equipment used in the home occupation. For the purpose of this section, "outdoor storage" shall include not only equipment or materials generally used in the occupation, but also the accumulation of used, discarded, or worn-out materials or manufactured products, any of which may or may not be reusable or saleable.
5. Parking generated by the conduct of the home occupation shall be provided off-street and in conformance with this zoning ordinance. The conducting of the home occupation shall in no way result in the parking of any motorized vehicle, other than those owned and registered in the name of the residents, either upon the lot upon which the home occupation is conducted, or the adjoining public or private street, overnight or longer.
6. The home occupation shall comply with the requirements of the general performance standards of Chapter 2. In no case shall any equipment or process be used which creates visual or audible interference in any radio or television receiver located off the lot on which such home occupation is conducted, or which causes fluctuation in line voltage beyond the property line of the lot upon which the home occupation is conducted.
7. The use of any tool or equipment powered by electricity, gasoline or diesel engine, or high pressure gas shall not be used before 7:00 a.m. or after 7:00 p.m. of any day.
8. Permitted home occupations shall be limited to those occupations conducted entirely by mail or telephone, those occupations in which the offered goods or services are delivered directly to a location other than the property where the home occupation is located, or those occupations where items are picked up from the customer at a location other than the property where the home occupation is located, the work performed, and then returned to the customer at the customer's location.

Note: Home occupations requiring customer visits to the location of the home occupation for the purpose of receiving the goods or services offered may be permitted by the Board of Zoning Appeals as a special exception.

9. Persons who are not residents of the dwelling where the home occupation is being conducted, and who are engaged either as employees, subcontractors, independent contractors, or otherwise in the home occupation, shall not exceed one.
10. Signage: Non-illuminated home occupation wall sign not exceeding two square feet wall-mounted on the dwelling; and, if allowed with the special exception, one non-illuminated yard sign not exceeding six square feet in size per face. Other restrictions may apply. See Chapter 11, Signs.

B. Home occupation permits: No building or structure or part thereof shall hereafter be used for the purposes of a home occupation without first having applied in writing to the Plan Commission's designated Administrator for a home occupation permit to do so, and the required permit is issued. Blank forms shall be provided by the Administrator for the use of those who apply for a home occupation permit as required by this ordinance.

Note: In those instances where a special exception is required, the home occupation permit shall not be issued until after the special exception has been granted by the Board of Zoning Appeals.

C. Home occupations permits nontransferable: All home occupation permits shall be approved for the originating applicant for a specific location, and may not be transferred to any other location by that applicant. Should the property upon which the home occupation is conducted be sold or conveyed to a different ownership or resident, a renewal of the home occupation permit will be required.

D. Revocation of home occupation permit: Upon a finding that an approved home occupation permit has become unsuitable or incompatible with the residential nature of the property or neighborhood where it is located through noncompliance with any of the requirements of this ordinance, the Board of Zoning Appeals reserves full authority to revoke the home occupation permit. The Board, or its designee, shall notify the property owner that such an action is imminent, that the property owner will have 35 days in which to prepare a response to the violations specified in the letter-of-intent to revoke the home occupation permit, and that the Board shall schedule the matter for a public hearing at the next available regular meeting date following the 35-day notice period, at which time, all interested citizens will be given the opportunity to be heard. Said notice to the property owner of the intent to revoke the home occupation permit shall be delivered by either the United States mail or through personal service. The public hearing shall be advertised in accordance with state law and the rules and procedures of the Board of Zoning Appeals.

(1980 Code, Ch. 156, § 12.10) (Ord. 1995-7, passed 6-5-1995)

### **§ 12.11 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**APPELLANT.** Any person, firm, partnership, corporation, or other business organization, public official, head of any administrative department, or member of any public board which appeals a decision of the Code Administrator or any building inspector of the building and zoning division.

**APPLICANT.** Any person, firm, partnership, corporation, or other business organization which applies to the Board for a variance or exception.

**SPECIAL EXCEPTION.** A permission given by the Board, properly authorized by this title for an applicant to use his or her property in a manner contrary to the provisions of this title; provided such use subserves the general welfare and protects community interests.

**VARIANCE.** An authorization by the Board granting relief to an applicant and doing substantial justice in the use of an applicant's property, where owing to special conditions, a literal enforcement of the provisions of this title will result in unnecessary hardship to the applicant.

(1980 Code, Ch. 156, § 12.11) (Ord. 1995-7, passed 6-5-1995)

## CHAPTER 13: DEFINITIONS

### § 13.01 RULES OF CONSTRUCTION.

- A. Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- B. The terms “shall” and “must” are always mandatory and not discretionary; the words “may” or “should” are permissive.
- C. For the purpose of this ordinance, only terms having a specific or narrow meaning will be defined. Words and phrases defined herein shall be given the defined meaning. Whenever any words or phrases used herein are not defined herein but are defined in the state laws regulating the creation and function of various local planning agencies or local building codes, that definition will apply. The dictionary definition will be used for terms not specifically defined in this ordinance except where the context clearly indicates a different or specified meaning.
- D. The word “person” includes a firm, organization, association, partnership, trust, company, or corporation, as well as an individual.
- E. The words “use” or “occupy” shall include the words “intended,” “designed,” or “arranged” to be “used” or “occupied.”
- F. The word “building” includes the word “structure,” or “any portion of a building or structure.”
- G. The word “year” means the 12-month period from the date of approval/disapproval of requested action.
- H. The masculine includes the feminine.
- I. Whenever any reference is made in this ordinance to any other section or provision of this or other ordinances, such reference shall be deemed to include the provision(s) or regulation(s) to which the reference is made.

(1980 Code, Ch. 156, § 13.01) (Ord. 1995-7, passed 6-5-1995)

### § 13.02 DEFINITIONS.

The following definitions shall apply in interpretation and enforcement of this ordinance, unless otherwise specifically stated:

**ABANDONMENT.** To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

**ABUTTING.** Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

**ACCESSORY BUILDING OR STRUCTURE.** A subordinate building or structure having a use customarily incidental to and located on the lot occupied by the main building. A building housing an accessory use is considered an integral part of the main building when it has any part of a wall in common with the main building, or is under an extension of the main roof and designed as an integral part of the main building.

**ACCESSORY USE.** A structure or use that:

1. Is clearly incidental to and customarily found in connection with a principal building or use;
2. Is subordinate to and serves a principal building or a principal use;
3. Is subordinate in area, extent, or purpose to the principal building or principal use served;

4. Contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and
5. Is located on the same lot as the principal building or use served.

**ADULT USES.**

1. **ADULT ARCADE.** An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines, for viewing by five or fewer persons, are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas. (See end of adult use list for the ordinance's definition of **SPECIFIED SEXUAL ACTIVITIES** or **SPECIFIED ANATOMICAL AREAS**.)
2. **ADULT BOOKSTORE.** An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following:
  - (a) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or
  - (b) Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.
3. **ADULT CABARET.** A nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
4. **ADULT MOTION PICTURE THEATER.** An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.
5. **ADULT THEATER.** A theater, concert hall, auditorium, or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities.
6. **MASSAGE PARLOR.** An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.
7. **SEXUAL ENCOUNTER ESTABLISHMENT.** An establishment other than a hotel, motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate, or consort in connection with specified sexual activities or the exposure of specified anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in sexual therapy.



8. **SPECIFIED ANATOMICAL AREAS.** As used herein, specified anatomical areas means and includes any of the following:
- (a) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or
  - (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
9. **SPECIFIED SEXUAL ACTIVITIES.** As herein, specified sexual activities means and includes any of the following:
- (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
  - (b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
  - (c) Masturbation, actual or simulated; or
  - (d) Excretory functions as part of or in connection with any activities set forth in subdivisions 1. through 3. of this definition.

**AGRICULTURAL DISTRICT.** The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities and shall not in any way constitute an independent commercial or industrial use. The operation of commercial feed lots or pens, sales yards, auction yards for cattle or hogs, and meat packing or food canning plants shall be deemed an industrial and not an agricultural use.

**AIRPORT.** An area of land or water that is used or intended to be used for the landing and take-off of aircraft, and includes its buildings and facilities, if any.

**ALLEY.** A minor public or private right-of-way shown on a plat, providing secondary vehicular access to the rear or side of a lot, block, or parcel of land otherwise abutting a street.

**ALTERATION.** Any addition, removal, extension, or change in the construction or occupancy of an existing building or structure.

**AMUSEMENT ARCADE.** A building or part of a building in which five or more pinball machines, video games, or other similar player-operated amusement devices are maintained.

**ANTENNA (ANTENNA TOWER).** Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves external to or attached to the exterior of any building.

**APARTMENT or APARTMENT DWELLING.** A suite of rooms comprising a portion of a building (distinguished from a mobile home) as an independent dwelling for one family, while the remaining portion of the building is another dwelling, or other dwellings, or use other than dwelling, such as a business.

**APPELLANT.** Any person, firm, partnership, corporation, or other business organization, public official, head of any administrative department, or member of any public board which appeals a decision of the Administrator or any building inspector of the Building and Zoning Division.

**APPLICANT.** Any person, firm, partnership, corporation, or other business organization which applies to the City Board of Zoning Appeals or to the City Plan Commission for action by said Board of Commission thereby affecting that land.

**AQUACULTURE.** Land devoted to the hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use.

**AQUIFER.** A geological unit in which porous and permeable conditions exist and thus are able of yielding usable amounts of water.

**AQUIFER RECHARGE AREA.** An area that has soils and geological features that are conducive to allowing significant amounts of surface water to percolate into ground water.

**AREA, PROJECT.**

1. GROSS PROJECT AREA (GPA). Total project area.
2. NET PROJECT AREA (NPA). Total project area less land allocated to public street right-of-way, private streets, parking areas and any land allocated to specified nonproject uses such as schools and churches when determining the “net residential project area” to be used as a basis for calculating the number of permitted dwelling units for a planned unit development.

**AS BUILT PLANS.** Construction plans revised to show a facility or structure actually constructed and as it appears on the tract of land involved.

**AUTOMOBILE (AUTOMOTIVE).** As used herein, the term includes passenger cars, motorcycles, vans, pickup trucks, recreational vehicles, or similar motorized vehicles.

**BASEMENT.** A floored and walled substructure of a building at least 50% below the average finished grade of the building.

**BED AND BREAKFAST: HOMESTAY.** A small establishment, having one to three bedrooms for rent to transients as an activity which is subordinate and incidental to the main residential use of the building (meaning the operator of the bed and breakfast shall live on the premises). These are generally treated as tourist homes.

**BOARD.** The Columbia City Board of Zoning Appeals.

**BOARDING HOUSE or LODGING HOUSE.** A building other than a hotel, occupied as a single housekeeping unit, where lodging or meals are provided for four or more persons for compensation, pursuant to previous arrangements, but not for the public or transients.

**BUFFER AREA.** A landscaped area intended to separate and partially or substantially obstruct the view of two adjacent land uses or properties from one another.

**BUILDING.** Any roofed structure built for the support, shelter, enclosure, or protection of persons, animals, chattels, or moveable property of any kind (each part of such a structure that is separated from the rest by unbroken party (common) walls is considered to be a separate building for the purpose of this ordinance).

**BUILDING COVERAGE.** The proportion of the lot area, expressed as a percent that is covered by the maximum horizontal cross section of a building or buildings.

**BUILDING HEIGHT.** The vertical distance measured from the adjoining curb grade to the highest point of the roof surface, if a flat roof; to the deck line of a mansard roof; and the mean height between eaves and ridge for a gable, hip, or gambrel roof. Where a building is set back from the street line, the height of the building shall be measured from the average elevation of the finished grade along the front of the building.

**BUILDING LINE or SETBACK LINE.** A line parallel to a street right-of-way line, edge of a stream, or other property line established on a parcel of land or lot for the purpose prohibiting construction of a building or structure in the area between such building line and right-of-way, stream bank, or other property line.

**BULK.** The term used to indicate the size and setback of building or structure and the location of same with respect to another building or structure or to a lot line and includes the following: Size and height of building or structure; location of exterior walls of a building in relation to lot lines, streets, or other buildings; the floor area of a building in relation to the area of the lot on which it is located; the open space allocated to a surrounding a building; and the amount of lot area per dwelling unit.

**BUSINESS DISTRICT.** Those districts, LB, GB, and CBD as described under Chapter 6, Business Districts.

**CAMPGROUND.** Any site, lot, field, or tract under single ownership, or ownership of two or more people, designed with facilities for short term occupancy by recreational vehicles and other camping equipment but not including mobile homes.

**CEMETERY.** Includes any columbarium, crematory, mausoleum, or mortuary operated in conjunction with and on the same tract as the cemetery.

**CHILD CARE CENTER.** A commercial licensed enterprise located in a business district in which child care is provided.

**CHILD CARE HOME.** A maximum of 4 non- related children, may currently be cared for in the home without state licensing. Five to 15 children, excluding those who reside in the residence, may be cared for in the home if the resident obtains a special exception and maintains continuous state licensing. See § 5.03 A. for more information.

**CHURCH.** An institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term **CHURCH** shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held. This term does not include accessory uses such as bingo parlors, coffee houses, day care centers, rental halls, etc.

**CLINIC.** An establishment in which patients are admitted for medical or dental study or treatment and in which the services of at least one physician or dentist are provided and does not include overnight care facilities.

**COMMISSION.** The Columbia City Advisory Plan Commission.

**COMMUNITY CENTER.** A place, structure, area, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

**CONDOMINIUM.** Real estate lawfully subjected to I.C. 32-1-6 (the Horizontal Property Law) by the recordation of condominium instruments, in which undivided interests in the common areas and facilities are vested in the condominium unit owners.

**CONGREGATE HOUSING.** A residential facility for three or more persons within which are provided living and sleeping facilities, meal preparation, laundry services, and room cleaning. Such facilities may also provide other accessory services, such as transportation for routine social and medical appointments and counseling.

**COUNTY.** Whitley County, Indiana.

**CUL-DE-SAC.** A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement including public safety vehicles.

**DETACHED BUILDING.** A building that has no structural connection with another building.

**DEVELOPMENT PLAN.** See Chapter 9.

**DORMITORY.** A building used as group living quarters for a student body, religious order, or other group as an associated use to a college, university, boarding school, orphanage, convent, monastery, farm labor camp, or other similar use.

**DRIVE-IN (DRIVE-THROUGHS).** An establishment selling foods, frozen desserts, or beverages to consumers, the establishment being designed, intended, or used for the consumption of such item on the premises outside of the building in which they were prepared.

**DRIVES, PRIVATE.** Vehicular streets and driveways, paved or unpaved, which are wholly within private property except where they interact with public streets within public rights-of-way.

**DWELLING.** A building or part of a building that is used primarily as a place of abode, but not including a hotel, motel, lodging house, boarding house, or tourist home.

**DWELLING UNIT.** A dwelling or part of a dwelling used by one family as a place of abode.

**DWELLING, SINGLE-FAMILY DETACHED.** A dwelling containing one dwelling unit with no structural connection to another dwelling.

**DWELLING, SINGLE-FAMILY ATTACHED.** A dwelling containing two or more dwelling units, each located on its own lot.

**DWELLING, TWO-FAMILY.** A dwelling containing two dwelling units. Also known as **DUPLEX**.

**DWELLING, MULTI-FAMILY.** A dwelling containing more than two dwelling units.

**EASEMENT.** An authorization grant made by a property owner for used by another entity, of any designated part of his or her property for a clearly specified purpose and officially recorded.

**EXECUTIVE COMMITTEE.** A panel established by the Plan Commission to provide technical services to the Plan Commission in the administration of this ordinance.

**FAMILY.** One or more persons sharing meals and living as a single housekeeping unit.

**FARM.** An area used for agricultural operations, including truck gardening, forestry, the operating of a tree or plant nursery, or the production of livestock and poultry. (See **AGRICULTURAL DISTRICT** and **AQUACULTURE**.)

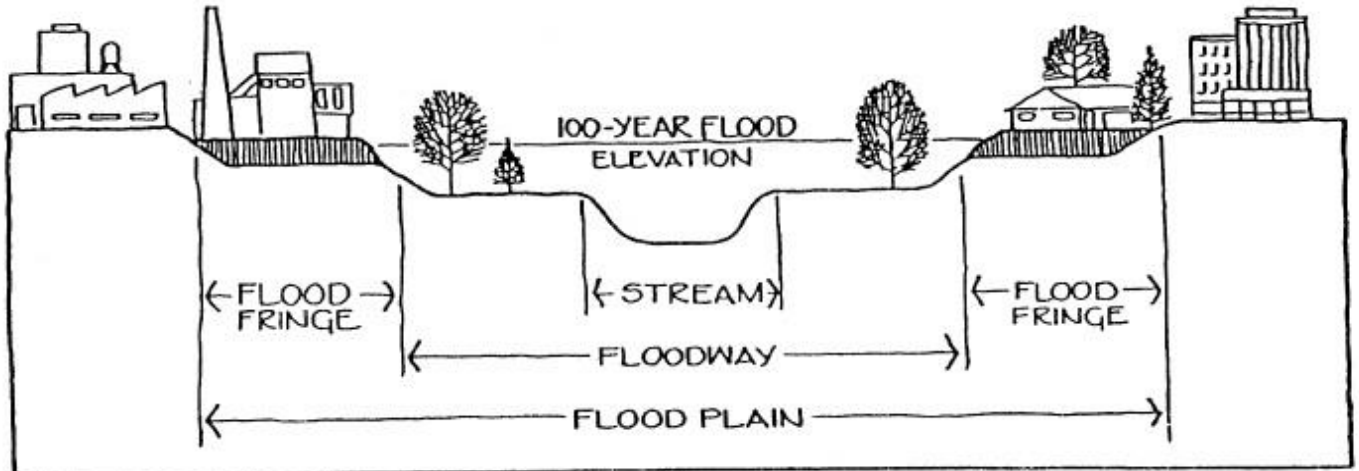
**FLOOD HAZARD AREAS.** Those flood plains which have not been adequately protected from flooding caused by the regulatory flood, and are shown on the zoning map and/or on the flood hazard or Floodway-Flood Boundary Maps of the Federal Insurance Administration or maps provided to the Commission from the Indiana Natural Resources Commission.

**FLOOD PLAIN.** The area adjoining the river or stream which has been or may hereafter be covered by flood water from the regulatory flood.

**FLOOD PROTECTION GRADE.** The elevation of the lowest floor of a building, including the basement, which shall be two feet above elevation of the regulatory flood.

**FLOODWAY.** See **REGULATORY FLOODWAY**.

**FLOODWAY FRINGE.** That portion of the flood plain lying outside the floodway, which is inundated by the regulatory flood.



**FOUNDATION.** The supporting member of a wall or structure.

**FRONT LINE.** With respect to a building, means the foundation line that is nearest the front lot line.

**FRONT LOT LINE.**

1. For an interior or through lot, means the line marking the boundary between the lot and the abutting street or a lake or watercourse; and
2. For a corner lot, means the line marking the boundary between the lot and the shorter of the two abutting street segments.

Except as deed restrictions specify otherwise.

**FRONT YARD.** The horizontal space between the nearest foundation of a building to the right-of-way line and that right-of-way line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the right-of-way line. The front yard of a corner lot shall be that yard abutting the street upon which the lot has its least frontage, except as deed restrictions specify otherwise.

**GRADE.** See **LOT GROUND LEVEL.**

**GROUP HOME.** A single self-contained children's home established and operated by the county department of welfare, licensed private child placement agency or licensed incorporated group established for the purpose of receiving and caring for up to eight children who are attended by house "parents." (Also see **CONGREGATE HOUSING.**)

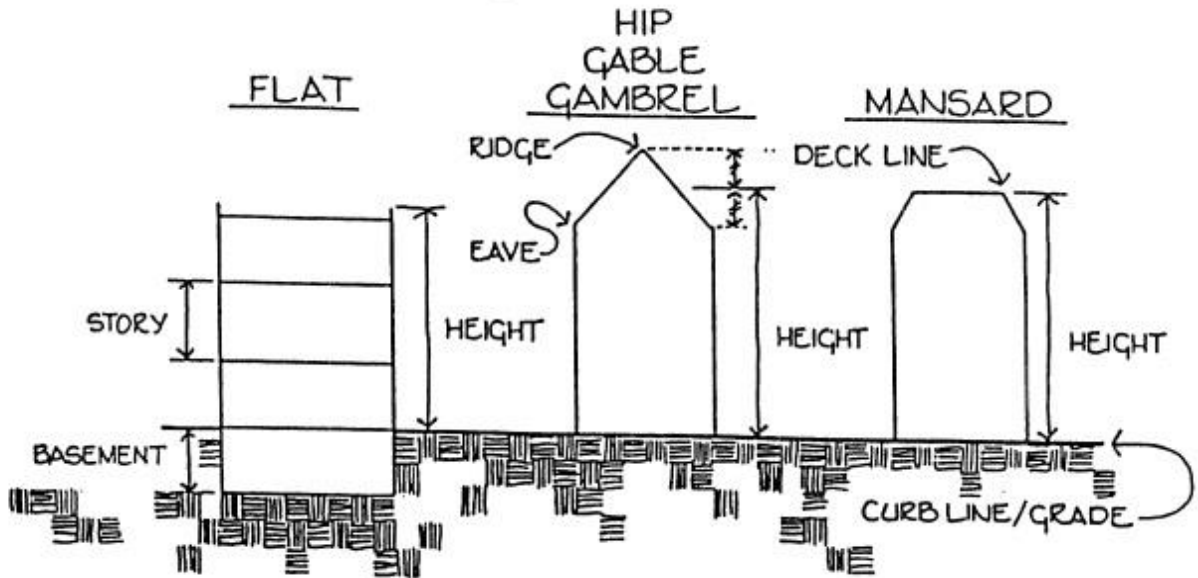
**HALFWAY HOUSE.** A licensed home for inmates on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently. Such placement is pursuant to any court of competent jurisdictional and/or the State Department of Correction.

**HARDSHIP.** A perceived difficulty with regard to one's ability to improve land stemming from the application of the development standards of this ordinance, which may or may not be subject to relief by means of variance. In and of themselves, self-imposed situations and claims based on a perceived reduction of or restriction on economic gain shall not be considered hardships. Self-imposed situations include: The purchase of land with actual or constructive knowledge that, for reasons other than physical characteristics of the property, the development standards herein will inhibit the desired improvement; any improvement initiated in violation of the

standard of this ordinance; any results of land division requiring variance from the development standards of this ordinance in order to render that site buildable.

**HAZARDOUS SUBSTANCES.** Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.

**HEIGHT.** With respect to a building, means the vertical distance from the lot ground level to the highest point, for a flat roof; to the deck line, for a mansard roof, and to the mean height between eaves and ridges for a gable, hip, or gambrel roof.



**HOME OCCUPATION.** A commercial or professional activity, regardless of whether engaged in for profit, conducted by one or more residents in his, her, or their dwelling, or structure accessory thereto, is clearly incidental and secondary to the use of the principal structure for dwelling purposes, and located within a residentially or agriculturally zoned district. See Chapter 12 for other performance standards.

**IMPROVEMENT LOCATION PERMIT.** A document issued by this ordinance permitting a person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure within its jurisdiction, or cause the same to be done or to change the use or condition of the land.

**INDUSTRIAL USE.** Manufacturing, processing, extraction, heavy repairing, dismantling, storage, or disposal of equipment, raw materials, manufactured products or wastes, in which some operations, other than transportation, are performed in open area.

**INTERIOR LANDSCAPE PLOT.** A plot of land inside the exterior perimeter of the parking and loading area which is raised and curbed for landscaping treatments in accordance with § 10.04.

**INTERIOR LOT.** A lot other than a corner lot or a through lot.

**INTERESTED PARTIES.** Those parties who are owners of properties adjoining or adjacent to the property under consideration.

**JUNK YARD.** A parcel of land on which waste or discarded used property other than organic matter, including but not limited to automobiles, farm implements, and trucks, is accumulated and is or may be salvaged for reuse or resale; this shall not include any industrial scrap metal yard.

**LANDFILL.** A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day.

**LIGHT INDUSTRIAL USE.** Manufacturing, processing, extraction, heavy repairing, disposal of equipment, raw materials, manufactured products or wastes, in which all operations, other than transportation, are performed entirely within enclosed buildings and for which all loading and unloading facilities are enclosed.

**LODGING HOUSE.** A building, not available to transients, in which lodgings are regularly provided for compensation for at least three persons in addition to the owner occupant or lessor.

**LOT.** A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or of building development.

**LOT, CORNER.** A lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135 degrees. A lot with streets abutting more than two sides shall also be a corner lot.

**LOT COVERAGE.** The percentage of the lot area that is represented by the building area.

**LOT GROUND LEVEL.**

1. For a building having walls abutting (that is, generally parallel to and not more than five feet from) one street only, means the elevation of the sidewalk at the center of the wall abutting the street;
2. For a building having walls on more than one street, means the average of the elevations of the sidewalks at the center of all walls that face streets; and
3. For a building having no wall abutting a street, means the average level of the ground adjacent to the exterior walls of the building.

**LOT WIDTH.** The distance between the side lot lines as measured on the building line.

**MANEUVERING AISLE.** A maneuvering space which services two or more parking spaces, such as the area between two rows of parking spaces and/or the driveway leading to those spaces.

**MANEUVERING SPACE.** An open space in a parking area which:

1. Is immediately adjacent to a parking space;
2. Is used for and/or is necessary for turning, backing or driving forward a motor vehicle into such parking space, but
3. Is not for the parking or storage of motor vehicles.

**MANUFACTURED HOME.** A single-family dwelling unit designed and built in a factory, installed as a permanent residence, which bears a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law (1974 (U.S.C. §§ 5401 *et seq.*), and which also complies with the following specifications:

1. Shall have been constructed after January 1, 1981, and must exceed 950 square feet of occupied space per I.C. 36-7-4-1106(d).
2. Is attached to a permanent foundation of masonry construction and has a permanent perimeter enclosure constructed in accordance with the One and Two Family Dwelling Code;

3. Has wheels, axles, and towing chassis removed;
4. Has a pitched roof with a minimum rise of 2/12; and
5. Consists of two or more sections which, when joined, have a minimum dimension of 20 feet by 47.5 feet in length or width enclosing occupied space.

***MINERAL EXTRACTION.***

1. Mining or quarrying; and
2. Removal of earth materials.

***MOBILE HOME.*** Any vehicle without motive power designed by the manufacturer, or maker, with hitch and undercarriage to permit attachment of axles and wheels, and so designed, to permit its being used as a conveyance upon public streets and highways so designed, constructed or reconstructed as will permit the vehicle to be used as a single-family dwelling and not qualifying under the definition of manufactured home.

***NONCONFORMING USE.*** A building, structure, or use of land existing at the time of enactment of this ordinance, which does not conform to the regulations of the district in which it is situated.

***NURSING HOME.*** See ***CONGREGATE HOUSING.***

***OCCUPIED SPACE.*** The total area of earth horizontally covered by the structure, excluding garages, patios, and porches and other accessory structures.

***ONE AND TWO FAMILY DWELLING CODE, INDIANA.*** The nationally recognized model building code adopted by the Indiana Department of Fire Prevention and Building Safety as mandated by Public Law 360, Act of 1971, and, which includes those supplements and amendments promulgated by this agency.

***OPEN USE.*** The use of a lot without a building, or a use for which a building with a floor area no larger than 5% of the lot area is only incidental.

***PARKING AREA.*** A group of parking spaces, exclusive of any part of a street or alley, designed or used for the temporary parking of motor vehicles.

***PARKING GARAGE.*** A garage, where parking but not repairs are available to the public.

***PARKING SPACE.*** An open space exclusive of maneuvering aisle and driveway for the parking of a motor vehicle.

***PERFORMANCE GUARANTEE.*** A financial guarantee to ensure that all improvements, facilities, or work required by this ordinance will be completed in compliance with the ordinance, regulations, and the approved plans and specifications of a development.

***PERMANENT FOUNDATION.*** A structural system for transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.

***PERMANENT PERIMETER ENCLOSURE.*** A permanent perimeter structural system completely enclosing the space between the floor joists of the home and the ground, except for necessary openings, constructed in accordance with the One and Two Family Dwelling Code.

***PERSON.*** A corporation, firm, partnership, association, organization, unit of government, or any other group or entity that acts as a unit, as well as a natural person.

***PLAT.*** A map indicating the subdivision, or resubdivision of land, filed, or intended to be filed, for record with the County Recorder.



**PRINCIPAL BUILDING.** A building in which the principal use of the lot or parcel on which it is located is conducted standards recognized by the Indiana Department of Fire Prevention and Building Safety shall be used to determine whether a given structure constitutes one or more buildings in cases where ambiguities exist.

**PRIVATE GARAGE.** A garage whose principal use is to house motor vehicles for the accommodation of related dwelling units or related business establishments.

**PRIVATE SCHOOL.** A school other than a public school.

**PRIVATE CAMP.** An area of land used or designed to be used to accommodate groups or organized camping parties, including cabins, tents, food service, and recreational facilities.

**PROFESSIONAL OFFICE.** An office used by members of a recognized profession including but not limited to architects, artists, dentists, engineers, lawyers, musicians, physicians, surgeons, or pharmacists, and realtors or insurance agents and brokers.

**PUBLIC IMPROVEMENT.** Any drainage ditch, street, highway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, lot improvement; or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established. (All such improvements shall be properly bonded.)

**REAR YARD.** A yard as defined herein, encompassing the horizontal space between the nearest foundation of a building to a rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from the foundation to the rear lot line. The rear yard of a corner lot shall be that yard at the opposite end of the lot from the front yard.

**RECREATIONAL VEHICLE.**

1. A portable vehicular structure designed as a temporary dwelling for travel vacation uses which:
  - (a) Is identified on the unit by the manufacturer as a travel trailer or a motor home; and
  - (b) Is of a size that is street legal;
2. Or:
  - (a) Is a structure mounted on an automobile or truck; and
  - (b) Is designed to be used for sleeping and human habitation.
3. **RECREATIONAL VEHICLES** are not residences for the purposes of this ordinance.

**REGULATORY FLOOD.** That flood having a peak discharge which can be equaled or exceeded on the average of once in a 100-year period, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission; this flood is equivalent to a flood having a probability of occurrence of 1% in any given year.

**REGULATORY FLOODWAY.** The channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to efficiently carry and discharge peak flow of the regulatory flood of any river or stream and, is that area covered by floodwaters in significant downstream motion or covered by significant volumes of stored water during the occurrence of the regulatory flood.

**RESIDENTIAL DISTRICT.** Those districts, R-1, R-2, and R-3 as described under Chapter 5, Residential Districts.

**ROOMING HOUSE.** See **BOARDING HOUSE.**

**SCRAP METAL YARD.**

1. A general industrial use established independent, or ancillary to and connected with another general industrial use, which is concerned exclusively in new and salvage metal pipes, wires, beams, angles, rods, machinery, parts, filings, clippings, and all other metal items of every type, and which acquires such items incidental to its connection with the other general industrial use or for sale and shipment and use in other industrial or business activities including junk yards, dumps, or automobile graveyards.
2. The storage, dealing in or the permitting of the accumulation of significant quantities of combustible, organic, or nonmetal scrap materials such as wood, paper, rags, garbage, bones, and shattered glass on the premises of such an establishment will disqualify it from being classified as a scrap metal yard, and the same will be classified as either a junk yard, a sanitary fill or refuse dump depending on the content of the accumulated matter.

**SCREENING.** See **BUFFER AREA**.

**SETBACK.** A line parallel to and equidistant from the relevant lot line (front, back, side) between which no building may be erected as prescribed in this ordinance.

**SIDE LOT LINE.** Any lines separating two lots other than front or rear lot lines.

**SIDE YARD.** The horizontal space between the nearest foundation of a building to the side lot line and that side lot line, unoccupied other than by architectural appurtenances projecting not more than 24 inches into that space; steps or terraces not higher than the level of the first floor of the building and open lattice-enclosed fire escape, fireproof outside stairways and balconies projecting not over 24 inches into that space.

**SIGN.** Any identification, description, illustration, or device illuminated or non-illuminated which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, service, place, activity, person, institution, business, or solicitation, including any permanently installed or situated merchandise or any emblem, painting banner, pennant, or placard designed to advertise, identify, or convey information, with the exception of window displays and national flags. For the purpose of removal, signs shall also include all sign structures. Not included are decorative devices or emblems as may be displayed on a residential mailbox. For the purposes of this ordinance, this definition shall include those signs painted directly upon a building or other structure. A visual device or structure used for advertising, display, or publicity purposes. Definitions under **SIGNS** apply only to signs. See Chapter 11 for more information.

1. **ABANDONED SIGN.** A sign which no longer correctly directs or exhorts any person, advertises a bona fide business, lessor, owner, project, or activity conducted or product available on the premises where such sign is displayed.
2. **ANIMATED SIGNS.** Any sign which includes action or motion. For purposes of this ordinance, this term does not refer to flashing or changing, all of which are separately defined.
3. **BANNER.** A sign made of fabric, plastic, paper, or other light pliable material, not enclosed in a rigid frame and characteristically suspended along or across a public street.
4. **BUILDING FACE OF WALL.** All window and wall area of a building in one plane or elevation.
5. **CANOPY.** Any structure attached to a building at the inner end and supported on the other end, or a free-standing structure, with one or more supports, meant to provide shelter from weather elements, onto which signs may be affixed or incorporated.
6. **CHANGEABLE COPY SIGN (MANUAL).** A sign on which copy is changed manually in the field, such as, reader boards with changeable letters or changeable pictorial panels.

7. **CHANGING SIGNS (AUTOMATIC).** A sign such as an electronically or electrically controlled public service time, temperature, and date sign, message center or reader board, where different copy changes are shown on the same lamp bank.
8. **CHURCH BULLETIN BOARD.** A sign attached to the exterior of a church or located elsewhere on church premises and used to indicate the services and/or other activities of the church, and including the church name, if desired.
9. **COPY.** The wording or graphics on a sign surface.
10. **ERECT.** To build, construct, reconstruct, attach, hang, re-hang, alter, place, affix, enlarge, move, or relocate and includes the painting of existing sign structures.
11. **FACADE.** The front or main part of a building facing a street.
12. **FACE OF SIGN.** The entire area of a sign on which copy could be placed. The area of a sign which is visible from one direction as projected on a place.
13. **FLASHING SIGN.** Any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation, or an externally mounted intermittent light source. Automatic, changing signs such as public service time, temperature, and date signs or electronically controlled message centers are not classed as **FLASHING SIGNS**.
14. **GASOLINE AND OIL SERVICE STATIONS.** Any business which dispenses, or is designed to dispense gasoline and/or oil for use in motor vehicles or boats.
15. **ILLEGAL SIGNS.** A sign which contravenes this ordinance, or a nonconforming sign for which a permit required under a previous ordinance was not obtained.
16. **LOGO.** A letter, character, or symbol used to represent a person, corporation, or business enterprise.
17. **PREMISES.** An area of land with its appurtenances and buildings which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.
18. **READER BOARD.** Any sign that has changeable or removable lettering.
19. **RIGHT-OF-WAY (ROW).** Shall be the actual road right-of-way or the proposed right-of-way as indicated on the city Comprehensive Plan and/or as set forth in the city subdivision ordinance.
20. **ROOF LINE.** The highest point of the coping on a flat roof, false mansard, or parapet wall; the decline of a true mansard roof; the ridge line between the upper and lower slopes of a gambrel roof; or the mean height level between the eaves and ridge for a gable or hip roof.
21. **SEASONAL OR SPECIAL OCCASION TEMPORARY SIGNS.** A sign which is not permanent and is limited to a specific activity or in the celebration of holidays or other special events.
22. **SHOPPING CENTER.** A building containing four or more shops, stores, and other places of business, and providing off-street parking facilities in common for all of the businesses and their customers.
23. **SHOW WINDOW SIGN.** Any temporary sign advertising sales or specials attached to or within three feet of the glass surface of any fixed window (glazing) visible from a public right-of-way.
24. **SIGN AREA.** The area of the sign face. The **SIGN AREA** of a multi-faced signs the sum of the sign areas of each face, including structural trim which can be seen from a single location on an adjacent street. If a sign is attached to a building or suspended in any manner whereby there is no apparent trim or confining border, the sign area shall be computed by drawing an imaginary straight line around a generally rectangular margin and measuring the area so encompassed upon a building or other structure.

25. **SIGN, ATTACHED.** A sign erected or placed upon the wall of any building with the plane of the face parallel to the plane of the wall below the roof line.
26. **SIGN, COMMERCIAL DIRECTORY.** A permanent pole sign designating the name of a commercial center and listing the various tenants of the center.
27. **SIGN, CONSTRUCTION.** A temporary sign used during construction of new buildings or reconstruction of or additions to existing buildings, such as those identifying the project and denoting the owner, architect, engineer, contractor, and/or financing institutions of the project.
28. **SIGN, DIRECTIONAL.** A sign which indicates a direction for vehicular or pedestrian traffic or other movement.
29. **SIGN, FLUTTERING.** A sign which flutters and includes banners, flags, pennants, or other flexible material which moves with the wind or by some artificial means.
30. **SIGN, GROUND.** Any detached sign on the same lot or parcel as the use it advertises which has its bottom portion erected upon or supported by the ground, a ground planter box, or other supports.
31. **SIGN, HANGING.** Any sign hanging entirely beneath a canopy, portico, or marquee.
32. **SIGN, ILLUMINATED.** Any sign which is illuminated by light sources mounted on or in the sign or at some other location.
33. **SIGN, MEMORIAL OR TABLETS.** The permanent part of a building which denotes the name of the building, date of erection, historical significance, dedication, or other similar information.
34. **SIGN, NONCONFORMING.** A sign legally erected under the previously existing ordinances of the city, but which does not conform to the provisions of this ordinance.
35. **SIGN, OCCUPATIONAL AND/OR IDENTIFICATION.** An attached wall sign not larger than one square foot in area identifying the name of a person occupying a building.
36. **SIGN PERMIT.** A location improvement permit as discussed in the legal provision, § 1.11 B.
37. **SIGN, POLITICAL.** A temporary sign advocating or opposing any political proposition or candidate for public office.
38. **SIGN, POLE.** Any detached sign located on the same lot or parcel as the use it advertises which is supported by one or more stationary poles no taller than 35 feet above the mean grade line of the ground at its base provided that this shall not include a permitted ground sign as set forth.
39. **SIGN, PROJECT IDENTIFICATION.** A permanent ground sign identifying an apartment complex, condominium project, or mobile home development entry, name and/or street names within the project.
40. **SIGN, PROJECTING.** Any sign which projects more than 12 inches beyond the plane of the wall on which the sign is erected or attached.
41. **SIGN, PROPERTY REAL ESTATE.** A sign pertaining only to the prospective rental, lease, or sale of the property upon which it is located. Real estate signs shall be excluded from the definition of **POLE SIGNS**.
42. **SIGN, RESIDENTIAL CONSTRUCTION PROJECT.** Any temporary sign that provides direction to any residential development under construction, or promotes the residential development on the project site.
43. **SIGN, ROOF.** Any sign erected on a roof but excluding marquee and canopy signs and wall signs. The generally vertical plane of a mansard-type roof shall be interpreted as the same as a wall of a building.
44. **SIGN, STRUCTURE.** The sign and all parts associated with its construction.

- 45. **SIGN, SUBDIVISION IDENTIFICATION.** A permanent ground sign identifying a subdivision entry, subdivision name, and/or street names within the subdivision.
- 46. **SIGN, SUPPORTS.** All structures by which a sign is held up, including, for example, poles, braces, guys, and anchors.
- 47. **SIGN, TEMPORARY.** Any sign intended for a limited or intermittent period of display.
- 48. **SIGN, WINDOW TEMPORARY.** A temporary sign affixed to the inside of an exterior window or glass door.
- 49. **SPECIAL DISPLAYS.** Signs not exceeding 32 square feet, used for holidays, public demonstration, or promotion of civil welfare or charitable purposes.
- 50. **STANDARD OUTDOOR ADVERTISING STRUCTURE AND/OR BILLBOARD.** Any sign intended to attract general public interest concerning a commercial enterprise, product, service, industry, or other activity not conducted, sold, or offered on the premises upon which the sign is erected. This includes billboards, detached pole signs on separate parcels, wall signs and signs otherwise attached to buildings and/or supported by uprights or braces on the ground. Real estate signs and political signs are excluded from this definition.
- 51. **TEMPORARY SIGN.** A sign which is not permanent and is allowed for a specific time period.
- 52. **TRAFFIC DIRECTIONAL SIGN.** Any sign which aids the flow of traffic.

**SITE PLAN.** A plan, prepared to scale, showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.

**SPECIAL EXCEPTION.** The authorization of a building, structure, or use that is not designed as a permitted use within a district, but if specifically listed may be permitted if it meets special conditions, and upon application, is specifically authorized by the City Board of Zoning Appeals.

**STREET.** A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles. Streets are further classified by the functions they perform.

- 1. **EXPRESSWAYS.** A street which is intended to have limited access on interregional routes. They are designed exclusively for unrestricted movement, have limited private access, and intersect only with selected arterial highways or major streets by means of interchanges whenever possible.
- 2. **ARTERIAL.** A street intended to move through-traffic to and from such major attractions as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within the city or county; and/or as a route for traffic between communities; a major intra or intercity thoroughfare as designed by and shown on the Thoroughfare Plan.
- 3. **COLLECTOR STREET.** A street intended to move traffic from local streets to arterials as designated by and shown on the Thoroughfare Plan. (A collector street serves neighborhood or large subdivision and shall if at all possible be designed so that no residential properties face onto it and no driveway access to it is permitted except if the property is to be in multi-family use for three or more dwelling units.)
- 4. **LOCAL STREET.** A street intended to provide access to other streets from individual properties and to provide right-of-way beneath it for sewer, water, and storm drainage pipes.

**STRUCTURAL CHANGE.** A substantial change in a supporting member of a building, such as a bearing wall or partition column, beam, or girder, or in an exterior wall or the roof.

**STRUCTURE.** Anything constructed or erected that requires location on or in the ground or attachments to something having a location on or in the ground.

**SUBDIVISION.** The division of a parcel of land into two or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions, including resubdivision.

**THROUGH LOT.** A lot fronting on two parallel or approximately parallel streets and includes lots fronting on both a street and a watercourse or lake.

**TOURIST HOME.** See **BED AND BREAKFAST: HOMESTAY.**

**TRADE OR BUSINESS SCHOOL.** A secondary or higher education facility teaching usable skills that prepare students for jobs in a trade, business, or vocation.

**USE.** The employment or occupation of a building, structure, or land for a person's service, benefit, or enjoyment.

**VARIANCE.** A specific approval granted by the Board of Zoning Appeals in the manner prescribed by this ordinance, to deviate from the development standards (such as height, bulk, area) where owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship to the applicant.

**YARD.** A space on the same lot with a principal building that is open and unobstructed except as otherwise authorized by this ordinance.

(1980 Code, Ch. 156, § 13.02) (Ord. 1995-7, passed 6-5-1995)