

CHAPTER 153: ZONING REGULATIONS

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GENERAL PROVISIONS

§ 153.001 TITLE.

This chapter shall be titled “An Ordinance for the Development Through Zoning of the Area Within the Jurisdiction of the Advisory Plan Commission of Marion, Indiana.” This code may be cited as the “Advisory Zoning Ordinance.”

(1985 Code, § 36-7-4-600(1.1))

§ 153.002 INTERPRETATION.

(A) In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, morals, convenience and general welfare.

(B) It is not the intent of this chapter nor should it be the result of this chapter that any usage of land existing at the time or prior to the passage of this chapter which was illegal or unlawful under former zoning ordinances or regulations should become legal or lawful under the terms of this chapter.

(1985 Code, § 36-7-4-600(1.2))

§ 153.003 NONINTERFERENCE WITH GREATER RESTRICTIONS OTHERWISE IMPOSED.

It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties, nor to interfere with or abrogate or annul any ordinance, other than expressly repealed hereby, rules, regulations or permits previously adopted or issued and not in conflict with any of the provisions of this chapter or which shall be adopted or provided, except that where this chapter imposes a greater restriction upon the use of buildings or land or upon the height of buildings or requires larger open spaces or greater lot area per family than are required or imposed by such easements, covenants or agreements between parties or by such ordinances, rules, regulations or permits, the provisions of this chapter shall control. This provision shall not be construed to require that the Commission shall administer any easement, covenant or other agreement, unless expressly provided herein.

(1985 Code, § 36-7-4-600(1.3))

§ 153.004 DEFINITIONS.

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

ACCESSORY BUILDING. A subordinate building or structure that is located on the same lot as a principal building and not used or designed for human occupancy.

ACCESSORY APARTMENT. A dwelling unit that is subordinate to the principal use of a commercial or other nonresidential structure. The accessory apartment may total not more than 50% of the total gross floor area coverage of the lot.

ACCESSORY USE. A use incidental, related, appropriate and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of the subject lot or affect other properties in the district.

ADVERTISING STRUCTURE. Any structure used as an outdoor display, designed for or upon which there is a notice or advertisement, pictorial or otherwise, regardless of size and shape, for the purposes of making anything known, the origin or

sale of which is not on the property with such advertising structure.

(1) **BACK-TO-BACK SIGN.** An off- premises sign consisting of two sign facings oriented in opposite directions with not more than two faces per sign facing.

(2) **DOUBLE FACED SIGN.** An off- premises sign with two adjacent faces oriented in the same direction and not more than ten feet apart at the nearest point between the two faces.

(3) **FACING.** That portion of an off- premises sign upon which advertising is affixed or painted and visible in one direction at one time.

(4) **FREESTANDING SIGN.** An off- premises sign erected on a freestanding framework supported and affixed by one or more uprights or braces in or upon the ground.

(5) **LEGALLY NONCONFORMING ADVERTISING SIGN STRUCTURE.** A nonconforming advertising sign structure lawfully erected before the effective date of this chapter or any subsequent amendments but does not comply with the provisions of this chapter as amended or later fails to comply with provisions of this chapter due to changed conditions. Changed conditions include, for example, any reclassification of zones under this chapter or any subsequent change in the regulations of this chapter and any time periods specified for discontinuance of nonconforming uses shall be measured from the date of such reclassification or change. The advertising sign structure must remain substantially (90%) the same as it was on the effective date of the provisions of this chapter as amended. Reasonable repair and maintenance of the advertising sign structure not to exceed 10% of the current annual replacement cost, including changing of the advertising message, is not a change, which would terminate nonconforming rights.

(6) **MULTIPLE-FACED SIGN.** An off- premises advertising sign structure comprised of sections which rotate to display a series of advertisements, each advertisement being displayed for at least five seconds continuously without movement; the duration of movement of sections between advertisements not exceeding two seconds.

(7) **OFFICIAL SIGN.** A sign erected by a governmental agency or its designee, setting forth information pursuant to law.

(8) **OFF-PREMISES OUTDOOR ADVERTISING SIGN STRUCTURE.** A sign, including the supporting sign structure, which is visible from a street or highway and advertises goods or services not usually located on the premises and/or property upon which the advertising sign structure is located; also locally known as a **BILLBOARD**. The following shall not be considered an off-premises advertising sign structure for the purposes of this chapter:

- (a) Directional or official signs authorized by law;
- (b) Real estate signs;
- (c) On-premises signs.

(9) **OFF-SITE or OFF-PREMISES** (regarding advertising sign structures). Any advertising sign structure not located on the same lot or parcel as the use it is serving.

(10) **STRUCTURE SETBACK.** Determined from the ground to any portion of the leading edge of the sign or any part of the structure, as the perpendicular measurement parallel to the ground from a lot line to a vertical line, real or imaginary.

AGRICULTURAL BUILDING. A structure utilized for the conduct of farming operations but it does not include a dwelling.

AIRCRAFT. Any contrivance, now known or hereinafter invented, for use or designed for navigation of or flight in the air or outer space, including missiles.

AIRPORT. Any area which is used or intended to be used for the taking off and landing of aircraft, including helicopters, and any appurtenant areas which are used or intended to be used for airport buildings or facilities, including open spaces, taxiways and tie-down areas.

ALLEY. A right-of-way, other than a street, road, crosswalk or easement, that provides secondary access for the special accommodation of the abutting property.

APARTMENT HOUSE. Means the same as **DWELLING, MULTI-FAMILY**.

AUTOMATIC CAR WASH. A building, or portion thereof, where automobiles are washed by mechanical devices of any kind, including both self- service and drive-through car washes.

AUTOMOBILE SERVICE STATION. Any building, structure or land used for the dispensing, sale or offering for sale at retail of any automobile fuels, oils or accessories, including lubrication or washing of automobiles and replacement or installation of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair or spray painting.

BASEMENT. A space wholly or partly underground and having more than one-half of its height, measuring from its floor to its ceiling, below the average adjoining finished grade; if the finished floor level directly above a basement is more than six feet above finished grade at any point, such space shall be considered a story.

BED & BREAKFAST (B&B). Formerly a single family dwelling in the four to five room range, this owner-occupied establishment has an equally mixed use as home and lodging with lodging superseding home more often than not. It is

located in a legally zoned area and meets all the tax, fire, building and health requirements for this size and use of property. This establishment advertises publicly and can legally post a sign. Like homestay or host home, because of its size, these B&B's usually cannot support a family unit, so the B&B is often one partner's job and the other has outside income. Often the property is purchased specifically to be a B&B, but many are converted family homes. Reservations may be made directly with the property.

BED AND BREAKFAST HOTEL. These are 30 plus rooms, historic properties offering breakfast that can only be considered hotels. Only the historic structure and perhaps some decorating component and breakfast provide the B&B feel.

BED & BREAKFAST INN. Generally small, owner-operated businesses providing the primary financial support of the owner. Usually the owner lives on premises. The building's primary usage is for business. Inns advertise, have business licenses, produce their own brochures, comply with government ordinances, pay all appropriate taxes and post signs. Breakfast is the only meal served and only to overnight guests. The inn may host events such as weddings, small business meetings and the like. Room numbers range from four to 20 with a small, but increasing number up to 30. Reservations may be made directly with the property. Note: the distinction between a "B & B" and a "B & B Inn" is not readily apparent, except with regard to building usage.

BLOCK. Property having frontage on one side of a street and located between the two nearest intersecting or intercepting streets or nearest intersecting or intercepting street and railroad right-of-way, waterway or other barrier. When intersecting or intercepting streets and railroad right-of-way, waterway or other barriers do not exist, within 660 feet on either side of the centerline of the area, the unit of 660 feet shall be used. The measurement may begin at a quarter section line and terminate each 660 feet unless intersected by a street.

BOARDING HOME FOR CHILDREN. The place of residence of a person who for hire, gain or reward has in his custody or control a child, unattended by parent or legal guardian, except a child related by blood or marriage, for the purpose of providing him or her with care, food or lodging.

BOUTIQUE INN, SMALL LUXURY HOTEL. This group of properties, by name, are expensive and elaborately decorated. They often provide hotel-like services with personal touch from employees. The size ranges from 15 to 50 rooms. The owner may be involved in daily operation, but generally a manager is responsible to a corporation. Meal service is usually breakfast only, but in some instances very high-quality dinner and/or lunch service and room service are also provided.

BUILDING. A roofed structure for the shelter, support, enclosure or protection of persons, animals or property.

BUILDING AREA. The horizontal projected area of the buildings on a lot, excluding open areas or terraces, unenclosed porches not more than one story high and architectural features that project no more than two feet, but including above ground swimming pools.

BUILDING FRONT LINE. The total length of all walls nearest to and parallel with the front lot line, which walls are within 12 feet of one another.

BUILDING LINE. The line that establishes the minimum permitted distance on a lot between the front line of a building and the street right-of-way line.

BUSINESS. The purchase, sale or exchange of goods or services or the maintenance for profit of offices or recreational or amusement enterprises.

CEMETERY. Land used for the burial of the dead and dedicated for cemetery purposes, including columbarium, crematory, mausoleum or mortuary operated in conjunction with and on the same tract as the cemetery.

CHARITABLE INSTITUTION. A nonprofit organization, with federal and state tax exempt status, which organization is supported mainly from public and private donations, which donations are held in trust to be used for the objects and purposes expressed in the institution's articles, constitution, bylaws, charter and the like, which purposes must be for the promotion of the welfare of others. **CHARITABLE INSTITUTION** shall include any IRS Code Section 501(c)(3) organization.

CHILDREN'S HOME or CHILD CARING INSTITUTION. Any children's home, orphanage, institution or other place maintained or conducted by any group of persons, a firm, association or corporation engaged in receiving and caring for dependent, neglected, handicapped children or children in danger of becoming delinquent or in operating for gain a private business of boarding children who are unattended by parent, guardian or person in loco parentis.

CLINIC. An establishment in which patients are admitted for study or treatment of a disease, disorder or disability and in which the services of at least two physicians, dentists or chiropractors are provided.

COMMERCIAL CLASSIFICATIONS. These shall be obtained from the latest edition of the Standard Industrial Classification Manual, Executive Office of the President, Bureau of the Budget, on file at the office of the Advisory Plan Commission; also abbreviated as SIC.

COMMISSION. The Advisory Plan Commission of Marion, Indiana.

CONDOMINIUM. Ownership in common with others of a parcel of land and certain parts of a building thereon which would normally be used by all the occupants, such as yards, foundations, basements, floors, walls, hallways, stairways, elevators and all other related common elements, together with individual ownership in fee of a particular unit or portion of such building or parcel.

COOPERATIVE. A building or land in which an individual owns stock in a corporation with the right through a proprietary

lease to occupy a portion of the land or a part of a building.

COUNTRY INN. A business offering overnight lodging and meals where the owner is actively involved in daily operations, often living on site. These establishments are, in fact, bed-and-breakfast inns which serve at least one meal in addition to breakfast and operate as restaurants as well as overnight lodging accommodations. Modified American Plan (MAP) country inns serve dinner to overnight guests only, and the cost of dinner and breakfast is generally included in the room rate. A country inn with a full-service restaurant serves these additional meals to the general public. To be a country inn, a property does not have to be located in a rural area. Room numbers tend to range from 6 to 30.

CUSTOMARY FARM HOME OCCUPATION. An occupation carried on by an occupant of a residence which occupation shall be subordinate and incidental to the residential use of said farm. When customary residential farm occupation, or a portion thereof, will be carried on within the principal building, it shall not occupy more than 20% of the gross floor area of the residence. The occupation may be permitted to be carried on within an accessory building but shall not occupy more than 30% of the total accessory building space or an open land not to exceed 1,000 square feet and may include outside storage not to exceed 1,000 square feet. In no case will open land be used to store scrap, disabled or inoperable vehicles or equipment or vehicle or equipment parts or any other objects constituting junk as defined in the AWZO. There shall be no more than one unlighted identification sign (not including the residential nameplate) not exceeding two square feet in area to be placed flat against the residence in which the occupation is conducted. There shall be no traffic congestion nor traffic hazard created by the home occupation. Only the occupant or members of his or her family normally residing in said residence shall be employed at the residence or elsewhere in said occupation. No retail sales, manufacture, or automotive service operation is permitted. No external changes, additions, enlargements, or exterior alterations changing the residential appearance to a business or commercial appearance shall be permitted. There shall be no physical expansion of utilities or community facilities beyond that normal to the residential use of the property. The Board of Zoning Appeals shall impose in each case setback or screening requirements to minimize adverse impact (visual, noise, odor and the like) on neighbors and the public right-of-way. Additional stipulations or requirements may be imposed on a case by case basis as deemed necessary or appropriate by the Board of Zoning Appeals. Whenever a sign is posted for the CHO, the permit number shall be visible and located in the lower right hand corner in one half inch letter/numbers of the sign.

CUSTOMARY HOME OCCUPATION. An occupation carried on by an occupant at his or her place of residence, which occupation shall be subordinate and incidental to the residential use of said residence, provided that: there shall be no external evidence of the occupation other than one identification sign not exceeding one square foot in area to be placed flat against the residence where the occupation is conducted; there shall be no traffic- congestion nor traffic hazard created by the home occupation; only the occupant or members of his or her family, normally residing in said residence, handle all the work and does not employ others at the residence or elsewhere in said occupation; no external changes, additions, enlargements or exterior alterations changing the residential appearance to a business or commercial appearance shall be permitted; there shall be no physical expansion of utilities or community facilities beyond that normal to the residential use of the property.

DAY NURSERY. Any institution operated for the purpose of providing care and maintenance to children separated from their parents or guardians or a person in loco parentis during a part of the day for two or more consecutive weeks excepting a school or other bonafide educational institution.

DETACHED BUILDING. A building that has no structural connection with another building.

DIRECTOR. The Executive Director of the Marion Advisory Plan Department.

DISABLED VEHICLE. A licensed motorized vehicle, including but not limited to, those vehicles unable to be operated under their own power for a short period of time due to accident, mechanical failure or legitimate restoration purposes. This includes vehicles intended by their owners to be inoperable for short periods of time and is separate and distinct from junk and antique vehicles as defined by I.C. 9-18-12-1.

DRIVE-IN RESTAURANT. A building or structure in which food and/or drink are primarily prepared for sale and consumption under one or more of the following conditions:

- (1) Within vehicles on the premises with such structure;
- (2) On the premises outside of such structure;
- (3) Take-out restaurants for consumption off the premises. (See definition of **RESTAURANT**).

DWELLING. A building or part of a building having a permanent perimeter wall that is used primarily as a place of abode, but not including a hotel, motel, lodging house, boarding house, tourist home or mobile home as defined herein.

DWELLING, FARM. Single family dwellings located upon farms and occupied or used by the owner, farm tenant or other persons employed thereon.

DWELLING, MULTI-FAMILY. A dwelling consisting of three or more dwelling units with varying arrangements of entrances and party walls.

DWELLING, SINGLE-FAMILY. A building consisting of a single dwelling unit only, separated from other dwelling units by open space.

DWELLING, TWO-FAMILY. A building consisting of two dwelling units, which may be created by remodeling an existing building, by standard on-site assembly of component parts, or by assemblage of originally designed and manufactured

components.

DWELLING UNIT. A dwelling or part of a dwelling used by one family as a place of abode. This definition includes a manufactured home as originally designed and built on or after June 15, 1976, in a factory, which manufactured home bears a seal certifying that it was built in compliance with the Federal Manufactured Housing Construction and Safety Standards Law (1974 USC 5401). However, in the city, a manufactured home must be originally built and designed with other than metal roofing materials. Nonmanufactured additions may be made to manufactured homes, providing the participating jurisdiction undertakes Building Code inspections.

FAMILY. One or more persons living as a single housekeeping unit, but not including a group occupying a hotel, motel, club, nurse's home, dormitory or fraternity or sorority house. Family shall include members of all classes of individuals protected by federal and state law from discrimination based upon any applicable law.

FARM, CONFINEMENT FEEDING. Any operations involving the production of livestock or fowl or related operations, indoors or outdoors, within buildings or structures or in paved or unpaved feed lots, wherein five square feet or less of feed lot area is provided per laying hen or eight square feet or less per hog weighing 225 pounds or less, 15 square feet or less per lamb or ewe, 50 square feet or less per sow, 50 square feet or less per feeder steer or 100 square feet or less per dairy cow, provided that this definition shall not apply to operations involved with the processing of products of confinement feeding operations.

FARM, GENERAL. An area, containing five acres or more, used for agricultural operations, including truck gardening, forestry, the operation of a tree or plant nursery or the production of livestock and poultry except as defined under **FARM, CONFINEMENT FEEDING**; or the accessory processing of farm products produced on the farm by the resident owner or tenant, but it does not include commercial or custom slaughtering.

FILLING OR SERVICE STATION. Means same as **AUTOMOBILE SERVICE STATION**.

FRONT LINE. With respect to a building means the line of the face of the building nearest the front lot line.

GARAGE, AUTOMOBILE REPAIR. A building other than a public or private garage used for the care, repair or equipment of automobiles.

GARAGE, PRIVATE. A detached accessory building or a portion of a main building on the same lot as a dwelling for the housing of vehicles of the occupants of the dwelling, including carports.

GARAGE, PUBLIC. Any garage, other than a private garage, for the parking of vehicles.

GARAGE, TRUCK REPAIR. A building other than a public or private garage used for the care, repair or equipment of trucks over one ton or where such vehicles are parked or stored for remuneration, hire or sale.

GENERAL INDUSTRIAL USE. Manufacturing, processing, extraction, heavy repairing, dismantling, storage or disposal of equipment, raw materials, manufactured products or wastes in which operations, other than transportation, may be performed in either open or closed areas.

GROUND FLOOR AREA. The area of a building in square feet as measured in a horizontal plane at the ground floor level within its largest outside dimensions, exclusive of open porches, breezeways, terraces, garages and exterior stairways.

GUEST HOUSE. An accessory structure without kitchen facilities which is used for purposes of housing occasional guests or members of the family who live as part of a single housekeeping unit with the family residing in the primary residence on the property.

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 PROFESSIONAL OFFICE. A portion of a residence used or intended to be used as an office for a lawyer, architect, engineer, land surveyor, accountant and other similar professions, but not including medicine or dentistry. The profession shall be carried on by an occupant of the residence which occupation shall be subordinate and incidental to the residential use of said residence. The home professional office shall be carried on within the principal building, but shall not occupy more than 20% of the gross floor area of the residence. There shall be no more than one unlighted identification sign (not including the residential nameplate), not exceeding two square feet in area to be placed flat against the residence in which the occupation is conducted. There shall be no traffic congestion nor traffic hazard created by the home occupation. Only the occupant or members of his or her family normally residing in said residence shall be employed at the residence or elsewhere in said occupation. No external changes, additions, enlargements or exterior alterations changing the residential appearance to a business or commercial appearance shall be permitted. There shall be no physical expansion of utilities or community facilities beyond that normal to the residential use of the property.

HOMESTAY HOST HOME. This type of establishment is an owner-occupied private home where the business of paying guests is secondary to its use as a private residence. The hosts are primarily interested in meeting new people and making some additional monies while continuing their present employment or retirement. Frequently located in residential areas, the use of signs, public advertising, and the like are not permitted. Usually between one and three rooms, these homes are booked and usually inspected by a reservation service organization (RSO and other agencies such as a club, travel agency, university, and the like) and are not required to be licensed or inspected by local applicable governmental agencies. Breakfast is the only meal served. In some instances, it may be an unhosted apartment where breakfast is self-serve.

HOTEL. A building in which lodging is provided and offered to the public for compensation and which is open to transient

guests, in contradistinction to a boarding or lodging house.

INDUSTRIAL PARK. A tract of land which is planned and developed as a distinctive and attractive unit, featuring landscaped open spaces of generous dimensions and well designed structures to be used for industrial research, light industrial operations, offices and similar purposes and for uses necessary to the convenience of employees and is controlled by an organization guaranteeing the continued maintenance of all commonly used areas and installations.

INOPERABLE OR ABANDONED VEHICLE. A vehicle that is either unlicensed and/or from which there has been removed the engine, transmission, body parts, differential, or parts, or that is otherwise partially dismantled or inoperable; however, this definition shall not include antique or historic motor vehicles, as defined by I.C. 9-18-12-1.

JUNK YARD. A place, usually outdoors, where waste or discarded used property other than putrefying matter is accumulated and/or stored and is or may be salvaged for reuse or resale, including, but not limited to, one or more unlicensed or inoperable motor vehicles or farm machinery or equipment of any kind.

JURISDICTIONAL AREA. The unincorporated area of the City of Marion Indiana.

KENNEL. A place primarily for keeping five or more dogs, or other small animals, that are ordinarily kept as pets and are at least six months old.

LIGHT INDUSTRIAL USE. Manufacturing, processing, extraction, heavy repairing, dismantling, storage or 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.

LOADING BERTH. An off-street, off-alley area designed or used to load or unload vehicles.

LODGING HOUSE. A building, not available to transients, in which lodgings but not meals are regularly provided for compensation for at least three but not more than 30 persons.

LOT. A parcel, tract or area of land accessible by means of a street or place abutting upon a street or place. In the case of an irregularly shaped lot, the front lot width must equal at least 60% of the required lot width, prescribed for the district, at the building setback line. It may be a single parcel separately described in a deed or plat which is recorded in the office of the County Recorder or it may include parts of or a combination of such parcels when adjacent to one another and used as one. In determining lot area and boundary lines, no part thereof within the limits of a street shall be included.

LOT CORNER. A lot at the junction of and abutting two intersecting or intercepting streets.

LOT COVERAGE. The percentage of the lot area that is represented by the building area.

LOT, DEPTH OF. The mean horizontal distance between the front line and rear line of the lot, measured in the general direction of the side lot lines.

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 abutting more than one street, means the average of the elevations of the sidewalk at the centers of all walls that face streets.

(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 INTERIOR. A lot other than a corner lot or a through lot.

LOT LINE FRONT.

(1) For an interior or through lot, means the line marking the boundary between the lot and the abutting street.

(2) For a corner lot, means the line marking the boundary between the lot and the shorter of the two abutting street segments.

LOT LINE REAR. On interior or corner lots, means the lot line that is opposite the front lot line and farthest from it, except that for a triangular or other irregularly-shaped lot it means the line ten feet long, parallel to the front lot line and wholly within the lot that is farthest from the front lot line.

LOT LINE SIDE. A lot boundary line other than a front or rear lot line.

LOT THROUGH. A lot fronting on two parallel or approximately parallel streets, including a lot fronting on both a street and a watercourse or lake.

LOT WIDTH. The distance between the side lot lines as measured on the building line.

MARION BOARD OF ZONING APPEALS DIVISION. The division of the Board having exclusive jurisdiction of appeals involving realty located within the corporate limits of the city.

MEDICAL OFFICE. Any building or portion of a building used or intended to be used as an office for the practice of any type of medicine, including chiropractors, dentistry or optometry.

MINERAL EXTRACTION. Mining or quarrying or the removal and/or storage of earth materials.

MOBILE HOME. A transportable building originally designed and built as a single family structure, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and which is originally constructed so that it may be used with or without a permanent perimeter wall. The term mobile home does not include any structure, which meets the definition of a **DWELLING UNIT**, appearing above, which is located on a permanent perimeter wall. A **MOBILE HOME** shall retain its designation even if wheels and axles are removed.

MOBILE HOME PARK. An area of land on which two or more mobile homes are regularly accommodated with or without charge, including any building or other structure, fixture or equipment that is used or intended to be used in providing that accommodation.

MOBILE HOME SPACE. An area of land for the placement of one mobile home which is designated for the exclusive use of occupants.

MOBILE HOME STAND. The mobile home stand is that portion of a mobile home space which has been reserved for the placement of one mobile home with accessory structures or additions.

MOTEL. A building or group of buildings in which lodging is provided and offered to the public for compensation and catering primarily to the public traveling by motor vehicle.

NONCONFORMING USE. An existing use of land or building which fails to comply with the requirements set forth in this chapter applicable to the district in which such use is located at the time of the adoption of this chapter or any amendments hereto.

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, or an open area not including any part of a street or an alley, designed or used for the temporary parking of motor vehicles.

PARKING LOT. A parcel of land devoted to an enclosed parking space for five or more motor vehicles for compensation or otherwise.

PERSON. Includes a corporation, firm, partnership, association, organization or any other group that acts as a unit or legal entity.

PHARMACY. A retail store engaged in, and limited to, the sale of prescription drugs, patent medicines and surgical supplies.

PLACE. An open, unoccupied, officially designated space other than a street or alley, permanently reserved for use as the principal means of access to abutting property.

PLANNED DEVELOPMENT. An advisory plan for one or more uses as an integrated and harmonious unit displaying desirable and fitting site design characteristics, the use requirements of this chapter being generally applicable to the area as a whole rather than the individual components.

PLAT. A map or chart that shows a division or parcel of land and is intended to be filed for record.

PRINCIPAL BUILDING. A building in which the principal use of the lot on which it is located is conducted, including a building that is attached to such a building in a substantial way, such as by a roof. (With respect to residential uses, it means the main dwelling).

PRINCIPAL USE. The use which comprises the main or primary activity on any lot or parcel.

PROFESSIONAL OFFICE. Any building or portion thereof used or intended to be used as an office for a lawyer, architect, engineer, land surveyor, accountant and other similar professions, but shall not include, for the purposes of this chapter, the practice of any type of medicine or dentistry.

PUBLIC CAMP. An area of land used or designed to be used to accommodate two or more camping parties, including cabins, tents, travel trailers or other camping outfits, but not including a travel trailer park.

PUBLIC STREET. A street established for or dedicated to the public use.

RESIDENTIAL CARE FACILITY. A housekeeping unit within a dwelling unit operated for the purpose of providing room, board, care, and when appropriate, a planned treatment or training program of counseling, therapy, or other rehabilitative social service, for a group of persons of similar or compatible conditions or circumstances. Foster care and shelter care homes for seven or more persons are residential care facilities.

RESTAURANT. A building or structure in which food and drinks are prepared primarily for sale and consumption within such structure, including incidental take-out service. (See definition of **DRIVE-IN RESTAURANT**).

SCHOOL, PRIVATE. A school other than a public school.

SCHOOL, PUBLIC. An institution conducting regular academic instruction at kindergarten, elementary and secondary levels.

SIGN. Any notice or advertisement, pictorial or otherwise, used as an outdoor display for the purpose of advertising the property or the establishment or enterprise, including goods and services, upon which the sign is exhibited.

SPECIAL EXCEPTION. The authorization of a use, designated as being permitted in the district concerned if it meets special conditions, and upon application is specifically authorized by the Board.

STREET (ROAD). A right-of-way, other than an alley, dedicated or otherwise legally established to the public use, usually affording the principal means of access to abutting property. A street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive or other appropriate name.

STREET, COLLECTOR. A street which primarily collects traffic from local streets and feeds it to the arterial street network. **COLLECTOR STREETS** provide circulation within neighborhood areas. Collectors are divided into major and minor collectors depending upon its priority in the system and the amount of traffic.

STREET, LOCAL (FEEDER). A street used primarily for access to abutting properties.

STREET, MINOR ARTERIAL. A street which feeds and distributes moderately high volume traffic to principal arterials. Arterial streets may provide controlled access to abutting property.

STREET, PRINCIPAL ARTERIAL (PRIMARY OR MAJOR ARTERIAL). A street which serves high volume traffic corridors and connects major population centers and traffic generators, with access limited or controlled.

STORY. A space in a building between the surface of any floor and the surface of the floor next above, or if there be no floor above, then the space between such floor and the ceiling or roof above.

STORY, HALF. That portion of a building under a sloping, gable, hip or gambrel roof, the wall plates on at least two opposite exterior walls of which are not more than three feet above the floor level of such half- story.

STRUCTURAL CHANGE. A substantial change or repair, excluding normal and usual repair, 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 attachment to something having a location on or in the ground.

TAVERN. An establishment primarily engaged in the retail sale of drinks, such as beer, ale, wine, liquor and other alcoholic beverages for consumption on the premises. A **TAVERN** may also be known as a bar, beer garden, cabaret, discotheque, nightclub, saloon or tap room.

TEMPORARY BANNER, POLITICAL ADVERTISING. A sign, having characters, letters or illustrations applied to cloth, paper or fabric of any kind, with only such non-rigid material for background.

TEMPORARY SIGN, POLITICAL ADVERTISING. A sign, identifying and urging voter support for a particular election issue, political party, or candidate for public office.

TOURIST HOME. A building in which not more than five guest rooms are used to provide or offer overnight accommodations to transient guests for compensation. A **TOURIST HOME** may also be known as a bed and breakfast.

TRADE OR BUSINESS SCHOOL. A secretarial or business school or college when not publicly owned or not owned or conducted by or under the sponsorship of a religious, charitable or nonprofit organization; or a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering, hair dressing or drafting or for teaching industrial or technical arts.

TRAVEL TRAILER. A vehicle or other portable structure less than 35 feet in length that is designed to move on the highway and designed or used as a dwelling.

TRAVEL TRAILER PARK. An area of land on which two or more travel trailers are regularly accommodated with or without charge, including any building or structure, fixture or equipment that is used or intended to be used in connection with providing that accommodation.

TRUCK SERVICE CENTER. An occupancy which provides especially for the servicing of trucks, with incidental operations similar to those permitted for an automobile service station.

URBAN AREAS. The areas, as illustrated on the Major Streets and Highways Plan of the Comprehensive Plan. These areas include each incorporated community, as well as its surrounding area, expected to be developed in similar manner to the community in future years. Within the urban areas, street and road rights-of-way will be developed in accordance with the urban thoroughfare cross- sections.

USE. The employment or occupation of a building, structure or land for a person's service, benefit or enjoyment.

VARIANCE. A modification of the specific requirements other than use of this chapter granted by the Board in accordance with the terms of this chapter for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same District.

VEHICLE. An automobile, motorcycle, truck, trailer, semi-trailer, tractor, bus, school bus, recreational vehicle, or motorized bicycle.

VISION CLEARANCE ON CORNER LOTS. A triangular space at the street corner of a corner lot, free from any kind of

obstruction to vision between the heights of three and 12 feet above established grade of the street, determined by a diagonal line connecting two points measured 15 feet equidistant from the street corner along each property line.

YARD. A space on the same lot with a principal building that is open and unobstructed by structures except as otherwise authorized by this chapter.

YARD, FRONT. A yard extending across the full width of the lot, unoccupied other than by steps, walks, terraces, driveways, lamp posts and other similar structures, the depth of which is the least distance between the nearest street right-of-way and the front line of the building. In residential districts, a corner lot shall have a front yard on each street frontage. In commercial districts, mobile homes for sale shall not be displayed in the required front yard.

YARD, REAR. A yard that extends across the full width of a lot and is bounded on the rear by the rear lot line and the depth of which is the least distance between the rear lot line and the rear of the principal building.

YARD, SIDE. A yard, between the principal building and the adjacent side lot line, that extends from the front yard or street right-of-way where there is no front yard, to the rear yard, and the width of which is the least distance between the side lot line and the adjacent side of the building.

YARD, STREET SIDE. In commercial and industrial districts, a yard on corner lots, not being the front yard, the depth of which is the least distance between the nearest street right-of-way and the closest building line of any building.

ZONING ADMINISTRATOR. The principal employee of the Planning Department who has authority to enforce this chapter.

(1985 Code, § 36-7-4-600(1.4) (Am. Ord. 22-1992, passed 7-7-1992; Am. Ord. 6-2002, passed 3-19-2002; Am. Ord. 19-2010, passed 10-19-2010)

§ 153.005 NONCONFORMING USE SPECIFICATIONS.

The lawful use of a building or premises, existing on December 15, 1971, may be continued although such use does not conform to all the provisions thereof, except as hereinafter provided.

(A) A nonconforming use may be extended throughout a building, provided no structural alterations are made therein, except those required by law.

(B) A nonconforming use may be changed to another nonconforming use of the same or greater restrictions, provided no structural changes are made in the building. Whenever a nonconforming use has been changed to a conforming use or to a use permitted in a district of greater restrictions, it shall not thereafter be changed to a nonconforming use of a less restricted district.

(C) No building shall be erected upon any premises devoted to a nonconforming use, except in conformance with this chapter.

(D) No nonconforming mobile home may be removed and replaced unless the new mobile home complies with all use and district requirements of this chapter.

(E) Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a building permit has been issued before the effective date of this chapter and the construction of which has been diligently prosecuted within 90 days of the date of such permit, and which entire building shall be completed according to such plans within one year of the effective date of this chapter.

(F) In the event that a nonconforming use of any building or premises is discontinued for a period of one year, the use of same shall thereafter conform to the uses permitted in the district in which it is located.

(G) When a building containing a nonconforming use is damaged by fire, explosion, act of God or the public enemy to more than 80% of its insured value and is not rebuilt within one year it shall not be restored except in conformity with the regulations of the district within which it is located.

(H) These provisions apply in the same manner to a use which may become a nonconforming use due to a later amendment to this chapter.

(I) Any nonconforming open use of land shall be discontinued on or before December 15, 1976.

(J) A nonconforming building, nonconforming only as to the yard regulations, may not be added to or enlarged in any manner unless the additions or enlargements conform to all the requirements of the district in which it is located; provided however, that said additions or enlargements may be located in a required yard if they do not encroach into any portion of any required yard to a greater extent than the existing nonconforming building encroaches therein, but in no event shall any such additions or enlargements reduce the width of a side yard or the depth of a front or rear yard to less than 50% of that required by the yard requirements of the district in which the lot is located, and the total of all such additions or enlargements so encroaching into any required yard shall not exceed in height or length the height or length of that portion of the adjoining nonconforming building which extends into the same required yard.

(K) No change of use may be on any parcel or in any structure, not including any change in structure or physical character of the parcel or structure, prior to the issuance by the Zoning Administrator of a change of use permit. A change of use permit shall be required when a substitution of a nonconforming use occurs or when use changes between major SIC

Code groups occur. If a change of use results in a change of structure requiring an improvement location permit pursuant to this chapter, the new use shall meet all district and use requirements of this chapter.

(1985 Code, § 36-7-4-600(7.0))

DISTRICTS

§ 153.020 ESTABLISHMENT OF DISTRICTS.

The jurisdictional area is classified and divided into districts designated as follows.

<i>District Designation</i>	<i>Primarily For:</i>
<i>District Designation</i>	<i>Primarily For:</i>
AG	Agriculture-Conservation
RS	Residential Suburban
R1	Single Family Residential
R2	Medium Density Single Family Residential
R3	Low Density Single and Multiple Family Residential
R4	High Density Single and Multiple Family Residential
R5	High Density Single and Multiple Family Residential
AB	Accommodation Business
LB	Local Business
CB	Central Business
CC	Central Core
GB	General Business
PB	Professional Business
SC	Shopping Center
I1	Light Industry
I2	General Industry
I3	Heavy Industry
AZ	Airport Zone
MH	Mobile Home Park

(1985 Code, § 36-7-4-600(2.0)) (Am. Ord. 19-2010, passed 10-19-2010)

§ 153.021 DESCRIPTION OF DISTRICTS.

The Districts identified above are described as follows.

(A) *Agriculture District.* The AG District is established in recognition of agriculture as the predominant and basic use of land throughout much of the city and for the conservation thereof. Permitted uses in these districts include all forms of agricultural uses, plus special exceptions as indicated in Appendix A.

(B) *Residential Districts.* Six districts, RS, R1, R2, R3, R4, and R5, are established for residential use in conformity with the types of neighborhoods, which have occurred, and are likely to develop in the areas so designated on the Zone Maps. The Districts differ primarily with respect to requirements of lot size, building ground floor area, and the number of families which may be housed in one building. The specific requirements for each residential district are discussed in § 153.041. Various uses permitted within each district are shown in Appendix A.

(1) *RS.* This single-family district has been established principally to include lands that are generally characterized by two or more of the following conditions: substantial differences in topographic relief; extensive tree cover; heavy mucky or easily erodable soils; unusual drainage characteristics; outside areas of utility development; or are currently being developed in a distinctive pattern not adaptable to the customary manner of subdividing land for residential purposes. Requirements for minimum lot sizes and ground floor areas of structures are substantially greater than those of the other residential districts.

(2) *R1.* This is a single-family, low-density residential district. The minimum lot size and building area are less than the RS District. R1 Districts usually include new and developing single- family neighborhoods and subdivisions.

(3) *R2.* This district is primarily a medium density single-family district. The R2 requirements as to minimum lots and ground floor area of buildings are less than those specified for residential districts RS and R1. This district frequently applies to existing residential neighborhoods and comparable expansions thereof.

(4) *R3.* This district is established to include areas of relatively low density two-family and multiple-family residences permitted on a density of use basis, with the minimum lot size being increased for more than one family in a building. Single-family residences are also permitted on a density basis somewhat higher than R2 Districts. The R3 requirements as to minimum lot and ground floor area of buildings are less than those for residential districts RS, R1, and R2.

(5) *R4.* This is a medium density residential district with single, two-family, and multiple family residences permitted. The minimum lot and ground floor requirements are substantially less than those for residential districts RS, R1, R2, and R3.

(6) *R5.* This is relatively high-density residential district with all types of residential development permitted. The minimum lot and ground floor requirements are the lowest of any residential district.

(C) *Commercial Districts.* Seven commercial districts, PB, AB, LB, CB, CC, GB, and SC, are established to meet the specific requirements for the several classes of business uses needed to give adequate service throughout the city as related to present and future development.

(1) *PB.* This district is established as a buffer, generally between commercial and residential districts permitting selected professional and business uses having limited contact with the public.

(2) *AB.* This district is established to include areas that are in close proximity to expressway interchanges or recreation uses and at appropriate intervals along major thoroughfares and are designed to provide uses appropriate to the limited accommodation and service needs of these areas.

(3) *LB.* District LB is designed and located in neighborhoods to accommodate the primary and service needs of the locality. Although limited in area occupied, the district is important to the economic welfare of the community in placing "convenience" and "impulse" goods shops close to the consumer.

(4) *CB.* The CB District is established to include areas that are intended to serve as the Central Business District for urban places.

(5) *CC.* This is a special district, applicable to the Central Core of the downtown. It is established to provide for the special needs of this area, by waving certain requirements in regard to parking, sign regulations and the like, which are necessary in other commercial districts.

(6) *GB.* This is a general business district providing for all types of business and service uses, including warehouse and storage facilities as well as some light industrial operations.

(7) *SC.* This district provides for the need for retail shopping facilities in planned shopping centers in developing commercial areas of the municipalities. SC districts shall frequently include completely planned shopping environments in single ownership.

(D) *Industrial Districts.* Three districts, I1, I2, and I3, are established to meet the present and future needs of the city for industrial development operations, including some ancillary services for industry and employees. A brief description of the industrial districts follows.

(1) *I1.* This district incorporates many of the existing industrial developments and provides for their expansion. Generally, the permitted uses will include only those where all of the operations, including the storage of material, are confined within a building and the performance characteristics are compatible with uses permitted in neighboring districts.

(2) *I2.* This district is established to provide for general industrial operations utilizing both enclosed and unenclosed space for storage, fabricating and manufacturing.

(3) *I3.* This district is established to provide for general industrial operations in the processing of raw materials for the production of basic commodities.

(E) *Airport Zone District.* The AZ District is established to be applied to the city's Municipal Airport. Certain commercial and industrial operations may be permitted by special exception.

(F) *Mobile Home Park Districts.* This district is established to provide for mobile home parks with exclusive occupancy by mobile homes as residences.

(1985 Code, § 36-7-4-600(2.1)) (Am. Ord. 22-1992, passed 7-7-1992; Am. Ord. 19-2010, passed 10-19-2010)

§ 153.022 ZONE MAP.

(A) *Zone Map.* The Zone Maps, which accompany this chapter, show the boundaries of and the area covered by the districts. These maps are incorporated by reference into this chapter, with two copies being on file in the office of the City Clerk and available for public inspection. The notations, references, indications and other matters shown on the Zone Maps are as much a part hereof as if they were fully described herein.

(B) *Boundaries: in general.*

(1) The boundaries of the districts established by this section are as shown on the Zone Maps, which are a part of this

chapter. Such boundaries may be changed only by amending this chapter.

(2) The exact location of split zone boundaries in regards to individual tracts of land shall be determined as follows.

(a) When the exact boundaries of a district are uncertain, they shall be determined by use of the scale of the Zone Map.

(b) When a right-of-way is vacated, the districts adjoining each side are respectively extended to the center of the area so vacated.

(c) If the boundary line of a district divides a lot having frontage on a street so that the front part of the lot lies in one district and part of the lot lies in another, the restriction that applies to the front part of the lot applies to the entire lot.

(d) If the boundary line of a district divides a lot in a manner essentially perpendicular to a street, that restriction which applies to the larger part of the lot applies to the entire lot.

(e) If the boundary of a district divides a through lot, the district that applies to the greater frontage applies to the entire lot, except that if one frontage is designed arterial, the district of that frontage shall apply. If the frontage is equal, the Board shall determine the intent of the Zone Map.

(f) In the case of further uncertainty, the Board shall interpret the intent of Zone Map as to the location of the boundary in question.

(3) In the event of annexation of lands to the city or a town, the zoning classification existing at the time of annexation shall remain until changed by amendment procedures.

(C) *Boundaries: in Shopping Center Districts.* Boundaries in Shopping Center Districts are affixed by the Commission and posted by it on the Zone Map. Each such District shall be at least six acres in area and some part of it shall be within 1400 feet of the location corresponding to the location of an SC symbol shown on the Zone Map. The location of such a symbol may be changed only by amending this chapter.

(1985 Code, § 36-7-4-600(1.6))

§ 153.023 USE.

No building or land shall be used and no building shall be erected, reconstructed or structurally altered which is arranged, intended or designed to be used for any purpose other than a use which is permitted and specified in a district in which such building or land is located.

(1985 Code, § 36-7-4-600(2.3))

§ 153.024 HEIGHT.

No building shall be erected, reconstructed or structurally altered to exceed in height the limits established and specified for the use and the district in which such building is located.

(1985 Code, § 36-7-4-600(2.4))

§ 153.025 YARD, LOT AREA AND SIZE OF BUILDINGS.

No building shall be erected, reconstructed or structurally altered in any manner which will encroach upon or reduce in any manner the yards, lot area per family, ground floor area of residential buildings or lot coverage regulations established and specified for the use and the district in which such building is located except as otherwise provided in this chapter.

(1985 Code, § 36-7-4-600(2.5))

§ 153.026 LOT FRONTAGE.

Every building hereafter erected shall be located on a lot which fronts on a street or place.

(1985 Code, § 36-7-4-600(2.6))

§ 153.027 VEHICLE PARKING SPACE: LOADING AND UNLOADING BERTHS.

For every building hereafter erected, off-street parking spaces and loading and unloading berths shall be provided as hereinafter specified for the use to which such building is to be devoted.

(1985 Code, § 36-7-4-600(2.7))

AUTHORIZED USES AND REQUIREMENTS

§ 153.040 AUTHORIZED USES.

(A) The authorized uses permitted in the districts established by or under § 153.021 are shown in Appendix A. Where the district column is marked "X" the use is permitted. Where the district column is marked "S" the use may be permitted only as a special exception subject to the provisions of this chapter.

(B) For uses not listed or classifiable by staff under one of the permitted SIC codes, the provisions of §§ 153.060 *et seq.* shall apply.

(C) When multiple zone classifications for single geographic area on a zoning map, those district authorized land uses are inclusive of those permitted in the districts as defined § 153.021 and Appendix A. When a land use is authorized by special exception in one classification and another as a permitted use, then that use will be permitted without a special exception.

(1985 Code, § 36-7-4-600(3.0))

§ 153.041 RESIDENTIAL USES AND REQUIREMENTS.

Residential and related uses are permitted in the districts indicated in Appendix A when complying with the requirements of Appendices B and C and the provisions and exceptions of this chapter or when in an approved Planned Unit Development.

(A) A single-family dwelling is a detached dwelling designed for or occupied by one family exclusively.

(B) A two family dwelling is a detached building designed to be occupied by two families.

(C) A multifamily dwelling is a building designed for or occupied by three or more families.

(1985 Code, § 36-7-4-600(3.1))

§ 153.042 COMMERCIAL AND INDUSTRIAL REQUIREMENTS.

(A) Commercial, industrial, and related uses in Appendix A are permitted in the district indicated when complying with the requirements of Appendix D and the provisions and exceptions of this chapter or when in an approved Planned Unit Development.

(B) If use is authorized in a single zone classification the district requirements for a multiple classification district will be that of the classification of which the use is permitted. If the use is authorized in more than one classification within a multiple classification district then the least restrictive requirements will apply.

(1985 Code, § 36-7-4-600(3.2))

§ 153.043 PROPERTY DEVELOPMENT STANDARDS.

(A) *Minimum lot area.* Except as hereinafter provided, no building or structure shall be erected or located on a lot unless such lot conforms with the area regulations of the district in which it is located.

(1) Lots of record or individually held prior to December 15, 1971, may be smaller in area than the figure prescribed.

(2) The minimum lot area for each dwelling unit not served by sanitary sewers shall be subject to approval by the County Health Department.

(3) After the effective date of any ordinance by which any area is first zoned for any district, no land in such district may be decided by the recordation of any map or voluntary sale, contract of sale, or conveyance of any kind which creates a new parcel of land under separate ownership which consists of less than the minimum lot area required for the district of which such lot is a part.

(4) The restrictions of this chapter pertaining to creating a parcel of land below a specified minimum size shall not apply to division of land by succession, will, partition, proceedings, sale of execution or other division by operation of law.

(B) *Lot dimensions.*

(1) Every lot shall have a minimum frontage width not less than the required minimum lot widths in the district under consideration. Curve lots and cul-de-sac lots shall conform to the particular district wherein provisions are set forth for said lots. Every lot shall also have a minimum width and depth not less than that prescribed in the district under consideration. Each dimension is minimum only. One or both shall be increased to attain the minimum lot area required.

(2) Where a lot has a minimum width or depth less than that prescribed by this section, and said lot was of record under one ownership at the time that the area was first zoned whereby the lot became nonconforming, said lot may be used subject to all other requirements of the district in which such lot is located.

(C) *Ground floor.* The ground floor area requirements for dwellings, as set forth in the districts, shall apply. Dwellings shall not be changed except in conformity with these regulations.

(D) *Building height.* All buildings hereafter designed or erected and existing buildings which may be reconstructed, altered, moved, or enlarged shall comply with the height regulations and exceptions of the district in which they are located,

with the addition of the following.

- (1) An agricultural structure may be erected or changed to any height necessary for its operation.
- (2) Spires, church steeples, chimneys, cooling towers, elevator bulkheads, fire towers, scenery lofts, penthouses, stacks, tanks, water towers, transmission towers, utility poles, and necessary mechanical appurtenances (excluding radio and TV, micro wave towers) may be erected or changed to any height that is not otherwise prohibited.
- (3) Buildings may be erected or changed to a height not to exceed ten feet over that permitted in the district, provided that an additional side yard set back of one foot for each one foot that the building exceeds the district height limitations.

(E) *Yards.*

- (1) In measuring a front yard or side yard adjoining a street, it shall be the perpendicular distance between the street and a line through the corner or face of said building closest to and drawn parallel with the street, excluding any architectural features.
- (2) Architectural features (cornice, eaves, canopy, or similar feature) may extend or project into a required side yard not more than two inches for each one foot width of such side yard and may extend or project into a required front or rear yard not more than 36 inches. Chimneys may project into any required yard not more than two feet, provided that the width of said yard is not reduced to less than three feet thereby.
- (3) An open platform or landing which does not extend above the level of the first floor of the building may extend or project into any required front or side yard not more than four feet or into any required rear yard not more than 25% of the required rear yard depth.

(1985 Code, § 36-7-4-600(3.3)) (Am. Ord. 22-1992, passed 7-7-1992)

§ 153.044 GENERAL DEVELOPMENT STANDARDS.

(A) *Accessory uses.*

- (1) Accessory uses such as the following are permitted in all residential districts and may be installed in any required yard.
 - (a) Bird baths and bird houses.
 - (b) Curbs.
 - (c) Driveways.
 - (d) Fences, decorative walls and hedges (not more than three feet in height in front yards in the city or in the towns).
 - (e) Lamp posts.
 - (f) Mail boxes.
 - (g) Name plates.
 - (h) Parking spaces, provided however that such spaces shall not be calculated as part of any required off-street parking spaces and that they shall be connected to an access way or driveway to the required off-street parking or other parking spaces not in the required front yard.
 - (i) Utility installations for local service (such as poles, lines, hydrants and telephone booths).
 - (j) Retaining walls.
 - (k) Trees, shrubs, plants and flowers.
 - (l) Walks.

- (2) Accessory to the residential use of land shall be the keeping of four or fewer dogs or other small animals normally kept as pets and at least six months old, not including indoor caged pets.

- (3) Residential accessory uses shall include garages, sheds, pools, patio decks, guesthouses and other structures.

(B) *Setbacks of accessory buildings in residential districts* If an interior lot abuts a corner lot or alley separating them and the front yards of the two lots are perpendicular to each other, an accessory building on the rear lot line of the corner lot may be located no closer to the street abutting the interior lot than the principal building on the interior lot, but no closer than five feet.

(C) *Restrictions along streams.*

- (1) No structure other than a fence may be erected and, if erected in violation of this section, no such structure may be used if the location of the structure is within 75 feet of the meander, or high- water, line of any stream shown on the Zone Map.

(2) Within the areas covered by the restrictions imposed by subsection (1), no use is permitted other than the following, and upon application for an improvement location permit if required under this chapter:

- (a) Agricultural uses;
- (b) Forestry;
- (c) Public utilities;
- (d) Recreation, not including buildings.

(3) Such application for an improvement location permit shall be accompanied by a letter from the County Drainage Board stating that the proposed use is in accord with the provisions of the Indiana Drainage Code (I.C. 36-9-27).

(D) *Land filling standards.*

(1) All plot plans, submitted to the Plan Commission for approval, under the provisions of the Comprehensive Plan and this chapter, shall provide for the collection and management of all storm and surface water drainage. The drainage system shall be designed and constructed by the developer to provide for the proper drainage of the surface water of the subject real property and the drainage area of which it is a part. The system shall be constructed and installed in accordance with this chapter, the Comprehensive Plan and the requirements of the Plan Commission. (See §§ 152.114 and 152.115). The filling of lands not included in a flood hazard area is permitted, provided all requirements of state statute and regulations (for example, 329 I.A.C. 2-3) are met. Violations of this section and regulation shall be referred to the Indiana Department of Environmental Management and Indiana Department of Natural Resources for enforcement. In order to insure the maintenance of a properly designed and installed drainage system, the following divisions shall be required as a provision of the restrictive covenants of all recorded plats and plot plan approvals.

(a) Drainage swales (ditches) along dedicated roadways and within the right-of-way, or on dedicated drainage easements, are not to be altered, dug out, filled in, tiled, or otherwise changed without the written permission of the Plan Commission. Property owners must maintain these swales as sodded grass-ways, or other non-eroding surfaces. Water from roofs of parking areas must be contained on the property long enough so that said drainage swales or ditches will not be damaged by such water. Driveways may be constructed over these swales or ditches only when appropriate sized culverts or other approved structures have been permitted by the City Engineer. Culverts must be protected, especially at the ends, by head walls or metal end sections, and, if damaged enough to retard the water flow, must be replaced.

(b) Any property owner altering, changing, or damaging these drainage swales or ditches will be held responsible for such action and will be given ten days notice by registered mail to repair said damage, after which time, if no action is taken, the city will cause said repairs to be accomplished, and the bill for such repairs will be sent to the affected property owners for immediate payment.

(2) General drainage considerations. The purpose of this division is to protect the safety, health, and general welfare of the citizens of the city by requiring compliance with accepted standards and best practices for storm water drainage. (See §§ 152.114 and 152.115). This division does not create any liability on the part of the city, the Plan Commission, or any elected or appointed official or employee thereof, for any damages that result from reliance on this division or any alterations required to conform to the engineering requirements established hereunder or any administrative decisions lawfully made thereunder. Any land alteration must be accomplished in conformity with the drainage requirements. Where any apparent conflict exists between drainage requirements of this chapter and similar requirements of any state or federal agency which has jurisdiction of the work involved, the most stringent requirements shall be applicable and compliance with this chapter shall not excuse non-compliance with any other applicable provision of law, ordinance, or regulation.

(E) *Miscellaneous residential restrictions.*

(1) *In an RS, R1, R2, R3, R4, or R5 District*

- (a) An accessory building may not be erected before the principal building, except on a farm; and
- (b) Other than provided in division (A) of this section, all accessory buildings and structures shall be erected in a side or rear yard.
- (c) In the case of a through lot, the area at each end of the lot between the setback line and the middle of the street shall be treated as if it were part of the front yard.
- (d) Only one principal single-family or two-family residential building may be located on any tract or parcel of land.
- (e) In multifamily zones, a combination of various residential buildings may be permitted, provided all district requirements are met.

(2) *In an AG, RS, R1, R2, R3, R4, or R5 District* Only one principle residential building and two additional single-family residential structures may be located on any farm, provided that the farm in question provides at least five acres in size for each residential structure. The structures may however be clustered at any site on the parcel and must meet local and state septic and water supply regulations. The two additional single-family residences shall be used only for residence by farm employees or relatives of the residents of the principal residence.

(F) *Water pollution.*

- (1) No authorization of a use, under this chapter, includes the authority to discharge liquid or solid wastes into public

water except as permitted under the Stream Pollution Control Law (I.C. 16-41-37, as amended). Plans and specifications for proposed sewage and other waste treatment and disposal facilities must be approved by the Stream Pollution Control Board, except when connecting to a city.

(2) No overflows from drain fields into ditches, ponds, or lakes are permitted.

(G) *Building setbacks.*

(1) On corner and reversed corner lots, the side yard setback shall be the same as the front yard setback on adjoining lots.

(2) Where 25% or more of the lots in a block are occupied by buildings, the average setbacks of such buildings determines the dimensions of the front yard in the block; however, if there are not other buildings within 330 feet of the proposed building in either direction, then the standard setback for the district shall apply.

(3) Front yard or building setback lines established in recorded subdivisions establish the front yards in such subdivisions, except when such building lines are less restrictive, then the requirements of the district shall apply.

(H) *Required fences and walls.* The following uses shall be fenced and screened as follows.

(1) Swimming pools, above or in the ground, shall be entirely enclosed by buildings or fences or walls, which shall be at least six feet in height. Said fence or wall shall be equipped with self-latching gates or doors, the latching device being located not less than four feet above the ground. Fencing packages attached to a pool and high enough to meet the height requirement may be construed as meeting this requirement.

(2) Scrap metal processing facilities shall be entirely enclosed by buildings or fences or walls, which shall be at least eight feet in height. Said fence or wall shall enclose the required front yard setback.

(3) The following uses shall be screened with a six feet woven wire fence:

- (a) Auto carwash;
- (b) Wholesale produce terminal.

(4) The following uses shall be screened with a six feet high solid painted fence:

- (a) Slaughterhouse;
- (b) Storage of disabled vehicles;
- (c) Truck service center.

(5) The following uses shall be screened with an eight feet high solid painted fence:

- (a) Junk yard;
- (b) Scrap processing facility.

(6) The following uses shall be screened with a six feet high by three feet wide planting screen, as defined in this chapter:

- (a) Public sewage disposal facility;
- (b) Landfill;
- (c) Transfer station.

(I) *Temporary uses.* The Zoning Administration may permit the following seasonal or transitory uses, if the intended site is appropriate and meets the applicable district standards, adequate operational safeguards will be maintained, and adjoining established uses will not be adversely affected.

(1) In an AG, RS, CB, or AB District, a temporary use permit may be issued for the sale of small landscape plants and yard and garden supplies, or farm produce grown on or off the premises. Such sales space shall be of portable or seasonable construction and shall observe the setbacks for permanent structures. Such permit shall be valid for no more than four months per year, but may be issued for a five-year period. This provision shall not apply to GB or LB Districts in which such sales are permitted by right.

(2) Temporary auto sales, provided the sales are held in a commercial zone or other location with proper zoning certification.

(3) Unoccupied mobile homes may be stored in General Business, Industrial-2 and Industrial-3 zones for a period of not more than six consecutive months.

(4) Temporary construction sites for purposes related to highway construction for a period not more than the duration of the construction project and located within one-half mile of the highway construction project.

(5) Rummage sales, garage sales or yard sales shall be permitted by right in all residential districts, except where prohibited by private restrictions. No permit shall be required for the event. Such sales are intended for the sale of second-hand merchandise used in or around the home, which are no longer needed by the owner. Temporary sales at a residence

will be limited to four sale days a month, with a maximum of six sale days in a calendar year. A sale that is advertised, but does not take place because of rain—or any other reason—will not be considered a sale. The property owner may not offer more than one motor vehicle for sale at any one time. The resident of the real estate must own the vehicle where the vehicle is stored, and rummage, garage, or yard sales shall not be for the sole purpose of private vehicle resale. Sale hours shall be from dawn to dusk. All merchandise and display tables shall be removed from public view after advertised hours. All temporary rummage, garage, or yard sales signs shall not exceed a typical two-foot by two-foot real estate sign, four square feet in area with a maximum of three feet in height and may be located in the front yard of the property. No such sign may be located in any public right-of-way or attached to any utility poles or city street or traffic signs. Corner lot vision clearance shall not be obstructed at intersections by sale activities. Adequate on-street and off-street parking shall be available. Temporary rummage, garage, or yard sale signs shall be removed on the last day of the event. The ordinances shall carry a minimum penalty of \$50 for each day that the ordinance is violated.

(J) *Nonresidential accessory uses.* Accessory uses such as the following are permitted on the same lot with principal commercial and industrial uses in the appropriate districts, when all yard and lot requirements are met.

(1) Commercial accessory uses include:

- (a) Signs;
- (b) Advertising structures;
- (c) Fenced storage;
- (d) Parking facilities;
- (e) Accessory apartment for commercial owner.

(2) Industrial accessory uses include:

- (a) Signs;
- (b) Advertising structures;
- (c) Fenced storage yards;
- (d) Parking facilities;
- (e) Open storage, except in I-1 District.

(K) *Required setbacks for and from farm confinement feeding uses*

(1) A farm confinement feeding operation may be located no closer to the following uses than the distance in feet as follows:

- (a) 500 feet from any non-agricultural development or from residence, other than a residence, which is located on the land with the farm confinement feeding operation;
- (b) 1,000 feet from any public or private church or school; or 1,000 feet from any park or building owned by a political subdivision, which is open to the public;
- (c) 1,320 feet from the nearest plotted tract of land or other built-up area of five or more dwellings.

(2) A single-family dwelling or two-family dwelling unit may be located no closer than 500 feet to an existing farm confinement feeding operation.

(1985 Code, § 36-7-4-600(3.4)) (Ord. 22-1992, passed 7-7-1992; Am. Ord. 11-2003, passed 5-20-2003; Am. Ord. 19-2005, passed 7-5-2005)

§ 153.045 MOBILE HOME STANDARDS.

(A) *Mobile homes in the city.* No mobile home may be located in the city, unless otherwise provided in this section. All requirements of this chapter and any other city ordinance and any state regulations with respect to water supply and sanitary waste disposal shall be met and a letter from the County Health Officer so stating accompanies the application for an improvement location permit for the mobile home.

(B) *Permanent occupancy.* In the AG, RS, R3, R4, and R5 Districts, except in the city or towns, mobile homes may be permanently occupied as residences, provided:

- (1) All requirements applicable to dwellings shall be observed, except the requirement of the permanent perimeter wall and the building front line; and
- (2) Pillars shall support the home, and underpinnings or skirting shall be installed to entirely enclose the bottom of mobile home and any additions, thereto; and
- (3) Wheels and axles are removed; and
- (4) All manufacturer's and state requirements for the installation of the mobile home be met, including properly installed

tie-downs; and

(5) All mobile homes and additions thereto shall be as originally manufactured for use as a single- family residence.

(C) *Temporary occupancy.*

(1) Outside of mobile home parks in the unincorporated Grant County and the Municipalities of Jonesboro and Matthews, a permit may be issued for the temporary occupancy of a mobile home for a period of not more than one year, which may be renewed for a like period, only once, provided:

(a) Such mobile home is to be located on property on which a permanent residence is intended to be built within one year; and

(b) Such mobile home is served with the same water supply and sewage facilities that are intended to serve the permanent residence; and

(c) Such mobile home shall remain on its wheels and not to be placed on a permanent foundation; tie-downs shall be installed as per manufacturer's recommendations; and

(d) Occupancy of such mobile home is restricted to property owner(s) who intend to construct or have constructed a permanent residence.

(2) Outside of mobile home parks except in the city and towns, a permit may be issued by special exceptions as provided in §§ 153.120 *et seq.* for a temporary occupancy of a mobile home, provided:

(a) Such mobile home is to be located on the same property with an existing residence; and

(b) Such mobile home is served with the same water supply and sewage supply serving the existing residence; and

(c) Applicable side yard and front yard regulations of the district in which it is located are observed; and

(d) Occupancy of such mobile home is restricted to relatives or employees (employed on the premises of the property of the owner); or

(3) Nonresidential occupancy: mobile homes, trailers or vans may be utilized as contractor's offices, watchman's shelters, or tool or equipment storage only on the site and only during the period of construction of improvement projects.

(4) Mobile homes not being used for a residential purpose may not be stored on any parcel in a residential district, but may be stored in a GB, I2 or I3 zone.

(1985 Code, § 36-7-4-600(4.0)) (Am. Ord. 22-1992, passed 7-7-1992)

§ 153.046 MOBILE HOME PARK STANDARDS.

The following requirements shall apply to mobile home parks in addition to all other requirements of this chapter.

(A) *Minimum lot area.*

(1) *Mobile home park.*

(a) In unincorporated areas: sufficient room for 50 units with initial development of 25 units.

(b) In incorporated areas: five acres.

(2) *Mobile home lot.* 5,000 square feet

(B) *Ground floor area.* No mobile home may be established, erected or changed so that its ground floor area is less than 500 square feet.

(C) *Building height.* No main building or structure may be erected or changed so as to have a height greater than 30 feet.

(D) *Requirements for mobile home parks.* The following requirements shall apply to all mobile home parks in addition to the previous requirements.

(1) *Yards and distances between structures.*

(a) The minimum distance between mobile home stands on opposite sides of park drive shall be 60 feet.

(b) The minimum distance between a mobile home stand and a park drive pavement, a common parking area, a common walk, or other common area shall be eight feet.

(c) The minimum distance between a mobile home stand and the park boundary when:

1. Adjoining residential land use or a local or collector shall be 15 feet;

2. Adjoining land use is other than local or an arterial street shall be 30 feet.

(2) *Park drives.*

(a) Park access drives shall be provided on the site where necessary to furnish principal traffic ways for convenient

access to the mobile home stands and other important facilities on the property. Drives shall be privately owned.

(b) The drive system shall provide convenient circulation by means of minor drive and properly located collector ways. Closed ends of dead ends shall be provided with adequate paved vehicular turning or backing space. A turning circle shall be at least 80 feet in diameter.

(c) Pavements shall be of adequate widths to accommodate the contemplated parking and traffic load in accordance with the type of drive with ten feet minimum moving lanes for collectors, nine feet minimum moving lanes for minors, seven feet minimum lane for parallel guest parking and two feet additional width for pedestrian use where an adjacent sidewalk is not provided.

1. All entrance drives and other collectors with guest parking on both sides, 36 feet minimum.

2. Collectors with no parking, 22 feet minimum.

3. Minor or cul-de-sac with no parking, 20 feet minimum.

4. One-way minors with no parking (acceptable only if less than 500 feet in total length and serving fewer than 25 mobile home stands), 11 feet minimum.

5. Each of the above may be reduced by two feet if an adjacent sidewalk is provided.

(d) Drives shall be adapted to the topography and shall have suitable alignment and gradient for safety of traffic, satisfactory surface and ground water drainage, and proper functioning of sanitary and storm sewer systems.

(e) Drive intersections shall generally be right angles. Offsets at intersections and intersections of more than two drives at point shall be avoided.

(f) Drive improvements shall extend continuously from the existing improved public street system to provide suitable access to the mobile home stands and other important facilities of the property, to provide adequate connections to existing or future streets at the boundaries of the property and to provide convenient circulation for vehicles.

(g) Pavements and surfacing other than cement concrete shall be protected at the edges by curbs, gutters or other suitable edging where necessary to prevent raveling or the wearing surface and shifting of the pavement base.

(h) Pavements bases shall be well drained, uniformly graded, and compacted.

(i) Flexible pavements:

1. Base: as required by minimum standards set forth in Title III of the Comprehensive Plan;

2. Wearing surface: bituminous concrete, minimum one and one-half inches thick compacted practical density, or a double seal coat in accordance with Section 407.30 ,Type III "Indiana State Highway, Standard Specifications, 1971," Indiana State Highway Commission.

(j) Rigid pavements: portland cement concrete, minimum six inches on a prepared subgrade constructed in accordance with the minimum standards set forth in Title III of the Comprehensive Plan.

(3) *Driveways.*

(a) Driveways shall be provided on the site where necessary for convenient access to service entrances of building, to delivery and collection points for refuse and other material, and elsewhere as needed.

(b) Driveway serving a single facility or single mobile home lot, minimum eight feet; where used as walk, minimum ten feet.

(4) *Walks.*

(a) Individual walks: to each mobile home stand from a paved drive, driveway, or parking space connecting to a drive.

(b) Common walks: in locations where pedestrian traffic is concentrated; for example, at the park entrance, and to the park office and other important facilities. Common walks should preferably be through interior area removed from the vicinity of public streets.

(c) Width shall generally be at least one and one-half feet for walks on individual lots and three feet for common walks.

(d) Pavement: same as for streets.

(5) *Laundry facilities.*

(a) Laundry facilities shall be provided either individually in each mobile home and its space, in a centralized common facility, in decentralized common facilities, or in a combination of these to suit local preference and the availability of washer and dryers supplied in current mobile home models.

(b) Where centralized provisions of washers, dryers, or common drying areas are required they shall be located convenient to the mobile home spaces.

(6) *Recreation facilities.*

(a) Recreation areas and facilities (examples include play grounds, swimming pools, and community buildings) shall be provided to meet the anticipated needs of the clientele the park is designed to serve. Provision of separate adult and tot lot recreation areas is encouraged.

(b) Not less than one-half acre per 25 units shall be devoted to designed and developed recreational facilities, generally provided in a central location or in the larger parks, decentralized.

(7) *Screen planting and fences.*

(a) A tight screen planting six feet in width and height, effective during all seasons of the year, shall be placed adjacent to the boundary of the mobile home park, maintaining same in original or better condition.

(b) A wire mesh fence four feet high shall be placed at the boundary line of the mobile home park.

(c) Fences or free standing walls shall be installed where necessary for screening purposes, such as around laundry yards, refuse collection points, and play grounds.

(d) All fences and walls shall be located at least 18 feet from interior drive center lines and at least 18 inches from the pavement edges of drives, driveways, parking spaces and walks.

(e) Fences and walls shall be appropriately designed for the function intended and shall be substantially constructed to withstand conditions of soil, weather, and use.

(8) *Community facilities.* Essential community facilities and services for the type of mobile home parked under construction, such as schools, recreation areas, police and fire protection shall be reasonably accessible to the park or provisions shall be made assuring these facilities and services.

(9) *Sanitary facilities.*

(a) The mobile home park shall be provided with a complete sanitary sewer system, which shall connect with an existing approved sanitary sewer outlet or shall be provided with a separate treatment plant, to be provided by the developer in accordance with the minimum requirements of the State Board of Health and/or the Stream Pollution Control Board.

(b) The plans for the installation of a sanitary sewer system shall be provided by the developer of a mobile home park and approved by the Indiana State Board of Health. (Refer to current state administrative regulations.) Upon the completion of the sanitary sewer installation, the plans for such system as built shall be filed with the Commission.

(1985 Code, § 36-7-4-600(4.1))

§ 153.047 OFF-STREET PARKING REQUIREMENTS.

(A) *General requirements.* To reduce traffic problems and hazards by eliminating unnecessary on- street parking, every use of land must include on- premises parking sufficient for the needs normally generated by the use, as provided by this section. Parking spaces or bays on street rights-of-way or contiguous to the street, required by subdivisions or other ordinances, are in addition to and not in place of the spaces so required.

(1) This section shall not apply to the Central Core District.

(2) The requirements of this section shall apply to all parking spaces and areas available for use or access by the public, for primary users of the facility, employee parking or for similar uses. This section shall not apply to internal access ways or storage yards not available for transient, public or employee parking.

(3) Parking spaces with a size of 162 square feet shall be provided as required in the accompanying table.

(4) The standard space is considered to be nine feet by 18 feet, exclusive of passageways. However, smaller spaces may be provided for compact cars, providing the total aggregate parking area provided totals 162 square feet per space for the total area.

(5) Parking spaces prescribed by this section for a business or industrial use must be located on the premises or on a site at least within 300 feet of the premises, as approved by the Board under the special exception parking use in the special exception section of this chapter. Required parking spaces may be located in the required front yard only in commercial or industrial districts.

(6) Parking areas and lots for special exception uses shall conform to the location requirements prescribed in § 153.120. Parking areas for such uses shall, if in the open, be paved with a hard or dust proof surface.

(7) A group of business or industrial uses may provide a joint parking area if the number of spaces in the area at least equals the aggregate of the spaces required for the several uses.

(8) Parking requirements may be waived by the Board for uses in a block in which 50% or more of the area is occupied, December 6, 1971, by business or industrial structures.

(9) A church or temple that requires a parking area at times when nearby uses do not need their parking facilities may, by agreement approved by the Board, use those facilities instead of providing its own.

(10) All parking areas and lots and loading areas shall be graded, drained, surfaced, striped and channelized in

accordance with standards in this chapter or as otherwise adopted by a participating jurisdiction. Parking stalls shall be marked. Access lanes shall be clearly defined, including directional arrows to guide internal movements.

(11) Whenever a parking area for three or more cars is located in or adjacent to a residential district, it shall be effectively screened on any side, which adjoins or faces, including across a street right-of-way, any property used for residential purposes, by a wall, fence or planting screen. Such wall, fence, or planting screen shall be maintained in good condition and shall be landscaped with grass, hardy shrubs, or evergreen ground cover and maintained in a good condition.

(B) *Parking area development standards.*

(1) Lighting where provided to illuminate parking areas shall be hooded and so arranged and controlled so as not to cause a nuisance to highway traffic. The amount of light shall be provided according to standards approved by the Commission.

(2) In no case shall parking spaces be so arranged that ingress or egress from a parking space requires backing into a public or private pedestrian way or a public street.

(C) *Required spaces.* Parking spaces shall be provided as defined in Appendix E.

(D) *Loading.*

(1) Business uses, except those that do not receive or transport goods in quantity by truck delivery, shall be provided with loading berths and paved with a hard or dust-proof surface if in the open, as follows:

(a) Retail stores, department stores, wholesale establishments, storage uses, and other business uses shall be provided one berth for each 3,000 through 15,000 square feet of use, plus one additional berth for each 25,000 or fraction thereof above 15,000 square feet;

(b) Office buildings shall be provided one berth for the first 100,000 square feet of gross floor area, plus one additional for each additional 200,000 square feet of floor area.

(2) Industrial uses shall be provided with loading berths as follows.

Gross Floor Area	Berths
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0-15,000 square feet	1
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15,001-40,000 square feet	2
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40,001-100,000 square feet	3
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Each additional 40,000 square	
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feet or fraction thereof	1
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(3) Each loading berth prescribed in this section must provide at least a 12 feet by 45 feet loading space, with a 14 feet height clearance. Location of required berths shall be designed to minimize disruption of the use of other off-street parking spaces during business hours.

(1985 Code, § 36-7-4-600(4.2))

§ 153.048 MINERAL EXTRACTION.

(A) The following information shall be submitted with the application for a special exception for mineral extraction operations including borrow pits and topsoil removal and storage areas.

(1) A map of existing conditions showing the lands proposed to be included in the plant area and the land within 1,000 feet in all directions. **PLANT AREA** shall mean the territory planned for extraction of sand, gravel or other earth materials and the operational installation, if any, for the excavating, processing and distribution of the minerals. This shall show the boundaries of the plant area and existing conditions on the mapped lands, including:

(a) Existing contours (with a contour interval appropriate to the site which accurately reflects the topographic condition);

(b) Water bodies and drainage courses, depth of water table below existing terrain;

(c) Estimate of depth and extent of deposit;

(d) The present use of adjoining lands (residential, commercial, industrial, institutional, recreation, agricultural and the like);

(e) The present zoning classification of subject and adjoining lands and setback requirements;

(f) All publicly owned lands;

(g) Public rights-of-way and road types;

(h) Easements and railroad lines.

(2) A plan of operational areas showing:

- (a) Area proposed for excavation;
- (b) Area proposed for settling ponds and wash water outlets;
- (c) Area proposed for processing facilities and storage;
- (d) Area proposed for production facilities (if any) for resource-related industry;
- (e) Area proposed for plant entrance, office dispatcher headquarters, off-street parking and equipment storage.

(3) A plan of excavation showing:

(a) Division of the area proposed for excavation into one or more excavation units which are to be excavated and rehabilitated in sequence. Estimated dates for the rehabilitation of the excavation units should be provided;

(b) Methods to be used to minimize the effect of erosion by wind and water on the entire tract, such as the planting of ground cover vegetation;

(c) Methods of screening the area of operations from view, such as planting screens or the use of earth mounds.

(4) A conceptual plan of development for the rehabilitation and reuse of the entire plant area following the extraction showing:

(a) A proposed plan for landscape rehabilitation, including grading, drainage, planting and similar appropriate installations;

(b) The proposed water area (if any) resulting from excavation;

(c) A proposed plan of functional reuse of the total plant area showing, diagrammatically, future locations of residential, commercial, industrial, public, semi-public and other land uses, if any, and the principal elements of a future traffic circulation system to service the area. Sufficient information shall be provided to determine the general characteristics of the proposed development such as population density ranges, types of commercial or industrial usage and kinds of public areas.

(5) A bond with surety satisfactory to the Board in the amount of \$500 per acre of area proposed to be excavated, which shall run to the legislative body of the city, as the case may be to insure the satisfactory completion of the landscape rehabilitation shown in the plan of development following the extraction process.

(B) The plant area will be used primarily for the excavation of sand, gravel, rock and other earth materials and the processing, storage, stockpiling, distribution and sale thereof.

(C) The following uses may be permitted when they are determined to be functionally beneficial to the extraction activity, appropriate to the location and environs and not detrimental to adjoining lands:

- (1) Concrete batching plants;
- (2) Mixing plants for either portland cement or asphaltic concrete;
- (3) Concrete block, pipe, beam, slab or panel plants.

(D) The uses referred to in divisions (B) and (C) of this section are subject to the performance standards prescribed in § 153.044.

(E) Other plant area requirements include the following.

(1) *Slopes.* No production from an open pit shall be permitted which creates a finished slope steeper than one and one-half feet horizontal to one foot vertical for the excavation of sand and gravel or which created a finished slope steeper than one foot horizontal to one foot vertical for the excavation of product other than sand, except that in locations where the soil or rock content is such that vertical cuts are proven to be safe, a vertical cut up to eight feet in depth from ground level with a shelf no less than 12 feet wide followed by a vertical cut thereafter of any depth shall be allowed.

(2) *Fencing.* Prior to the commencement of any operations in a plant area or part thereof located within 500 feet of a developed residential area, public park or other institution or public highway, a fence shall be constructed enclosing the plant area or part within that prescribed distance. Shops, garages, warehouses, storage areas, offices, dwelling units and other areas shall be of: woven wire, not capable of receiving a child's foot and be at least four feet in height; or a planting of shrubs capable of producing a tight practically impenetrable hedge (such as multiflora rose). The bottom of the fence shall conform to the ground surface so as to prevent any opening between it and the ground surface exceeding four inches. Gates of the same height as the fence shall be installed at all points of vehicular or pedestrian ingress and egress. Said gates shall be equipped with keyed locks and shall be kept locked at all times when the plant area operations are shut down. Said fence, gates and locks shall be maintained in good condition.

(3) *Hours of operation.* Extraction and material processing activities permitted in the plant area shall be limited to the hours from 6:00 a.m. to 10 p.m., except in the following situations:

- (a) Where required by public authorities;

- (b) Where work requires a continuous flow of materials;
- (c) Where necessary due to public emergencies;
- (d) Where any necessary and reasonable repairs to equipment are required.

(4) *Ingress, egress, and traffic safety.* Access roads to any plant area shall be limited to one or at most two points and shall be constructed on a level with the pavement of any public street or highway for a distance of not less than 80 feet therefrom and the 80 feet of road shall be improved with a dust proof all weather surface. Adequate sight distance shall be maintained for traffic safety in compliance with the standards and requirements of the local highway authorities.

(5) *Off-street parking.* Off-street parking shall be provided for all equipment and for cars of employees.

(6) *Screens.* Screen planting consisting of a variety of trees, shrubs or both in the same planting area or a combination of seeded earth mounds and plant material screens shall be constructed and planted so as to form dense screens to a height appropriate to block out objectionable features and maintained along the perimeter of any area being operated where said permitted abuts a public thoroughfare or a developed residential area unless the natural topography eliminates the need for such a screen.

(7) *Drainage.* Upon the completion of operations, the land shall be left in a safe condition so that sufficient drainage shall be provided so as to prevent water pockets or undue erosion, with all grading and drainage such that both natural storm water leaves the entire property at the origin, natural drainage points, and that the area drainage to any one such point is not increased.

(8) *Depth.* Excavations made to water producing depths and proposed as water areas in the plan of development should have a minimum depth at some point of not less than six feet measured from the low water mark.

(9) *Rehabilitation.* The rehabilitation of the plant area in conformance with the plan of development shall be submitted with the application.

(1985 Code, § 36-7-4-600(4.6))

§ 153.049 LAND REHABILITATION REQUIREMENTS.

(A) In cases where land is used for such purposes as defined in this section, or any use so indicated in § 153.120 where the physical characteristics of the land are substantially changed as a result of the operation, a proposed plan of functional reuse of the land is required at the time of application for the improvement location permit or special exception. The plan shall show future locations of residential, commercial, industrial, public, semi- public, and other land uses, if any, and the principal elements of a future traffic circulation system to service the area. Furthermore, sufficient information shall be provided to determine the general characteristics of the proposed development such as population density ranges, types of commercial or industrial usage, and kinds of public areas.

(B) A bond with surety satisfactory to the Director in the amount of \$500 per acre of area proposed to be substantially altered is required. The bond shall run to the legislative body of the city, as the case may be to insure that the land is capable of reuse after the operation is completed. The bond shall run for the term of the operation, plus five years.

(C) In addition to special exception uses listed in § 153.120, the requirements of this section shall apply to the following uses:

- (1) Automobile body shops with exterior storage;
- (2) Commercial sanitary landfills, garbage disposal facilities and transfer stations;
- (3) Establishments engaged in the dismantling of motor vehicles for resale of used auto parts;
- (4) Junk yards;
- (5) Mineral extraction operations;
- (6) Scrap processing or recycling yards (open);
- (7) Storage yards for disabled vehicles (commercial).

(1985 Code, § 36-7-4-600(4.7))

SIGN STANDARDS

§ 153.060 GENERAL REQUIREMENTS.

Signs and advertising structures may be erected and maintained in the districts where such uses are permitted after having secured approval of the location, size and design of said sign or advertising structure subject to the following conditions.

- (A) Signs and advertising structures shall conform with the regulations for the district in which they are located.

(B) The area of a sign or advertising structure shall be calculated by multiplying its maximum vertical dimension by its maximum horizontal dimension, if the sign is combined on a single sign face. If separate letter or symbols are used and attached independently, the actual size of each component shall be calculated to determine sign size.

(C) No sign or advertising structure shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision of operators of motor vehicles, or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the visions of, or be confused with any authorized traffic sign, signal or device or which makes use of the words "STOP," "DANGER" or any other word, phrase, symbol or character in such manner as to interfere with, misled or confuse traffic.

(D) Lights used to illuminate signs or advertising structures shall be so installed as to concentrate the illumination on the sign or advertising structure and so as to minimize glare upon a public street or adjacent property.

(E) Whenever the area of any sign is limited by this chapter a double faced sign may be erected having the allowed sign area on each side of the sign; provided, the maximum dimension between the two faces of the double faced sign shall not exceed 24 inches or 10% of the maximum dimension of the face of the sign whichever is the lesser.

(F) Signs may be placed on the outer faces of a marquee if they are made a part thereof and do not exceed the Building Code's limitation on marquees. No sign shall be hung from the underside of a marquee unless it meets the minimum height limitations applicable to a marquee. No signs shall be placed on the roof of a marquee. All wall or projecting signs placed above a marquee shall comply with the requirements for such signs as if no marquee existed.

(G) Signs may be painted upon the surface of a building; provided, however, that when such signs are so located to face a residential district, any lights on the signs shall not shine directly at the residential district.

(H) Not more than 150 square feet of the total sign area shall be permitted on any one building.

(I) No sign or part thereof shall be attached to or extend over any public street right-of-way, unless otherwise provided in this chapter.

(1985 Code, § 36-7-4-600(4.3))

§ 153.061 VERTICAL SIGNS.

(A) Any projecting wall sign with its advertising surface at or approximately at a right angle to a wall facing a street shall be deemed to be a vertical sign and shall not exceed 18 inches in thickness. Any 'V' shaped projecting sign shall also be deemed to be a vertical sign and shall not exceed 18 inches in thickness at its farthest projection from the building, not four feet in thickness at the face of the building. Thickness for the purposes of the requirement is the distance between the two faces of the sign.

(B) (1) When the bottom of a sign is eight feet and less than ten feet above the ground, the projection over the property line abutting the street line shall not exceed one foot.

(2) When the bottom of the sign is ten feet and less than 12 feet above the ground, the projection shall not exceed two feet six inches.

(3) When the bottom of the sign is 12 feet and less than 14 feet above the ground, the projection shall not exceed four feet.

(4) When the bottom of the sign is 14 feet and less than 16 feet above the ground, the projection shall not exceed four feet.

(5) When the bottom of the sign is 16 feet or more above the ground, the projection shall not exceed five feet.

(C) No sign shall exceed five feet four inches in height above the parapet wall, except that such sign may return over the roof not to exceed ten feet measured from the edge of the sign.

(1985 Code, § 36-7-4-600(4.3))

§ 153.062 SUBDIVISION SIGNS.

(A) *On-site*. Temporary real estate signs advertising real property, which has been subdivided for purposes of sale or lease, shall be permitted, subject to the following conditions.

(1) The construction of any sign shall be in strict compliance with the provisions of this chapter and all other laws of the city.

(2) The sign shall remain only as long as some portion of the property advertised for sale remains unsold, or for a period of two years, whichever period is shorter.

(3) The signs shall be located on the premises which they advertise.

(4) No sign shall exceed 480 square feet in area.

(5) Not more than two such signs shall be permitted in any subdivision under five acres in size. In subdivisions involving

more than five acres, one additional sign shall be permitted for each additional five acres.

(6) Identification signs containing the tract name are permitted, provided there shall not be more than one for each three lots. Said signs shall not exceed ten square feet.

(7) Signs are permitted on the same lot with a model home, provided they do not exceed four in number and four square feet in area. Said signs shall be removed after the developer concludes the initial sale of the lots or homes to their initial owners.

(B) *Off-site; temporary real estate directional signs.* Temporary real estate directional signs directing prospective purchasers to a subdivision having lots or houses for sale may be erected and maintained provided said signs do not create hazardous traffic conditions. Such signs shall be subject to the following standards:

(1) The sign shall not exceed 60 square feet in area;

(2) The sign shall be setback not less than eight feet from the front property line;

(3) The sign shall be not less than six or more than 18 feet above the crown of the nearest adjacent road or the higher of the two crowns of two adjacent roads.

(C) *Temporary off-site open house signs.* Temporary open house signs shall be permitted for a period of 48 hours, provided that the sign shall be limited to a double faced sign not more than two by three feet in size.

(1985 Code, § 36-7-4-600(4.3))

§ 153.063 INSTITUTIONAL USES.

Signs for institutional uses, including churches, hospitals, rest homes, private clubs and similar uses, shall be permitted subject to the following regulations.

(A) One free-standing sign for each main use per frontage:

(1) The sign shall contain only the name and address of the building, its occupants and the services rendered;

(2) The sign shall not exceed 32 square feet in area, exclusive of architectural features. The sign structure shall not exceed eight feet in height. The sign size limitations contained in this section may be exceeded if district requirements permit a larger size sign;

(3) The sign face shall not be floodlighted but may be internally illuminated;

(4) In no case shall signs be located within required rear or interior side yards.

(B) One sign attached to the face of the main building:

(1) The sign shall contain only the name of the building and its occupants;

(2) Letter or numeral heights shall not exceed one foot;

(3) The sign shall not exceed ten square feet in area, or larger if permitted by district requirements, whichever is larger;

(4) The sign face shall not be floodlighted but may be internally illuminated.

(1985 Code, § 36-7-4-600(4.3))

§ 153.064 STATE REQUIREMENTS.

Signs and advertising structures are also subject to requirements of "The Highway Advertising Control Act of 1967," as amended. All signs and advertising structures shall conform to the requirements of both this chapter and "The Highway Advertising Control Act of 1967," as amended; and should the two be in conflict with each other, the requirements of the more restricting shall apply. "The Highway Advertising Control Act of 1967" affects all Federal Aid Primary Highways as established by the State Highway Commission.

(1985 Code, § 36-7-4-600(4.3))

§ 153.065 SPECIFIC DISTRICT REQUIREMENTS.

(A) *AG Districts.*

(1) *Signs.*

(a) One non-flashing sign for each street frontage containing not more than 40 square feet and pertaining only to products for sale upon the premises or services rendered thereon or therefrom shall be permitted in this District.

(b) Name signs shall be permitted subject to the following conditions. Name signs shall display only the:

1. Name of the premises upon which it is displayed;

2. Name of the owner, lessee of said premises;
3. Address of said premises;
4. Nature of occupation engaged in on said premises;

(c) "For Rent" and "For Sale" signs shall be permitted.

(2) *Advertising structures.* Advertising structures are not permitted.

(B) *RS, R1, R2, R3, R4, R5, MH and PR Districts*

(1) *Signs.* Name plates shall be permitted subject to the following conditions.

- (a) Nameplates shall not exceed two square feet in area.
- (b) Name plates shall display only the:
 1. Name of the premises upon which it is displayed; and
 2. Name of the owner or lessee of said premises; and
 3. Address of said premises

(2) *Advertising structures.* Advertising structures are not permitted.

(C) *PB District.*

(1) *Signs.*

(a) The following signs are permitted:

1. One unlighted, free standing sign subject to the following regulations:
 - a. The sign shall contain thereon only the name of the buildings, occupants or groups thereof;
 - b. The sign shall not exceed 15 square feet in area;
 - c. The sign shall not exceed six feet in height.
2. One unlighted sign, attached to the face of the building, subject to the following regulations:
 - a. The sign shall indicate only the name and address of the building or group of buildings, provided that the sign may also contain the name of the occupant or groups thereof if a free standing sign is not located on the lot;
 - b. The letter or numeral height shall not exceed two square feet in area.
3. Name plates not exceeding two square feet in area. Nameplates shall display only:
 - a. The name of the occupant;
 - b. Suite or office number;
 - c. The nature of the services rendered upon the premises.
4. "For Rent" or "For Sale" signs posted on the subject lot or building by the owner or his or her authorized agent. The signs shall not exceed six square feet in area and there shall be not more than two such signs for any one lot, building or occupancy.

(2) *Advertising structures.* Advertising structures are not permitted.

(D) *AB Districts.*

(1) *Signs.*

(a) The following signs shall be permitted:

1. Signs indicating the name and nature of the occupancy or the name and address of the owner. These signs shall be attached to the building in which the occupancy is located;
2. "For Rent" or "For Sale" signs posted on the subject lot or building by the owner or his authorized agent. Said signs shall not exceed six square feet in area and there shall be not more than two such signs for any one lot, building or occupancy;
3. Directional signs related to the location of buildings or activities on the property on which the signs are located. Each directional sign shall not exceed square feet in area;
4. One free standing sign, subject to the following regulations:
 - a. The sign shall contain thereon only the name of the buildings, occupants or groups thereof;
 - b. The sign shall not exceed 150 square feet in area.

(b) The following regulations shall apply to signs for each occupancy:

1. A sign may not exceed one square foot in area for each front foot of the structure or portion of the structure wherein the pertaining use is conducted or one-half square foot of sign for each front foot of the lot upon which the structure is located. The total sign area per commercial use may not exceed 150 for each building frontage. The minimum sign area for occupancy need not be less than 40 square foot;

2. Building frontage to be used in calculating the permitted sign area shall include frontage whereon a public entrance to the occupancy;

3. Building frontage to be used in calculating the permitted sign area shall include frontage whereon a public entrance to the occupancy is located. Separate calculations may be made for front, side and rear entrance and separate signs may be erected on each of these building frontages;

4. Signs shall not extend over a public sidewalk or right-of-way. All faces of signs mounted on or attached to a building shall be parallel to the face to the building except that "fin" type signs shall be permitted in connection with automobile service stations;

5. No blinking, flashing, rotating or animated signs shall be permitted on the exterior of any building in this district;

6. In cases where the building has a rear parking lot, signs may be located on the side or rear of the building and shall be developed to the same standards as are required in the front of said store; provided however, that said signs shall not be lighted in such manner as to be disturbing to the abutting residential district;

7. Lights used to illuminate signs shall be so installed as to concentrate the illumination on the sign and so as to minimize glare upon a public street or adjacent property.

(c) Signs may be placed on the roof of buildings but may not exceed the permitted building height in this district.

(2) *Advertising structures.* Advertising structures are permitted subject to the provisions of this chapter.

(E) *LB and CC Districts.*

(1) *Signs.*

(a) The following signs shall be permitted:

1. Signs indicating the name and nature of the occupancy or the name and address of the building or the name and address of the owner. These signs shall be attached to the building in which the occupancy is located;

2. "For Rent" or "For Sale" signs posted on the subject lot or building by the owner or his authorized agent. Said signs shall not exceed six square feet in area and there shall be not more than two such signs for any one lot, building or occupancy;

3. Directional signs related to the location of buildings or activities on the property on which the signs are located. Each directional sign shall not exceed square feet in area;

4. One freestanding sign, subject to the following regulations:

a. The sign shall contain thereon only the name of the buildings, occupants or groups thereof;

b. The sign shall not exceed 60 square feet in area.

(b) The following regulations shall apply to signs for each occupancy:

1. A sign may not exceed one square foot in area for each front foot of the structure or portion of the structure wherein the pertaining use is conducted or one-half square foot of sign for each front foot of the lot upon which the structure is located. The total sign area per commercial use may not exceed 60 square feet for each building frontage. The minimum sign area for occupancy need not be less than 40 square feet;

2. Building frontage to be used in calculating the permitted sign area shall include frontage whereon a public entrance to the occupancy is located. Separate calculations may be made for front, side and rear entrance and separate signs may be erected on each of these building frontages.

3. Blade signs extending over the sidewalk shall be limited to a maximum of 20 square feet of signage and must have a minimum of 10 feet of clearance below the lowest hanging point.

4. No blinking, flashing, rotating or animated signs shall be permitted on the exterior of any building in this district;

5. In cases where the building has a rear parking lot, signs may be located on the side or rear of the building and shall be developed to the same standards as are required in the front of said store, provided however, that said signs shall not be lighted in such manner as to be disturbing to the abutting residential district;

6. Lights used to illuminate signs shall be so installed as to concentrate the illumination on the sign and so as to minimize glare upon a public street or adjacent property.

(c) Signs may be placed on the roof of buildings but may not exceed the permitted building height in this district.

(2) *Advertising structures.* Advertising structures are not permitted.

(F) *GB, CB, SC, I1, I2 and I3 Districts.*

(1) Signs are permitted subject to the general provisions of this section.

(2) Advertising structures are permitted in conformity with all the provisions of this chapter, except advertising structures are not permitted in a CB District.

(G) *AZ District.*

(1) Signs may be permitted by special exception only and shall be subject to restrictions which the Board may consider necessary to impose.

(2) Advertising structures are not permitted.

(H) *(PC) Commercial and (PI) Industrial.* Advertising structures are permitted in conformity with this chapter.

(1985 Code, § 36-7-4-600(4.3.1)) (Am. Ord. 2-2021, passed 5-4-2021)

§ 153.066 ADVERTISING STRUCTURES.

(A) No off-premises advertising sign structure shall be constructed which resembles any official marker erected by a governmental entity or which by reason of position, shape, or color would conflict with the proper functioning of any official traffic control device.

(B) Off-premises advertising sign structures shall be constructed in accordance with local and state building and electrical codes. Stamped structural engineering plans shall accompany advertising sign structure permit applications and shall be subject to wind speed requirements as set forth in the latest edition of the Uniform Building Code.

(C) Off-premises advertising sign structures shall be regularly maintained in a good and safe structural condition as set forth in the latest edition of the Uniform Building Code. The advertising sign structure must remain substantially (90%) the same as it was on the effective date of the provisions of this chapter, as amended.

(D) No off-premises advertising sign structure shall be located on a property without the consent of the property's owner or legal representative.

(E) The general area in the vicinity of any off- premises advertising sign structure on undeveloped property shall be kept free and clear of sign materials, debris, trash and refuse.

(1985 Code, § 36-7-4-600(4.3.2))

§ 153.067 SPECIFIC ADVERTISING STRUCTURE DEVELOPMENT STANDARDS.

(A) Except for Interstate 69, advertising sign structures along all limited and non-limited access roads within Marion city limits shall have a maximum sign area for any one face of an off-premises sign not to exceed 378 square feet, excluding the ornamental base or apron, trim supports, embellishments and other structural elements, if the exclusions do not exceed 20% of the maximum sign area allowed.

(B) For all portions of Interstate 69 within Marion city limits, the maximum sign area for any one face of an off-premises sign shall not exceed 672 square feet, excluding the ornamental base or apron, trim supports, embellishments and other structural elements, if the exclusions do not exceed 20% of the maximum sign area allowed.

(C) The sign area shall be measured by the smallest square, circle, rectangle, or combination thereof, which will encompass the entire sign face.

(D) Double deck advertising sign structures are prohibited.

(E) Signs may be back-to-back, single-faced, and "V" type and with not more than one face to each facing and such structure shall be considered as one off-premises sign.

(F) An off-premises advertising sign structure shall maintain a minimum clearance of 15 feet from the ground level to the bottom of the sign face.

(G) An off-premises advertising sign structure on all non-interstate roads within Marion city limits shall have a maximum height not to exceed 30 feet above the existing grade level of the roadway, to the top of the sign face, as measured from the centerline of the roadway to which the advertising sign structure is oriented.

(H) An off-premises advertising sign structure adjacent to Interstate 69 shall have a maximum height not to exceed 30 feet, as measured from the top of the sign face. In a case where topography creates road grade fluctuation with substantial elevation changes, practically difficulty is to be legally established by the Marion Board of Zoning Appeals. The BZA granting shall not exceed 40 feet above existing road grade level as measured from the top of the sign face and to the roadway centerline to which the advertising sign structure is oriented.

(I) No off-premises advertising sign structure may be established within 1,000 feet of any other off- premises advertising sign structure, measured along both sides of the street or highway to which the advertising sign structure is oriented.

(J) Pertaining to Interstate 69 and limited access highways, no out door advertising sign structure may be located adjacent to or within 500 feet of an interchange, at-grade intersections, or public rest area, said 500 feet shall be measured from the right-of-way line.

(K) Spacing from directional and official signs, on-premises signs or any other sign which does not constitute an off-premises advertising sign structure shall not be counted nor shall measurements be made from such signs for the purpose of determining compliance with these spacing requirements.

(L) The minimum distance between off-premises advertising sign structures shall be measured along the nearest edge of the pavement between points directly opposite the center of the sign posts along each side of the highway and shall apply to structures located on both sides of the same street or highway.

(M) A minimum setback of ten feet is required from the front lot line for any off-premises advertising sign structure in all permitted zones.

(N) A minimum setback of five feet is required from the side lot line for any off-premises advertising sign structure in all permitted zones.

(O) A minimum setback of five feet is required from the rear lot line for any off-premises advertising sign structure in all permitted zones.

(P) No outdoor advertising sign structure shall be permitted if it is located within 300 feet along both sides of the street or highway to which the advertising sign structure is oriented that has been platted for residential use or is zoned RS, R1, R2, R3, R4, R5, MH and PR.

(Q) In no case shall any portion of an off- premises advertising sign structure overhang into or be placed in the public right-of-way, unless allowed by the public entity.

(1985 Code, § 36-7-4-600(4.3.3))

§ 153.068 PRE-EXISTING ADVERTISING SIGN STRUCTURES.

(A) After the enactment of this chapter, the Director of Planning and Zoning or his or her designee shall, as soon as practicable, survey the City of Marion and its jurisdictional area for advertising structures which do not conform to the requirements of this chapter. Upon determination that an advertising sign structure is nonconforming, the Director or his designee shall use reasonable efforts to notify either personally or in writing the lessor, lessee or owner of the property on which the advertising sign structure is located of the following:

(1) The advertising sign structure's nonconformity;

(2) Whether the advertising sign structure is eligible for characterization either as legal, nonconforming or unlawful.

(B) The owner of the property, or his representative, shall request a certificate of legally established nonconforming advertising sign, as to the date of the erection or installation, fair market value and replacement costs, as it was on the effective date of the provisions of this chapter as amended, and pertinent maintenance records for the advertising structure.

(C) A false statement knowingly given by the lessor or lessee or failure to apply and/or furnish such information within ten days constitutes a waiver of any rights granted to any property owner, lessor or lessee as to the maintenance of any nonconforming advertising sign structure or device by this chapter and such advertising sign structure or device shall be removed or altered to conform within 30 days after demand that such be done in writing by the Director regardless of the ownership or the date of installation of such advertising sign structure or device.

(D) Continued failure to comply shall cause the Director to petition for permit revocation, and after proper notice and public hearing, a finding that the advertising sign structure or device shall be removed or altered to conform within 30 days by the Board of Zoning Appeals.

(E) If the lessor or lessee of the advertising sign structure or owner of the property on which the advertising sign structure is located cannot be contacted, the notice may be affixed in a conspicuous place to the advertising sign structure or to the business premises with which the advertising sign structure is associated.

(F) Advertising sign structures eligible for characterization as legal nonconforming. Any advertising sign structure located within the city jurisdiction on the date of adoption of this chapter which does not conform to the provisions of this chapter is eligible for characterization as a legal nonconforming advertising sign structure and is permitted, provided it also meets the following requirements:

(1) The advertising sign structure was covered by an advertising sign structure permit or variance on the date of adoption of this section if one was required under applicable law, or, if no advertising sign structure permit was required under applicable law for the advertising sign structure in question, the advertising sign structure was in all respects in conformity with the applicable law immediately prior to the adoption of this section or had legal nonconforming status at such time;

(2) The advertising sign is an off-premises outdoor advertising sign as herein defined, including the supporting sign structure;

(3) The individual advertising structure has been at its particular location for the duration of its normal life subject to

customary maintenance;

(4) Preexisting advertising structure covered by a grandfather clause, which do not comply with the provisions of this chapter as amended have the status of legally nonconforming signs;

(5) Any nonconforming sign which does not fit the definition of a legal nonconforming sign is an unlawful sign. Subject to subsections below, a legal nonconforming sign shall retain such status in perpetuity subject to normal maintenance and reduction.

(G) If land is annexed to the City of Marion subsequent to the effective date of this chapter, any signs which do not conform to this chapter at such time shall have legal nonconforming status if:

(1) Under applicable federal, state, and county regulations, the sign was legal in all respects immediately prior to annexation;

(2) The sign is a permanent sign; and

(3) The annexation was not conditioned upon the removal or modification of the sign.

(H) A legally nonconforming advertising structure shall immediately lose its legally nonconforming designation if:

(1) The advertising structure is relocated;

(2) More than 60% of the complete advertising structure is destroyed or replaced;

(3) The permit, variance, or condition under which the advertising structure was allowed expires;

(4) The advertising structure is not kept in good repair and/or in safe condition and ceases to display advertising matter and if said condition continues for six months;

(5) The advertising structure is altered to the following extent:

(a) The sign face is increased;

(b) The size of the advertising structure is increased;

(c) The use changes.

(I) In order to maintain and continue a legally nonconforming advertising structure, the following conditions apply.

(1) The advertising sign structure must have been actually in existence at the time this chapter became effective as distinguished from a contemplated use such as a lease or agreement with the property owner must continue to be lawfully maintained.

(2) A legally nonconforming advertising structure or portion of a structure becomes physically unsafe or unlawful by reason of physical condition defined by city ordinance; it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

(3) The advertising structure must remain substantially the same as it was on the effective date with the provisions of this chapter as amended. Reasonable repair and maintenance of the advertising sign structure, as provided for in this section, including a change of advertising message, is not a change, which would terminate nonconforming rights.

(4) The legally nonconforming advertising structure and/or sign may be sold, leased, or otherwise transferred without affecting its status, but its location may not be changed.

(5) A legally nonconforming advertising sign structure removed as a result of a right-of-way taking or for any other lawful government purpose may be relocated within a properly zoned district but cannot be reestablished at a new location as a nonconforming use.

(6) On any legally nonconforming advertising structure or portion of a structure containing a nonconforming sign, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement to an extent not to exceed 10% of the current replacement cost of the legally nonconforming advertising structure, or legally nonconforming portion of the structure, whichever the case may be, provided that the sign area existing when it became legally nonconforming shall not be increased. There are exceptions to actual existence as follows.

(a) Where a permit or variance was granted for the construction of an advertising structure prior to the effective date of passage and the advertising sign structure owner acted in good faith and expended sums in reliance thereon. This exception shall not apply in instances where large numbers of permits were applied for and issued to a single sign owner, obviously in anticipation of the passage of the sign ordinance amendment governing advertising structure.

(b) The legally nonconforming advertising structure may continue as long as it is not destroyed, abandoned, or discontinued. If permitted by the sign ordinance and re-erected in kind, exception may be made for nonconforming advertising structures destroyed due to vandalism and other criminal or tortious acts.

(c) Any legally non-conforming advertising structure, which for a designated period of time of six months displays obsolete advertising matter or is without advertising matter or is in need of substantial repair, may constitute abandonment or discontinuance. Similarly, a nonconforming advertising structure damaged in excess of 60% of its replacement cost shall be considered destroyed.

(d) Where an existing legally nonconforming advertising structure ceases to display advertising matter, a reasonable period of time to replace advertising content is established by the sign ordinance. Where new content is not put on a structure within 30 days after the passage of the designated period of time of six months, the use of the structure as a nonconforming outdoor advertising sign structure is terminated and shall constitute an abandonment or discontinuance. This established period may be waived for an involuntary discontinuance such as the closing of a local road or state highway for repair in front of the advertising sign structure.

(e) All signs and advertising structures shall conform to the requirements of both this chapter and "The Highway Advertising Control Act of 1967," as amended; and should the two be in conflict with each other, the requirements of the more restricting shall apply. "The Highway Advertising Control Act of 1967" affects all Federal Aid Primary Highways as established by the State Highway Commission.

(J) Any advertising structure which is in violation of this chapter and which is in existence and installed upon the date of enactment of the ordinance codified in this chapter shall be removed or altered so as to comply with this chapter at the property owner's expense and as otherwise provided by law.

(K) Illegal advertising structure, statement of installation date:

(1) Any lessor or lessee of property to which a nonconforming sign or structure is attached shall furnish to the Director of Planning, upon request in writing, the date of the erection or installation of such sign or advertising sign structure;

(2) A false statement knowingly given by the lessor or lessee or failure to apply and/or furnish such information within ten days constitutes a waiver of any rights granted to any property owner, lessor or lessee as to the maintenance of any nonconforming sign or advertising sign structure by this chapter and such sign or advertising sign structure shall be removed or altered to conform within 30 days after demand that such be done in writing by the Director regardless of the ownership or the date of installation of such sign or advertising sign structure;

(3) Continued failure to comply shall cause the Director to petition for permit revocation, and after proper notice and public hearing, a finding that the sign or advertising sign structure shall be removed or altered to conform within 30 days by the Board of Zoning Appeals.

(L) Any advertising sign structure not meeting such requirements is an unlawful sign.

(M) After notice and public hearing, any sign permit granted in accordance with the provisions of this section may be revoked upon a finding by the Board of Zoning Appeals that the sign or sign program for which the permit was granted advertises the availability or sale of goods, property, or services no longer available, or is constructed, installed, or maintained in a manner that is not in accordance with the approved application.

(N) Abandonment shall be the voluntary act of the lessee and/or lessor to discontinue the use of a sign and/or structure for a period of 90 days or more. An abandoned nonconforming structure may be occupied, and the nonconforming rights reestablished upon approval of the Board of Zoning Appeals in accordance with this chapter and the provisions of the Comprehensive Plan.

(1985 Code, § 36-7-4-600(4.3.3))

§ 153.069 DESIGN, CONSTRUCTION AND MAINTENANCE.

(A) All advertising sign structures shall be designed, constructed, and maintained in accordance with the following standards.

(B) All advertising sign structures shall comply with applicable provisions of the current Uniform Building Code.

(C) All advertising sign structures shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

(D) All pole and structural members shall be of steel. All advertising signs shall be mounted on single- pole structures. All members shall be painted.

(E) When a structure is constructed so as to have a copy material facing in a single direction, the exposed rear of the display and the structural members shall be finished and maintained to a degree equal to that of the copy side of the sign.

(1985 Code, § 36-7-4-600(4.3.4))

§ 153.070 LIGHTING.

Off-premises signs may be illuminated subject to the following restrictions.

(A) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited. Reflective surfaces or devices on sign faces, and multiple-faced signs, with illumination, are permitted, provided such signs do not interfere with traffic safety and comply with divisions (C) and (D) of this section.

(B) On non-federal primary roads, electronic variable message signs giving public information such as, but not limited to, time, date, temperature, weather, or other similar information, and commercial electric variable-message signs which function in the same manner as multiple-faced signs are permitted, provided such signs do not interfere with traffic safety

and do not resemble or simulate traffic control or safety devices or signs are permitted with City of Marion Advisory Plan Commission or designee approval.

(C) Signs must be effectively shielded to prevent beams or rays from being directed toward any portion of the traveled ways and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with any driver's operation of a motor vehicle.

(D) No sign shall be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device or signal.

(1985 Code, § 36-7-4-600(4.3.5))

§ 153.071 PERMITS.

(A) No off-premises sign and/or structure shall be erected without securing improvement location and sign permits from the City of Marion Advisory Planning Department and the City of Marion Building Department, as well as payment of the permit fees. Before such permit is issued, an inspection shall determine that the off-premises sign complies with the provisions of this chapter.

(B) Applications for subject real estate within the jurisdictional limits of the Indiana Department of Transportation shall provide to the Planning Director, an approved INDOT outdoor advertising structure permit.

(1985 Code, § 36-7-4-600(4.3.6))

§ 153.072 VIOLATIONS.

Any person who violates any provisions of the sign code shall be deemed to have committed an ordinance violation and, upon conviction, the civil monetary fine for each civil violation shall be as determined by § 10.99, including enforcement costs together with injunctive relief providing for contempt. Each day of such unlawful activity after the violator has been issued a notice of violation (with a minimum a maximum of ten days to comply) shall constitute a separate offense. These civil violation fine to not preclude the civil violator from responsibility of payment of costs incurred by the City of Marion if it is a necessity for the city to enter onto a property to correct, terminate or cease a violation in accordance with procedures outlined in the city code.

(1985 Code, § 36-7-4-600(4.3.7))

§ 153.073 POLITICAL ADVERTISING SIGNS.

(A) Political advertising signs, as defined by § 153.004, shall not be permitted to be placed on-premise earlier than 60 days prior to a particular primary or general election, with a maximum sign face not to exceed 12 square feet and four feet in height to the top of the sign.

(B) Political advertising signs shall not be permitted on-premise earlier than 30 days prior to a particular primary or general election, with a maximum sign face not to exceed 32 square feet and six feet in height to the top of the sign.

(C) Political advertising signs may be placed within the city street right-of-way, provided they do not obstruct corner vision clearance at intersections or impede pedestrian or vehicular traffic visibility. Signs shall not be placed within 20 feet of an intersection, driveway entrance, or crosswalk to ensure safety.

(D) No political advertising sign shall be attached to a public utility pole, city street tree, traffic control device, or any public or private advertising sign.

(E) An advertising structure containing political advertising shall be permitted in accordance with and subject to the provisions of this section and §§ 153.065 and 153.066.

(F) All out-of-date primary or general election political advertising signs shall be removed within 14 days after the primary or general election for which they apply.

(G) A political advertising sign shall be permitted by right and does not require a sign permit.

(Ord. 6-2002, passed 3-19-2002; Am. Ord. 09-2025, passed 4-15-2025)

DESIGNATED HIGHWAY CORRIDOR OVERLAY ZONE

§ 153.085 GENERAL.

(A) *Purpose.* In addition to the zoning districts listed and their associated regulations set forth in the Zoning Ordinance, additional regulations and requirements are imposed upon the State Route 18 Corridor and the interchange of SR18 and I-69 interchange, more commonly known as the I-69 Corridor Overlay Zone, or "Overlay Zone". In said Overlay Zone, the city desires to enhance the visual appearance and image of the corridor and interchange and advance the public welfare through the resulting benefits to the economy and quality of life for the city. The intersection of Interstate 69 and State Route 18 form an important entrance point and gateway corridor to the City of Marion. The city recognizes the importance of SR 18

as a thoroughfare for regional traffic, the impact its character has on the image of the community, and the need to provide restrictions and guidelines in order to enhance the visual appearance and image of the Corridor.

(B) *District boundaries.* As shown on the Official Zoning Map of the City of Marion, the Overlay Zone boundaries are as follows:

(1) Along State Route 18: The boundaries extend 1,000 feet on either side of the right-of-way line of Indiana State Route 18 in Center and Monroe Township, with the following boundaries:

- (a) West: the west section line of Sections 4 and 9 in Center Township.
- (b) East: 200 feet east of the centerline of County Road 700E in Monroe Township.

(2) Along I-69: The boundaries extend approximately one-half mile on either side of I-69 bounded more specifically by the following:

- (a) North: the centerline of County Road 100N.
- (b) East: a line measured 200 feet east of, and parallel to, the centerline of County Road 700E.
- (c) South: a line measured 2,640 feet south of, and parallel to, the centerline of SRI 8.
- (d) West: a line measured 200 feet west of, and parallel to, the centerline of County Road 600E.

(C) *Applicability.* The restrictions, regulations, and guidelines on development and construction set forth by the Overlay Zone shall apply to the following:

- (1) The properties within the Overlay Zone that are under the jurisdiction of the City of Marion;
- (2) The properties within the Overlay Zone that come under the city's jurisdiction through annexation or other means; and
- (3) Development that desires access to the designated Corridor Streets within the Overlay Zone. The standards of the Overlay Zone shall apply to the entire development, even if portions of the property fall outside of the Overlay Zone Boundaries.

(4) The standards of the Overlay Zone shall prevail over those of the underlying zoning district. However, a Planned Unit Development (PUD) is not subject to the Overlay Zone standards.

(D) *Definitions specific to the Overlay Zone.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMERCIAL OUTLOT. A lot that is part of a commercial/retail shopping project that does not meet the minimum area required by this subchapter.

FRONT YARD. That side of a lot, including any corner lot, which abuts or is close to the right-of-way of the designated highway. Corner lots have two front yards and two rear yards.

GREENBELT, CORRIDOR. That portion of the front yard of a lot that is immediately adjacent and parallel to the street right-of-way of SR 18, Interstate I-69, County Road 600 E, and County Road 700 E, and having a minimum depth of 30 feet from the street right-of-way line.

GREENBELT, INTERIOR STREET. That portion of the front yard of a lot that is immediately adjacent and parallel to the right-of-way of interior streets within the Overlay Zone and having a minimum depth of 15 feet from the street right-of-way line.

LOT COVERAGE. The part of the lot that is covered by impervious surfaces.

LOT, UNDERSIZED. A lot within the Overlay Zone and recorded prior to the effective date of this subchapter that does not meet the minimum area required by this section.

STREET, CORRIDOR. The portions of SR 18, Interstate I-69, County Road 600E, and County Road 700E that lie within the Overlay Zone.

STREET, INTERIOR. All streets not identified as corridor streets and with a right-of-way greater than 55 feet.

(1985 Code, § 36-7-4-600(4.5)) (Am. Ord. 12-2008, passed 4-15-2008)

§ 153.086 PROJECT APPROVAL, PROCEDURE.

(A) *Consultation with Planning Department staff.* Applicants shall meet with the Planning Director or his or her designated representative prior to making application in order to review the zoning classification of their site, obtain copies of the regulatory ordinances and application forms, review the procedures and examine the proposed use and development of the property. The Planning Director shall advise the applicant in preparing his or her application and supporting documents as necessary.

(B) *Application and supporting documents.*

(1) The adopted application forms and copies of the site plan or conceptual subdivision plat shall be submitted in the form and quantities prescribed by the Plan Commission. As a minimum, the following must be part of the plans submitted.

- (a) Site Plan and/or Plat;
- (b) Existing and proposed primary structures and accessory structures on-site and on adjacent sites;
- (c) Architectural design standards;
- (d) Traffic circulation plan (vehicular and pedestrian);
- (e) Drainage plans and calculations;
- (f) Parking Plan;
- (g) Landscape Plan;
- (h) Utility Plan (on-site and off-site);
- (i) Lighting Plan;
- (j) Sign Plan.

(2) Following the receipt of the written application and accompanying documents, the Planning Director shall then determine if the application is complete and if so, schedule the plan for review by the Technical Advisory Committee and the Overlay Review Committee. Detailed review procedures and plan content shall be established by the Plan Commission in its written rules of procedures.

(C) *Technical Advisory Committee review.*

(1) The Technical Advisory Committee shall review the proposed development and make a recommendation to the Plan Commission. Review of the plans shall be completed prior to the Overlay Committee's review of the plans.

(2) As part of its review, the Technical Advisory Committee shall consider:

- (a) Circulation, ensuring that:
 - 1. The design and location of proposed street and highway access points minimize safety hazards and congestion;
 - 2. The capacity of adjacent streets and highways are sufficient to safely and efficiently accept traffic that will be generated by the new development;
 - 3. The entrances, streets, and internal traffic circulation facilities in the development plan are compatible with existing and planned streets and adjacent developments; and
 - 4. Vehicle and pedestrian circulation are coordinated.
- (b) *Utility layout.* Availability and coordination of water, sanitary sewers, storm water drainage and other utilities;
- (c) Site design and context:
 - 1. Compatibility of the development with surrounding land uses;
 - 2. Building setback lines;
 - 3. Building coverage;
 - 4. Building separation;
 - 5. Parking;
 - 6. Landscaping;
 - 7. Height, scale, materials and style of improvements;
 - 8. Signage;
 - 9. Recreation space;
 - 10. Outdoor lighting;

(D) *Overlay Review Committee.*

(1) An Overlay Review Committee shall be established and appointed by the Plan Commission for purposes of reviewing projects proposed to be located in the Overlay District. At the discretion of the Plan Commission, staff may serve as the Overlay Review Committee until project load warrants the formation of a separate committee.

(2) The Overlay Committee shall hold a public meeting to review the plans required by this subchapter and make recommendations to the Plan Commission. Review of the plans shall be completed prior to the Plan Commission's consideration of said plans.

(3) As part of its review, the Overlay Committee shall consider:

- (a) Compatibility of the development with surrounding land uses;
- (b) Management of traffic in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community;
- (c) Building coverage;
- (d) Vehicle and pedestrian circulation;
- (e) Parking;
- (f) Landscaping;
- (g) Height, scale, materials and style of improvements;

(E) *Plan Commission action.* At said subsequent public meeting, the Plan Commission shall review the application and plans, the recommendations of the Technical Advisory Committee, and the recommendations of the Overlay Committee before making its determination. The matter may be continued from time to time as may be deemed necessary by the Commission. Within 15 days of the initial public meeting for consideration, the Plan Commission shall notify the applicant in writing of any further changes which are required before approval or denial of the application can be given. Within 30 days of the receipt of the materials incorporating the required changes into the application, the Plan Commission shall then approve or deny the application and may require written conditions.

(1) If the proposed development is denied by the Plan Commission, the Commission shall provide the applicant with the reason for denial in writing.

(2) If the proposed development is approved by the Plan Commission, but requires variances or other approvals from the Board of Zoning Appeals, the applicant shall then make the appropriate application with the Board before proceeding on to division (E)(3) below.

(3) If the proposed development is approved by the Plan Commission and all other applicable approvals have been granted, the applicant shall record any required commitments before proceeding with the project.

(a) *Site Plan.* After approval and necessary recordings, the applicant may apply for applicable permits to begin site work and construction.

(b) *Subdivision.* After approval and necessary recordings, the applicant may apply for Primary Plat approval per the application process adopted by the Plan Commission.

(1985 Code, § 36-7-4-600(4.5.1)) (Am. Ord. 12-2008, passed 4-15-2008)

§ 153.087 PERMITTED USES.

(A) *Permitted uses.* All uses which are permitted in the underlying zoning district(s), except those uses expressly excluded by division (C) of this section, shall be permitted in the Overlay Zone.

(B) *Special exception uses.* All special exception uses which are permitted (upon obtaining special exception approval) in the underlying zoning district(s), except the uses expressly excluded by division (C) of this section are permitted as provided in §§ 153.120 *et seq.*

(C) *Excluded uses.* The following uses shall be excluded from the underlying zoning districts within the Overlay Zone:

- (1) Auction house.
- (2) Automobile and truck sales.
- (3) Mobile home sales.
- (4) Billiard parlor.
- (5) Car wash.
- (6) Farm implement sales and service.
- (7) Fuel or ice dealers.
- (8) Grain elevators.
- (9) General and heavy industry.
- (10) Junk or salvage yards.
- (11) Lumber/building materials sales.
- (12) Mineral extraction.
- (13) Race tracks.

- (14) Agricultural livestock and confinement feeding uses.
- (15) Kennels.
- (16) Roadside sales stands.
- (17) Sanitary landfills, transfer stations.
- (18) Welding shops.
- (19) Vehicle/boat/rv/personal storage.
- (20) Auto parts or tire sales.
- (21) Outside storage or display of products, merchandise, or materials.
- (22) Residential uses.
- (23) Confined agricultural feeding operations.
- (24) Rodeo facilities.

(D) *Accessory buildings and uses.* All accessory buildings and uses which are permitted in the underlying district(s), except that any detached accessory building shall have on all sides the same architectural features or shall be architecturally compatible with the principal building(s) with which it is associated as well as a roof.

(1985 Code, § 36-7-4-600(4.5.2)) (Am. Ord. 12-2008, passed 4-15-2008)

§ 153.088 CORRIDOR DEVELOPMENT REQUIREMENTS.

(A) *Lot size requirements.*

(1) *Minimum lot size.* All lots within the Overlay Zone shall contain a minimum area of five acres, except those classified as a "commercial outlot" below.

(2) *Pre-existing undersized lot.* If a lot was recorded prior to the effective date of this subchapter, and said lot does not contain the minimum area required by this section, said undersized lot may be used for any use permitted in the Overlay Zone provided that:

(a) On or before the effective date of this subchapter, the undersized lot met the requirements for minimum lot size then in effect for a lot in the underlying zoning district(s); and

(b) All other applicable regulations of the Overlay Zone can be met.

(3) *Commercial outlot.* Commercial outlots shall be permitted as part of a commercial/retail shopping project within the Overlay Zone provided that:

(a) The minimum size of the outlot is 21,780 square feet;

(b) The outlot is an integral part of the commercial/retail project with respect to traffic circulation, development plan requirements, landscaping, architecture, and signage; and

(c) The outlet does not have direct access to a corridor street.

(B) *Setback requirements.* All setbacks are measured from the right-of-way of the adjacent roadway(s). For purposes of this section, corner lots have two front yards and two side yards.

(1) Minimum front yard setback:

(a) Corridor street: 90 feet.

(b) Interior street: 40 feet.

(2) Minimum side yard setback:

(a) Commercial outlot: 30 feet.

(b) Residential lot: 30 feet.

(c) All other lots: 45 feet.

(3) Minimum rear yard setback: 45 feet.

(a) Commercial outlot: 20 feet.

(b) Residential lot: 20 feet.

(c) All other lots: 30 feet.

(C) *Lot coverage requirements.* No more than 40% of the lot area may be covered by impervious surfaces, including

structures, parking, and other hard surfaces unless one or more of the following green construction methods are utilized:

(1) *Green roof construction.* All building surface area under green roof construction is not counted towards the impervious surface cover calculations, and therefore increases potential square footage for construction.

(2) *Parking lot and other surfaced elements.* Natural filtration of water through soil is the simplest way to control the volume of run-off and pollutants associated with run-off, which is a direct advantage of permeable pavement. Therefore, all surface areas constructed with permeable pavement materials, including porous asphalt, porous concrete, plastic grid systems, or block pavers are not counted towards the impervious surface cover calculations and therefore increase potential square footage of impervious construction.

(D) *Architectural design requirements.* In reviewing the architectural design of a building(s) proposed to be built in the Overlay Zone, factors to be considered by the Overlay Committee and the Commission shall include but are not limited to:

- (1) Scale and proportion;
- (2) Suitability of building materials, including color;
- (3) Design in relation to surrounding buildings;
- (4) Design in relation to topography of the site;
- (5) Design in relation to proposed landscaping;
- (6) Aesthetics of the proposed building, including color; and
- (7) Context.

(E) *Context and design standards.*

(1) *Relationship of building to site.*

(a) The site shall be planned to accomplish a desirable transition with the streetscape and to provide for adequate landscaping, safe pedestrian movement, and parking areas.

(b) The height and scale of each building shall be compatible with its site.

(c) Newly-installed utility services and service revisions necessitated by exterior alterations shall be underground.

(2) Relationship of buildings and site to adjoining area.

(a) Adjacent buildings of different architectural styles shall be made compatible by such means as screening, setbacks, sight breaks, and materials.

(b) Attractive landscaping transition to adjoining properties shall be provided.

(c) Harmony in texture, lines, and masses is required. Monotony shall be avoided.

(3) *Building design.*

(a) Architectural style is not restricted. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.

(b) Buildings shall have a good scale and be in harmonious conformance with permanent, neighboring development.

1. Materials shall have appropriate architectural character and shall be selected for harmony of the building with adjacent buildings.

2. Materials shall be selected for suitability to the type of buildings and the design in which they are used. Building facades which are visible from public ways shall all have the same materials or those that are architecturally harmonious.

3. Facade articulation shall be no less than 75 feet for all sides of the structure(s).

(F) *Landscaping.* A landscaping plan shall be submitted as part of the application. Said plan shall be drawn to scale, including dimensions and distances, shall delineate all existing and proposed structures, private parking areas, walks, ramps for handicapped, terraces, driveways, signs, lighting, steps and similar structures, and shall delineate the location, size, and description of all landscape materials to be used. Landscape treatment of plazas, driveways, paths, and service and parking areas shall be designed in an integral and coordinated fashion with the entire lot. Whenever possible, existing trees shall be conserved and incorporated in the landscaping plan. All landscaping required by the approved plan shall be installed within six months of the first occupancy of the building on the lot.

(1) *Total landscaping.* A minimum of 15% of the lot shall be landscaped, which includes the greenbelt plantings, parking lot landscaping, building perimeter plantings, and property perimeter plantings.

(2) *Greenbelt plantings.* Greenbelts shall be provided along each property frontage and be suitably landscaped and otherwise unoccupied except for steps, walks, terraces, driveways, lighting standards, signs, and other similar structures (excluding private parking areas). Mounding and other treatments are to be especially encouraged in this greenbelt.

(a) *Corridor street greenbelt.* Thirty feet wide, measured along right-of-way. One shade tree and four large shrubs

shall be provided for every 50 linear feet.

(b) *Interior street greenbelt.* Fifteen feet wide, measured along right-of-way. One shade tree and ten medium shrubs every 50 linear feet.

(3) *Parking lot landscaping.* All parking lot landscaping shall be of a quality to improve and enhance the site and the surrounding area. Effective use of mounding and topography is encouraged. Landscaping and planting areas shall be reasonably dispersed throughout the parking areas.

(a) *Perimeter planting.* There shall be a perimeter landscaping strip, four feet wide, located along the side of any private parking area which abuts any side or rear property line. One shade tree for each 50 lineal feet shall be incorporated into the landscaping strip.

(b) *Interior planting.* Not less than 8% of all parking areas shall be landscaped. For the purposes of this requirement, plantings in the greenbelts and parking lot perimeter plantings shall not be included.

(4) *Building perimeter plantings.* A planting area equal to an area measuring an average of ten feet in depth and extending along the entirety of each wall of the building shall be installed adjacent to the building. Sidewalks may be permitted in these areas,

but shall not occupy more than 50% of the entire area on any side of the building. If an approach driveway cuts into a planting area adjacent to the building, additional planting area equal to the area displaced by the driveway shall be added to the building perimeter planting. These perimeter planting areas need not be rectangular in shape as long as the required total area is landscaped and dispersed on at least three different sides of the building.

(5) *Property perimeter plantings.* A property perimeter planting area shall be a minimum of five feet in width and shall be provided along the common perimeter of the property except for frontage areas. Perimeter planting areas are not in addition to the required yard areas. Perimeter property plantings shall include one shade tree and four medium shrubs every 50 feet.

(G) *Parking requirements.* Parking is to be discouraged between the greenbelt and the front line of the building when other suitable areas exist on the property. Total parking space and loading berth requirements shall be those of the underlying zoning district.

(H) *Lighting requirements.* In reviewing the lighting plan for a lot proposed to be developed in the Overlay Zone, factors to be considered by the Commission shall include but are not limited to:

- (1) Safety provided by the lighting;
- (2) Security provided by the lighting;
- (3) Possible light spillage or glare into adjoining properties;
- (4) Attractiveness of the lighting standards and their compatibility with the overall treatment of the property;
- (5) Height and placement of lighting standards considering the use.

(I) *Signage standards.*

(1) *Design.* Signage shall be designed as an integral part of the architectural and landscaping plans. The colors, materials, and style of signage shall be architecturally compatible and accentuate the buildings and landscaping on the site.

(2) *Location.* Signs shall not be placed within the greenbelt areas.

(3) *Wall signs.* Wall sign area shall not exceed 15% of the total wall area on which it is placed.

(4) *Free-standing signs.* One sign per business shall be permitted and the sharing of signs is encouraged and at the discretion of the Plan Commission. Free-standing signs shall not exceed ten feet in height or 200 square feet in area. Free-standing signs shall be no closer than 300 feet to another freestanding sign.

(5) *Coordinated Sign Plan.* Developments that submit a coordinated sign plan at the time of overlay zone review submittal shall be allowed a 20% increase in permitted sign area. Said plan shall indicate the size, design, and anticipated placement of all signs on the site.

(J) *Access.* Having numerous entrances to lots from the corridor streets in the Overlay Zone is inconsistent with the intent of this section. Access roads and frontage roads shall be constructed whenever possible. No entrances shall be permitted directly from the corridor streets. Access roads to contiguous lots shall be coordinated so as to form one main access road to those adjoining developments. These roads should be designed so as to funnel traffic onto major arterial or collector roads.

(K) *Other requirements.*

(1) No outside storage, unenclosed storage of refuse (whether in containers or not) or display of merchandise shall be permitted on any lot.

(2) Screening of trash receptacles, recyclable receptacles, refuse areas, and outside material/equipment storage. No outside, unenclosed storage of refuse, materials, or equipment (whether or not in containers) shall be permitted on any lot. All refuse, recyclables, materials, and equipment shall be contained within an area enclosed on all sides by a fence, wall,

mound, or similar means of enclosure, even when inside a dumpster, compactor, or other refuse container. The enclosure does not have to have a roof. The sides of the enclosure shall be a minimum of six feet or at least two feet taller than the container, dumpster, compactor, or assemblage of material that is being screened from view, whichever height is greater. All sides of the enclosure structure, including doors or gates, shall be opaque.

(3) All commercial and industrial operation on any lot in the Overlay Zone shall be contained within a building.
(1985 Code, § 36-7-4-600(4.5.3)) (Am. Ord. 12-2008, passed 4-15-2008)

AIR SPACE CONTROL AREA DISTRICTS

§ 153.100 DEFINITIONS.

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

AIRPORT. Marion Municipal Airport.

AIRPORT ELEVATION. The highest point of an airport's usable landing area measured in feet from sea level.

HAZARD TO AIR NAVIGATION. An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

HEIGHT. For the purpose of determining the height limits in all zones and surfaces set forth in this chapter and shown on the Marion Municipal Airport Imaginary Surfaces Map, Airport Height Restrictions Map, and Airport Noise Sensitive Area Map, the datum shall be mean sea level elevation unless otherwise specified.

HELIPORT PRIMARY SURFACE. The area of the primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.

LARGER THAN UTILITY RUNWAY. A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

NONPRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

OBSTRUCTION. Any structure, growth or other object, including a mobile object, which exceeds a limiting height set forth in § 153.102.

PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

PRIMARY SURFACE. A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is:

- (1) Two hundred fifty feet for utility runways having only visual approaches.
- (2) Five hundred feet for utility runways having nonprecision instrument approaches.
- (3) For other than utility runways the width is:
 - (a) Five hundred feet for visual runways having only visual approaches.
 - (b) Five hundred feet for nonprecision instrument runways having visibility minimums greater than three-fourths statute mile.
 - (c) One thousand feet for a nonprecision instrument runway having a nonprecision instrument approach with visibility minimums as low as three-fourths of a statute mile, and for precision instrument runways.
- (4) The width of the primary surface of a runway will be that width prescribed in this section for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

RUNWAY. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

STRUCTURE. An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, electronic transmission or receiving towers, buildings used for a noise sensitive purpose, landfills, and antennae and overhead transmission lines.

TREE. Any object of natural growth.

UTILITY RUNWAY. A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

VISUAL RUNWAY. A runway intended solely for the operation of aircraft using visual approach procedures with no

straight-in instrument approaches planned.

(1985 Code, § 36-7-4-600(4.8)) (Am. Ord. 19-2010, passed 10-19-2010)

§ 153.101 AIRPORT ZONES, SURFACES AND AREAS.

(A) In order to carry out the provisions of this chapter, there are created and established certain surfaces and areas which include all of the land lying beneath the noise sensitive area, approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Marion Municipal Airport. Such surfaces are shown on Marion Municipal Airport Imaginary Surfaces Map, Airport Height Restrictions Map, and Airport Noise Sensitive Area Map consisting of three sheets, and dated May 10, 2010 which is attached to this chapter and is made a part hereof. For height limitation purposes, an area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

(B) The various surfaces are established and defined as follows.

(1) *Utility runway visual approach surface.* The inner edge of this approach surface coincides with the width of the primary surface and is 500 feet wide. The approach surface expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(2) *Utility runway nonprecision instrument approach surface.* The inner edge of this approach surface coincides with the width of the primary surface and is 500 feet wide. The approach surface expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(3) *Runway larger than utility visual approach surface.* The inner edge of this approach surface coincides with the width of the primary surface and is 500 feet wide. The approach surface expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the runway.

(4) *Runway larger than utility with a visibility minimum greater than 3/4 mile nonprecision instrument approach surface.* The inner edge of this approach surface coincides with the width of the primary surface and is 500 feet wide. The approach surface expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline runway.

(5) *Runway larger than utility with a visibility minimum as low as 3/4 mile nonprecision instrument approach surface.* The inner edge of this approach surface coincides with the width of the primary surface and is 1,000 feet wide. The approach surface expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(6) *Precision instrument runway approach surface.* The inner edge of this approach surface coincides with the width of the primary surface and is 1,000 feet wide. The approach surface expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(7) *Heliport approach surface.* The inner edge of this approach surface coincides with the width of the primary surface and is 100 feet wide. The approach surface expands outward uniformly to a width of 500 feet at a horizontal distance of 4,000 feet from the primary surface.

(8) *Transitional surface.* These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

(9) *Heliport transitional surface.* These surfaces extend outward from the sides of the primary surface and the heliport approach surface a horizontal distance of 250 feet from the primary surface and centerline and the heliport approach surface centerline.

(10) *Horizontal surface.* A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging 10,000 feet arcs from the center of the each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The horizontal surface does not include the approach and transitional surfaces.

(11) *Conical surface.* The conical surface is established as the area that commences at the periphery of the horizontal surface and extends outward and upward at a slope of 20 to one for a horizontal distance of 4,000 feet.

(12) *Noise sensitive area.* An area lying 1,500 feet on either side of the centerline and the extended centerline of a runway for a distance of one nautical mile from the boundaries of any public use airport.

(1985 Code, § 36-7-4-600(4.8)) (Am. Ord. 19-2010, passed 10-19-2010)

§ 153.102 HEIGHT AND USE LIMITATIONS.

(A) Except as otherwise provided in this chapter, no structure shall be erected, altered or maintained, and no tree shall be allowed to grow in any surface created by this chapter to a height in excess of the applicable height limit herein established

for such surface.

(B) Such applicable height limitations are established for each of the surfaces in question as follows.

(1) *Utility runway visual approach surface.* Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

(2) *Utility runway nonprecision instrument approach surface.* Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

(3) *Runway larger than utility visual approach surface.* Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

(4) *Runway larger than utility with a visibility minimum greater than 3/4 mile nonprecision instrument approach surface.* Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

(5) *Runway larger than utility with a visibility minimum as low as 3/4 mile nonprecision instrument approach surface.* Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

(6) *Precision instrument runway approach surface.* Slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

(7) *Heliport approach surface.* Slopes eight feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a distance of 4,000 feet along heliport approach surface centerline.

(8) *Transitional surfaces.* Slope seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface and extending to a height of 150 feet above the airport elevation which is 859 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface and extending to where they intersect the conical surface. Where the precision instrument runway approach surface project beyond the conical surface, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

(9) *Heliport transitional surface.* Slope two feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the heliport approach surfaces and extending a distance of 250 feet measured horizontally from and at 90 degree angles to the primary surface centerline and heliport approach surfaces and centerline.

(10) *Horizontal surface.* Established at 150 feet above airport elevation or at a height of 1,009 feet above mean sea level.

(11) *Conical surface.* Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal surface and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

(12) *Excepted height limitations.* Nothing in this chapter shall be construed as prohibiting the construction or maintenance of any structure or growth of any tree to a height up to 50 feet above the surface of the land.

(C) Except as otherwise provided in this chapter, no person shall erect a structure used for a noise sensitive purpose within the noise sensitive area as defined by this chapter and by I.C. 8-21-10.

(D) Except as otherwise provided in this chapter, no person shall develop a landfill within 10,000 feet of any Marion Municipal Airport runway end, in accordance with 329 IAC 10-16-1, Municipal Solid Waste Landfills, Location Restrictions.

(E) Except as otherwise provided in this chapter, uses that the FAA determines will increase the possibility of aircraft bird strikes such as ponds, waste disposal operations, wastewater treatment plants, certain agricultural applications and other uses that are considered wildlife attractants (as defined by FAA AC 150/5200-33B, Hazardous Wildlife Attractants Near Airports) shall be prohibited within the horizontal surface, unless specifically approved on the airport proper by the FAA, and are discouraged within five statute miles of a Marion Municipal Airport runway end.

(1985 Code, § 36-7-4-600(4.8)) (Am. Ord. 19-2010, passed 10-19-2010)

§ 153.103 USE RESTRICTIONS.

Notwithstanding any other provisions of this chapter, no use may be made of land within any surface established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of the pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way

endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

(1985 Code, § 36-7-4-600(4.8)) (Am. Ord. 19-2010, passed 10-19-2010)

§ 153.104 NONCONFORMING USES.

(A) *Regulations not retroactive.* The regulations prescribed by this chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this chapter or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this chapter and is diligently prosecuted.

(B) *Marking and lighting.* Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the airport to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport.

(1985 Code, § 36-7-4-600(4.8)) (Am. Ord. 19-2010, passed 10-19-2010)

§ 153.105 PERMITS.

(A) *Future uses.*

(1) Except as specifically provided herein, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any surface created unless a permit therefore shall have been applied for and granted. Each application for a permit shall include evidence that a Determination of No hazard to Air Navigation has been issued by the FAA per Federal Aviation Regulation (FAR) Part 77, Objects Affecting Navigable Airspace (and all amendments, revisions, or superseding laws) for the structure or demonstrate that notice to the FAA was not required. Each application shall also include evidence that a permit for the structure has been issued from the Indiana Department of Transportation per I.C. 8-21-10, Regulation of Tall Structures (and all amendments, revisions, or superseding laws) or demonstrate that a permit from the Indiana Department of Transportation was not required. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this chapter shall be granted unless a variance has been approved in accordance with § 153.105(D). In the area lying within the limits of the horizontal surface, conical surface and transition surface no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such surfaces.

(2) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this chapter except as set forth in § 153.102(B)(12)).

(B) *Existing uses.* No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this chapter or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(C) *Nonconforming uses abandoned or destroyed.* Whenever the Commission determines that a nonconforming tree or structure has been abandoned or more than 80% torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(D) *Variances.* Any person desiring to erect or increase the height of any structure, permit the growth of any tree or use property not in accordance with the regulations prescribed in this chapter may apply to the Board of Zoning Appeals for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal, application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, in accordance with the spirit of this chapter. Additionally, no application for variance to the requirements of this chapter may be considered by the Board of Zoning Appeals unless a copy of the application has been furnished to the Marion Board of Aviation Commissioners for advice as to the aeronautical effects of the variance. If the Marion Board of Aviation Commissioners does not respond to the application within 21 days after receipt, the Board of Zoning Appeals may act on its own to grant or deny said application.

(E) *Obstruction marking and lighting.* Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Zoning Appeals, this condition may be modified to require the owner to permit the airport at its own expense to install, operate, and maintain the necessary markings and lights.

(1985 Code, § 36-7-4-600(4.8)) (Am. Ord. 19-2010, passed 10-19-2010)

§ 153.106 ENFORCEMENT.

It shall be the duty of the Commissioner to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Commission upon a form published for that purpose. Applications required by this chapter to be submitted to the Commission shall be promptly considered and granted or denied. Application for action by the Board of Zoning Appeals shall be forthwith transmitted by the Commission.

(1985 Code, § 36-7-4-600(4.8)) (Am. Ord. 19-2010, passed 10-19-2010)

SPECIAL EXCEPTION USES

§ 153.120 USE STANDARDS.

The following special exception uses shall meet the following requirements, unless otherwise varied by the Board, in addition to all other requirements of this chapter.

(A) *Airport.*

- (1) Minimum lot area: 80 acres.
- (2) Distance to a residential use: 100 feet.
- (3) Distance of parking to residential use: 100 feet.
- (4) Distance of loading to residential use: 100 feet.
- (5) Required fence/wall: 6 feet wire mesh.
- (6) Required five year planting screen abutting residential uses: 6' x 3'.
- (7) Permitted entrances to arterial or collector: 2.

(B) *Anhydrous ammonia facility.*

- (1) Minimum lot area: 80 acres.
- (2) Front setback: 300 feet.
- (3) Side setback: 300 feet.
- (4) Rear setback: 300 feet.
- (5) Distance to residential use: 300 feet.

(C) *Auto carwash.*

- (1) Side setback: 25 feet.
- (2) Rear setback: 25 feet.
- (3) Minimum distance to residential district: 50 feet.
- (4) Required fence/wall: 6 feet solid wall.
- (5) Required five year planning screen abutting residential uses (height x width): 6' x 3'.
- (6) Number of entrances to arterial or collector: 2.

(D) *Auto body shop/painting.* Minimum distance to residential district: 50 feet.

(E) *Cemetery or crematory.*

- (1) Minimum lot area: 20 acres.
- (2) Side setback: 5 feet.
- (3) Rear setback: 15 feet.
- (4) Required five year planting screen abutting residential uses (height x width): 6' x 3'.
- (5) Number of entrances to arterial or collector: 1.

(F) *Commercial facility for raising fowl and animals*

- (1) Minimum lot area: 3 acres.
- (2) Front setback: 100 feet.
- (3) Side setback: 100 feet.

- (4) Rear setback: 100 feet.
 - (5) Minimum distance to residential district: 25 feet.
 - (6) Distance parking or loading to residential district: 100 feet.
 - (7) Required five year planting screen abutting residential uses (height x width): 6' x 3'.
 - (8) Number of entrances to arterial or collector: 1.
- (G) *Day care or home care nursery.*
- (1) Side setback: 20 feet.
 - (2) Rear setback: 15 feet.
 - (3) Required fence/wall: 4' wire fence.
 - (4) Required five year planting screen abutting residential uses (height x width): 6' x 3'.
 - (5) Number of entrances to arterial or collector: 1.
- (H) *Farm confinement feeding facility.*
- (1) Required fence/wall: 6' woven wire.
 - (2) Required five year planting screen abutting residential uses (height x width): 6' x 6'.
 - (3) Number of entrances to arterial or collector: 2.
- (I) *Junk yard.*
- (1) Minimum lot area: 10 acres.
 - (2) Front setback: 300 feet.
 - (3) Side setback: 300 feet.
 - (4) Rear setback: 300 feet.
 - (5) Minimum distance to residential district: 1320 feet.
 - (6) Distance parking or loading to residential district: 1320 feet.
 - (7) Minimum distance to any arterial: 300 feet.
 - (8) Required fence/wall: 8' solid opaque.
 - (9) Required five year planting screen abutting residential uses (height x width): 6' x 3'.
 - (10) Number of entrances to arterial or collector: 1.
- (J) *LP gas dealer.*
- (1) Front setback: 300 feet.
 - (2) Side setback: 300 feet.
 - (3) Rear setback: 300 feet.
- (K) *Manufacture, storage and use of explosives.*
- (1) Front setback: 300 feet.
 - (2) Side setback: 300 feet.
 - (3) Rear setback: 300 feet.
 - (4) Minimum distance to residential district: 300 feet.
 - (5) Number of entrances to arterial or collector: 1.
- (L) *Material storage, open.*
- (1) Front setback: 300 feet.
 - (2) Side setback: 300 feet.
 - (3) Rear setback: 300 feet.
 - (4) Minimum distance to residential district: 300 feet.
- (M) *Mineral extraction and topsoil storage.*

- (1) Front setback: 150 feet.
 - (2) Side setback: 150 feet.
 - (3) Rear setback: 150 feet.
 - (4) Minimum distance to residential district: 300 feet.
 - (5) Distance parking or loading to residential district: 300 feet.
 - (6) Required five year planting screen abutting residential uses (height x width): 6' x 3'.
 - (7) Number of entrances to arterial or collector: 1.
- (N) *Outdoor commercial recreation enterprise.*
- (1) Minimum distance to residential district: 25 feet.
 - (2) Required five year planting screen abutting residential uses (height x width): 8' x 3'.
 - (3) Number of entrances to arterial or collector: 2.
- (O) *Penal or correctional institution.*
- (1) Minimum lot area: 320 acres.
 - (2) Front setback: 100 feet.
 - (3) Side setback: 100 feet.
 - (4) Rear setback: 100 feet.
 - (5) Minimum distance to residential district: 300 feet.
 - (6) Distance parking or loading to residential district: 300 feet.
 - (7) Number of entrances to arterial or collector: 1.
- (P) *Petroleum tank farm, commercial.*
- (1) Front setback: 300 feet.
 - (2) Side setback: 300 feet.
 - (3) Rear setback: 300 feet.
- (Q) *Police or fire station.*
- (1) Distance parking or loading to residential district: 10 feet.
 - (2) Required five year planting screen abutting residential uses (height x width): 6' x 3'.
- (R) *Public campground.*
- (1) Minimum lot area: 5 acres.
 - (2) Front setback: 100 feet.
 - (3) Side setback: 40 feet.
 - (4) Rear setback: 40 feet.
 - (5) Distance parking or loading to residential district: 25 feet.
 - (6) Required five year planting screen abutting residential uses (height x width): 8' x 3'.
 - (7) Number of entrances to arterial or collector: 1.
- (S) *Public sewage disposal facility.*
- (1) Front setback: 300 feet.
 - (2) Side setback: 300 feet.
 - (3) Rear setback: 300 feet.
 - (4) Minimum distance to residential district: 300 feet.
 - (5) Required five year planting screen abutting residential uses (height x width): 6' x 3'.
 - (6) Number of entrances to arterial or collector: 1.
- (T) *Public or private sanitary landfill or transfer station*

- (1) Minimum lot area: 10 acres.
- (2) Front setback: 300 feet.
- (3) Side setback: 300 feet.
- (4) Rear setback: 300 feet.
- (5) Required fence/wall: 8' solid painted.
- (6) Required five year planting screen abutting residential uses (height x width): 6' x 3'.
- (7) Number of entrances to arterial or collector: 1.
- (8) Special approvals:
 - (a) No landfill to operate in the city without prior approval by ordinance;
 - (b) Each landfill or transfer station shall have written approval of the solid waste district in which the city participates.

(U) *Racetrack.*

- (1) Side setback: 40 feet.
- (2) Rear setback: 40 feet.
- (3) Required five year planting screen abutting residential uses (height x width): 8' x 6'.
- (4) Number of entrances to arterial or collector: 1.

(V) *Riding stables.*

- (1) Minimum lot area: 5 acres.
- (2) Front setback: 100 feet.
- (3) Side setback: 100 feet.
- (4) Rear setback: 100 feet.
- (5) Required 5 year planting screen abutting residential uses (height x width): 6' x 3'.
- (6) Number of entrances to arterial or collector: 1.

(W) *Sales barn for livestock resale.*

- (1) Front setback: 300 feet.
- (2) Side setback: 300 feet.
- (3) Rear setback: 300 feet.
- (4) Minimum distance to residential district: 300 feet.
- (5) Distance parking or loading to residential district: 100 feet.
- (6) Number of entrances to arterial or collector: 1.

(X) *Sales of sexually-explicit materials.*

- (1) Minimum distance to residential district: 125 feet.
- (2) Required fence/wall: 6' woven wire.
- (3) Number of entrances to arterial or collector: 1.
- (4) Other requirements:
 - (a) No closer to another of same use than 2640 feet;
 - (b) No closer to public park, campground, swimming pool, public recreational lands, church or temple or public or private school, college or university than 1320 feet;
 - (c) No closer to home or day care, hospital or nursing home than 660 feet.

(Y) *Shooting range, outdoor.*

- (1) Side setback: 40 feet.
- (2) Rear setback: 40 feet.
- (3) Required five year planting screen abutting residential uses (height x width): 8' x 6'.

- (4) Number of entrances to arterial or collector: 1.

(Z) *Slaughterhouse.*

- (1) Minimum lot area: 6 acres.
- (2) Front setback: 300 feet.
- (3) Side setback: 300 feet.
- (4) Rear setback: 300 feet.
- (5) Minimum distance to residential district: 300 feet.
- (6) Distance parking or loading to residential district: 300 feet.
- (7) Required fence/wall: 6' solid painted.
- (8) Required five year planting screen abutting residential uses (height x width): 6' x 6'.
- (9) Number of entrances to arterial or collector: 1.

(AA) *Stadium/coliseum/athletic field.*

- (1) Minimum lot area: 5 acres.
- (2) Side setback: 50 feet.
- (3) Rear setback: 50 feet.
- (4) Distance parking or loading to residential district: 50 feet.
- (5) Required five year planting screen abutting residential uses (height x width): 6' x 6'.
- (6) Number of entrances to arterial or collector: 2.

(BB) *Storage of disabled vehicles.*

- (1) Minimum lot area: 3 acres.
- (2) Front setback: 100 feet.
- (3) Side setback: 100 feet.
- (4) Rear setback: 100 feet.
- (5) Minimum distance to residential district: 50 feet.

(CC) *Temporary mobile home.*

- (1) Special requirements:
 - (a) Limited to relatives or employees of residents of principal dwelling;
 - (b) Time limit to be specified by the Board;
 - (c) Two additional off-street parking spaces.

(DD) *Travel trailer park.*

- (1) Minimum lot area: 5 acres.
- (2) Front setback: 100 feet.
- (3) Side setback: 40 feet.
- (4) Rear setback: 40 feet.
- (5) Setback from interior street: 50 feet.
- (6) Distance parking or loading to residential district: 25 feet.
- (7) Required five year planting screen abutting residential uses (height x width): 6' x 3'.
- (8) Number of entrances to arterial or collector: 2.

(EE) *Truck service center.*

- (1) Minimum lot area: 1 acre.
- (2) Minimum distance to residential district: 50 feet.
- (3) Required fence/wall: 6' solid painted.

(4) Required five year planting screen abutting residential uses (height x width): 6' x 3'.

(5) Number of entrances to arterial or collector: 1.

(FF) *Veterinarian hospital for small animals.*

(1) Minimum distance to residential district: 50 feet.

(2) Required fence/wall: 6' wire mesh abutting residential use.

(3) Number of entrances to arterial or collector: 1.

(GG) *Warehouse, grain.*

(1) Minimum lot area: 3 acres.

(2) Front setback: 100 feet.

(3) Side setback: 75 feet.

(4) Rear setback: 75 feet.

(5) Distance parking or loading to residential district: 100 feet.

(6) Required five year planting screen abutting residential uses (height x width): 6' x 3'.

(7) Number of entrances to arterial or collector: 1.

(HH) *Wholesale produce terminal.*

(1) Minimum lot area: 15 acres.

(2) Front setback: 100 feet.

(3) Side setback: 75 feet.

(4) Rear setback: 75 feet.

(5) Minimum distance to residential district: 300 feet.

(6) Distance parking or loading to residential district: 100 feet.

(7) Required fence/wall: 6' wire mesh.

(8) Required five year planting screen abutting residential uses (height x width): 6' x 3'.

(9) Number of entrances to arterial or collector: 1.

(1985 Code, § 36-7-4-600(5.0)) (Am. Ord. 19-2010, passed 10-19-2010)

§ 153.121 PROCEDURE.

(A) (1) The special exceptions listed in the districts as provided in this chapter and their accessory buildings and uses may be permitted by the Board in the districts indicated, in accordance with the procedure set forth in this section.

(2) The special exceptions listed are those customarily located in the community. When an appeal is taken to the Board upon the denial of an application for an improvement location permit for a use not specifically stated or implied elsewhere in these regulations and not listed, the Board shall refer the matter of this proposed use to the Commission for consideration of an amendment to the regulations.

(B) Upon receipt of an application for an improvement location permit for a special exception by the Zoning Administrator, it shall be referred to the Commission for investigation as to the manner in which the proposed location and character of the special exception will affect the Comprehensive Plan. The Commission shall report the results of its study to the Board within. The Board shall then proceed with a hearing on the application in the manner prescribed in the ordinance adopting these regulations. Following the hearing and upon an affirmative finding by the Board that:

(1) The proposed special exception is to be located in a district wherein such use may be permitted; and

(2) The requirements set forth in the district and this section for such special exception will be met; and

(3) The special exception is consistent with the spirit, purpose, and intent of these regulations, will not substantially and permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare, the Board shall order the Zoning Administrator to issue an improvement location permit for the special exception.

(C) Commitments regarding a special exception use may be required or accepted by the Board in the manner provided in § 153.180.

(D) An existing use which is listed herein as a special exception, and which is located in a district in which such special exception may be permitted, is a conforming use. Any expansion of such special exception involving the enlargement of the buildings, structures and land area devoted to such use shall be subject to the procedures described in this section.

(1985 Code, § 36-7-4-600(6.0))

§ 153.122 SPECIAL PROVISIONS.

(A) An improvement location permit for a special exception may not be issued until the application has been approved by the Board and the Zoning Administrator has been notified by the Board of the approval.

(B) Special exceptions may be revoked as follows.

(1) If a person to whom an improvement location permit has been issued for a shopping center or a planned development fails to begin construction within 24 months after the permit is issued, fails to complete 30% of the total plan within 36 months after the permit is issued or within 12 months after construction was begun (whichever period expires later), or fails to comply with the approved plan, he may be required upon written request of any interested person to show cause why the permit should not be revoked. However, an order to show cause may not be issued for failure to begin construction on time if in the meantime construction has begun.

(2) If a person to whom an improvement location permit has been issued subject to this chapter fails to comply with the provisions and conditions of the special exception as granted by the Board within 24 months from the date of approval of the special exception, or other period as specified by the Board as a condition of approval of the special exception, he may be required upon written request of any interested person to show cause why the permit should not be revoked. However, an order to show cause may not be issued for failure to comply with such provisions if in the meantime construction has begun. If construction has begun, the Board may direct the Zoning Administrator to proceed with enforcement procedures as outlined in this chapter.

(3) In a proceeding to show cause under subsections (1) or (2), the Board shall hold a public hearing, of which written notification shall be published according to law and sent by registered mail to the holder of the permit. This notice must be published and mailed at least ten days before the date set for the hearing.

(4) At the hearing, evidence may be presented by any person present. If on the evidence the Board finds that the holder of the permit has filed as described in subsection (1), it shall revoke the permit. However, if it considers the failure correctable within six months, it may defer revocation and continue the hearing until a specified day within that period.

(C) Upon application by the holder of any improvement location permit for a shopping center or planned development, the Board may change the plan on which the permit is based. The Board shall handle the application as if it were an original application for an improvement location permit for a special exception. If it approves the application, the Board shall notify the Zoning Administrator who shall issue an amended permit reflecting the approved change.

(1985 Code, § 36-7-4-600(6.1))

PLANNED DEVELOPMENTS

§ 153.135 GENERAL.

This subchapter constitutes the PUD District ordinance as specified in I.C. 36-7-4-1502, and the zoning ordinance text as specified in I.C. 36-7-4-1506.

(1985 Code, § 36-7-4-600(8.0))

§ 153.136 DESIGNATION OF PUD DISTRICTS.

(A) PUD Districts are in effect as overlay districts and are supplemental to the underlying districts as designated on a zoning map. The underlying district's requirements do not apply to a PUD.

(B) Appendix A specifies three types of PUD Districts: Commercial PUD, Industrial PUD or Residential PUD. Each District is defined and is located as follows.

(1) The Commercial PUD District, PC, overlays the following underlying districts: LB, AB, CC, CB, PB, AG, RS, GB, SC, I1, I2, I3, and AZ. PUD's allowed in this district will be designated a commercial PUD and the largest use category (residential, commercial, industrial) must be commercial (SIC Divisions G (except 6513, 6514, and 6515), H, I, (except Group 88 and 8361) and J.).

(2) The Industrial PUD District, PI, overlays the following underlying districts: AB, AG, RS, GB, SC, I1, I2, I3, and AZ. PUD's allowed in this district will be designated an Industrial PUD and the largest use category (residential, commercial, industrial) must be industrial (SIC Divisions C, D, and F).

(3) The Residential PUD District, PR, overlays the following underlying districts: AG, RS, R1, R2, R3, R4, R5, PB, and AZ. PUD's allowed in this district will be designated a Residential PUD and the largest use category (residential, commercial, industrial) must be residential (SIC Group 88, 6513, 6514, and 8361).

(4) PUD's with the largest use category consisting of multi purpose commercial/industrial developments (flex space) that has all industrial (in that category) activity contained in a building with no airborne emissions, other than necessary for conditioning of space, will be considered a Commercial PUD.

(5) Allowable uses in each PUD District are defined in Appendix A. The Hearing Officer or the Commission in a secondary review hearing may further restrict permitted uses and their location, size, or relationship to other uses (to include buffering or methods of operations).

(1985 Code, § 36-7-4-600(8.1))

§ 153.137 SECONDARY REVIEW.

A secondary review hearing for a Planned Development shall be subject to the conditions set forth in the remainder of this subchapter (in addition the regular procedure for platting approval must subsequently be followed when the development will include subdivision of land for transfer).

(1985 Code, § 36-7-4-600(8.2))

§ 153.138 HEARING OFFICER.

The Executive Director of the City of Marion Advisory Plan is appointed as Hearing Officer, as specified in I.C. 36-7-4-402(d), 37-4-924 and 36-7-4-1509 and will conduct secondary reviews in a hearing in accordance with the above notice in accordance with I.C. 36-7-4-604(B) and (C). The hearing officer is authorized to modify permitted uses or development requirements, impose conditions or require written commitments.

(1985 Code, § 36-7-4-600(8.3))

§ 153.139 PRELIMINARY LAND USE PLAN.

A planned development may not be approved under this chapter unless the applicant first submits a land use plan and applies for secondary review with the Hearing Officer.

(A) For this purpose, the applicant must submit two copies of a preliminary land use plan for the proposed development containing the following information for staff review:

(1) The proposed layout, in relationship to site conditions, streets, buildings, lots and other elements basic to the proposed use;

(2) The proposed locations of residential, commercial, industrial, park, school, recreational, multi use commercial/industrial and other public and semi-public uses as development areas (bubble) as a minimum in terms of districts listed in § 153.021, whose non-use development standards will apply (together with statement of proposed/desired modifications of permitted uses and district requirements) within the area proposed to be developed, as well as existing land uses;

(3) The proposed plan for handling vehicular traffic, parking, sewage disposal, drainage, water supply and other site development;

(4) The preliminary land use plan shall be superimposed upon a print of an acceptable topographic survey of the area proposed to be developed and may include other graphic media for explaining the features to be contained in the development.

(B) The preliminary land use plan may and the final development plan shall contain the following items:

(1) Detailed site plan as outlined in §153.145;

(2) Covenants as may be required by the Commission;

(3) Written approval of all utility plans from the appropriate utility;

(4) Drainage and erosion control plan with written approval from the City Engineer as outlined in §§152.115 and 152.116.

(C) The application for a planned development must be submitted to the Hearing Officer, together with three copies of the plan for the lands together with supporting documents, including proof of financial capability to insure completion of the development and addressed envelopes for neighboring parcel owners, statements of desired modifications proposed commitments and any suggested conditions.

(D) Upon submittal the Hearing Officer will schedule a hearing immediately, providing for ten days due notice to interested parties by publication and posting the property. The petitioner may not contact the Hearing Officer within five days prior to the hearing in order to influence a decision.

(E) The Hearing Officer will conduct the hearing IAW I.C. 36-7-4-402(d) and 36-7-4-924 and minutes will be recorded. The Hearing Officer will evaluate the proposal based on considerations listed. The evaluation will be based on the impact of development on the site and neighboring sites, including but not limited to the following considerations: contiguous development, soils, slopes, drainage, wetlands, utility availability, odors, and its presence abutting zoning districts in a designated growth zone. The Hearing Officer, the petitioner and attending abutting neighbors may reach a consensus for approval. The Hearing Officer's decision is accepted if no appeal is filed in 14 days. The petition will be transferred to the Advisory Plan Commission if an appeal is filed within 14 days by the petitioner or interested party.

(F) The Hearing Officer will comply with § 153.140(C) if the petition is approved.

(G) If the development requires an exempt, major or minor subdivision of land, the plat/plan must subsequently be submitted in accordance with the subdivision ordinance to the Department/Commission, together with supporting documents, including proof of financial capability to insure completion of the development.

(1985 Code, § 36-7-4-600(8.4)) (Am. Ord. 19-2005, passed 7-5-2005)

§ 153.140 PROCEDURES FOR PLAN COMMISSION REVIEW/APEAL.

(A) An appealed planned unit development must comply with this chapter.

(B) The Commission shall carefully consider said land use plan and the recommendations of the Hearing Officer. The Commission may approve and recommend the land use plan as submitted, or it may modify, alter, adjust, or amend the plan or the Commission may disapprove the plan.

(C) If an appeal and if approved, all three copies of the land use plan shall be stamped conditionally approved and be signed by the officers of the Commission, one copy to be retained in the Commission file, one copy to be included in its report to the Jurisdiction Board, and one copy to be furnished to the applicant. The Commission's findings shall be recorded in the minutes of the Commission meeting. Said plan with any amendments thereto, together with a finding as to whether the proposed development is consistent with the Comprehensive Plan of the city, as the case may be, shall constitute the Commission's report to the jurisdiction.

(D) If the development is before the Commission for a subdivision approval then the plan and plat may contain a proposed later division of the land into separate units under one ownership or into one or more separately owned and operated unit. If approved with the plan, such a proposed division of land may be made without further approval of the Plan Commission. A later (or further) division of the land may be made upon application to the Commission for approval as long as it is consistent with the approved land use plan. The separation of units for the purposes of platting must comply with the subdivision regulations of the Comprehensive Plan.

(E) The applicant shall furnish the Commission with a guarantee for any required improvements, as specified in Title III of the Comprehensive Plan.

(1985 Code, § 36-7-4-600(8.5))

§ 153.141 APPROVAL; EXPIRATION.

(A) Approval by the Hearing Officer and/or Commission expires two years immediately following approval, unless the Hearing Officer or Commission has granted an extension of time or approved a phasing plan. A final development plan for each approved development area (bubble) shall be completed within this designated two year period. The Hearing Officer may hear revision petitions but if the revision changes require modification of land subdivision (beyond those that are exempt from the subdivision regulation) or modification of written commitments imposed by the Plan Commission, the revision must be heard by the Plan Commission.

(B) Minor changes to the land use plan may be approved administratively (without hearing) by the Director. **MINOR** is defined as alteration of each district or improvement such that relative positions are maintained and district does not shrink or grow more than 15% in size. (Elimination of districts or modifying uses is not minor).

(1985 Code, § 36-7-4-600(8.6))

§ 153.142 CONDITIONS.

(A) A planned development may contain residential, commercial, industrial, professional, or multi purpose uses as an integral part of the development as delineated in Appendix A (bubbles designated residential will be limited to those uses designated for RS – R5 by an S or X), but it may not include mobile homes or a mobile home park. Bubbles designated as a business district or multi purpose must contain uses entirely within a building.

(B) Upon the abandonment of a planned development, or upon the expiration of a one year period after authorization during which a development has not been begun (or begun with an extension of time granted under § 153.141), the authorization for it expires. Public improvements shall be completed (as specified in Title III of the Comprehensive Plan or specified improvements) within two years and will be stated as such in the required guarantee.

(C) If in approving a plan/plat the Hearing Officer or Commission finds it desirable that modifications to be made to the provisions of this chapter in regards to uses or development standards., they may do so.

(D) The district requirements (other than use) that the proposed use development areas (bubble) are expressed in terms of § 153.021 shall be the governing requirements except those expressly modified in the hearing.

(E) The land involved must be in one ownership or the subject of an application filed:

- (1) Jointly by the owners of all property included (including the holder of any written option); or
- (2) By any governmental agency.

(F) The proposed development must be designed to produce an environment of stable and desirable character in keeping with the principles of good neighborhood design. It must include adequate open space and provide for parking areas adequate for the occupancy proposed or otherwise in compliance with this chapter. It must provide for recreation areas to meet the needs of the anticipated population or as specified in the Comprehensive Plan.

(G) No improvement location permit or certificate of occupancy may be issued unless all requirements, conditions, and specifications shown on the land use and development plans and supporting documents have been met.

(H) At the appropriate time, the area may be rezoned to cover such uses as may be permitted in the completed development.

(1985 Code, § 36-7-4-600(8.7))

§ 153.143 PRIVATE STREETS.

(A) Private street rights-of-way and pavements in a planned development shall be constructed in conformity with the minimum street specifications prescribed by Title III of the Comprehensive Plan, except as otherwise modified by the Commission or Hearing Officer as part of the land use or by the Commission in a plat. Exceptions must take account of the street circulation system shown in the development plan. Pavement width may not be less than that required by the appropriate participating jurisdiction.

(B) At or near the entrance of each private street not dedicated as a public street, the applicant or the private organization shall maintain a signpost carrying a sign, having an area of at least 15 inches by 21 inches, on which is printed and clearly legible in at least two-inch letters the name of the private street and the words "PRIVATE STREET" and in at least one-inch letters the words "NOT DEDICATED FOR PUBLIC USE OR MAINTAINED BY THE PUBLIC." The material on the sign shall be arranged substantially as follows:

(NAME OF STREET)

PRIVATE STREET

NOT DEDICATED FOR PUBLIC USE

OR MAINTAINED BY THE PUBLIC

(C) Private streets shall be maintained by the owners, or by the private organizations, so that fire, police, health, school, or sanitation vehicles and public utility vehicles have adequate access. Adequate access includes an adequate turning area.

(1985 Code, § 36-7-4-600(8.8))

§ 153.144 COVENANTS.

When required by the Commission or Hearing Officer, covenants must include at least the following provisions satisfactory to the Commission.

(A) Adequate provision for an organization with direct responsibility to, and control by, the property owners involved to provide for the operation and maintenance of any common facilities jointly shared by those owners.

(B) A financial guarantee:

(1) That satisfactory maintenance will be provided for any common facilities in accordance with standards prescribed by the property owner's organization and set forth in the covenants; and

(2) That the facilities will be operated and maintained at no expense to the city or any other governmental unit as may be applicable.

(1985 Code, § 36-7-4-600(8.9))

§ 153.145 DETAILED DEVELOPMENT PLAN.

Within two years and prior to any improvement location permit being issued, the petitioner shall file a detailed development plan for each land use development plan for each land use development area (bubble) designated by the land use plan.

(A) The purpose of the development plan is to enable the Department to make a finding that the proposed development is in conformity with the intent and provisions of the conditions and requirements of the secondary review and to guide the Director in the issuance of permits. The site plan shall be drawn to scale and shall indicate clearly and with full dimensioning the following information:

(1) Lot dimensions, where applicable;

(2) All buildings and structures: locations, elevations, size, height, proposed use;

(3) Yards and distances between buildings;

- (4) Walls and fences: location, height and materials;
- (5) Off-street parking: location, number and size of spaces and dimensions of parking area, internal circulation pattern;
- (6) Access: pedestrian, vehicular, service: points of ingress and egress, internal circulation;
- (7) Signs: location, dimensions, number of spaces, internal circulation;
- (8) Loading: location, dimensions, number of spaces, internal circulation;
- (9) Lighting: location and general nature, dimension;
- (10) Common facilities and open spaces: location, dimensions;
- (11) Public and private roads: location, dimensions, circulation;
- (12) Sewage and drainage: with evidence of a satisfactory means of sewage disposal and surface drainage, to be reviewed by the Utilities Engineer and approved by the City Engineer and City Planning Director; (See §§ 52.105, 152.115, and 152.116)
- (13) Fire hydrants: location (if provided);
- (14) Screening, vegetation, fencing or buffering.

(B) The Director shall review each administratively and make written findings as to compliance with the land use plan and conditions or commitments imposed and the terms of the Advisory Zoning Ordinance.

(1985 Code, § 36-7-4-600(8.10)) (Am. Ord. 19-2005, passed 7-5-2005)

IMPROVEMENT LOCATION PERMITS

§ 153.160 APPLICABILITY.

(A) No special exception may be granted, and no other change in the use of land that involved a change in any structure on or in any land or in the condition of the land may be made unless the Zoning Administrator, on application, issues an improvement location permit authorizing the change. However, permits shall not be required for agricultural building and uses, except those buildings used in farm confinement feeding operations; provided, however, that agricultural buildings shall be subject to the setback requirements as specified in the applicable districts.

(B) The filing documents for an improvement location permit shall be submitted 30 days prior to the next scheduled meeting of the technical review committee along with the fee amount set forth in the fee schedule adopted by the Commission. That amount shall be deposited in the City General Funds. The Plan Commission will hold a technical review meeting. The petitioner or his or her agent(s) are encouraged to come to the meeting.

(C) The provisions of this chapter are supplemental to and do not abrogate the powers extended to agencies, bureaus, departments, Commissions, divisions or officials of the state or federal governments by state or federal statutes.

(D) Work shall commence on each improvement approved on any ILP within one year from the date of issue. If no process is made during that year, or any subsequent year, the permit shall be considered void and a new permit shall be required for reinitiation of the work.

(E) The ILP shall expire two years from date of issuance.

(1985 Code, § 36-7-4-600(9.1)) (Am. Ord. 19-2005, passed 7-5-2005)

§ 153.161 CERTIFICATE OF OCCUPANCY.

(A) No application for an improvement location permit may be considered unless the applicant has also applied for a certificate of occupancy.

(B) No land or structure with respect to which a permit has been issued may be used for the purpose contemplated by their permit unless the Zoning Administrator, after the change is completed, issues a certificate of occupancy stating that the change complies with this chapter and with the permit.

(C) The filing fee for a certificate of occupancy shall be an amount set forth in the fees schedule adopted by the Commission. This amount shall be included in the improvement location fee and shall be deposited in the City General Fund.

(D) Within ten days after the completion of the change authorized by the improvement location permit, the Zoning Administrator shall inspect the premises and, if the change conforms to this chapter and the improvement location permit, and a certificate of compliance if required has been obtained, he shall issue a certificate of occupancy.

(E) Before an occupancy permit shall be issued, all required on-site (outside the right-of-way) and off-site (within the right-of-way) infrastructure improvements, including required off-street parking, shall have either been completed or, if not completed, the permittee shall have entered into an agreement with the city, as the case may be, to complete such work

within six months from the date of the issuance of the permit. The Director may extend the completion date for one additional six-month period upon written request of the permittee upon a showing of good cause therefore. Such an agreement shall be secured either by cash deposited with city, as the case may be, a cash deposit in the irrevocable escrow approved by the Director, or other financial security approved by the Director as the equivalent thereof. Such security shall be in the amount of 100% of the estimated cost of completion to be determined by the said Director. In the event such work is not completed within the period provided or any extension thereof, the city, as the case may be, shall be authorized to take all necessary action to enforce the agreement, including the use of city, as the case may be, or in the escrow, may be partially released to the depositor by said Director during the progress of the work so long as the same ratio of security is maintained on deposit to secure all uncompleted work.

(1985 Code, § 36-7-4-600(9.2))

§ 153.162 SITE PLAN.

(A) Any person who shall make application for an improvement location permit shall, at the time of making such application, furnish the Zoning Administrator with:

(1) In case of a single-family, two-family or agricultural building or use: a plot plan;

(2) For all other uses: a detailed site plan of the land upon which said application for an improvement location permit is made. Such application shall be made at least five days prior to the issuance of said improvement location permit, which five day period may be waived by the Zoning Administrator. Said plot plan or detailed site plan shall be drawn to scale showing the following items:

(a) 1. The location of the land concerned;

2. The location and size of all buildings or structures already on the land and those to be erected;

3. The width of all entrances to and exits from the land; and

4. All adjacent street and highways;

5. Drainage structures or plans as approved by the City Utilities Engineer and the City of Marion Engineer for projects on permits of one acre or more as outlined in § 152.116.

(b) Detailed site plan (see § 153.142. Plans so furnished shall be kept by the Zoning Administrator as permanent records.

(B) For an airport, a heliport, a hospital, an industrial park, a mobile home park or travel trailer park, a penal or correctional institution, a private recreation development, or a public utility substation or exchange, the plan furnished must also include a plan for landscape development and the manner of handling surface and internal drainage and disposing of such drainage to a suitable outlet and a report on soil capabilities prepared by a soil scientist.

(C) As a condition of issuing a permit, the Zoning Administrator may require the relocation of any structure or of any entrance or exit or the inclusion of an entrance or exit not shown on the plan, if the requirement is necessary in the interest of the public welfare or to an appropriate balancing of the interests of persons in the district and vicinity concerned.

(1985 Code, § 36-7-4-600(9.3)) (Am. Ord. 19-2005, passed 7-5-2005; Am. Ord. 19-2010, passed 10-19-2010)

ADMINISTRATION

§ 153.175 ZONING ADMINISTRATOR.

The office of Zoning Administrator is established. The Zoning Administrator has the principal responsibility of enforcement of this chapter.

(1985 Code, § 36-7-4-600(10.1))

§ 153.176 BOARD OF ZONING APPEALS.

(A) *Establishment and organization.*

(1) The Marion Board of Zoning Appeals is established. No other divisions or boards shall exist.

(2) The membership of Marion of the Board of Zoning Appeals shall be established as provided by state law.

(3) The Marion Board of Zoning Appeals shall have exclusive jurisdiction to hear and act upon appeals involving realty located within the corporate boundaries of the City of Marion.

(4) The Marion Board of Zoning Appeals shall have such duties and powers as are designated for such Boards of Zoning Appeals under Indiana law (I.C. 36-7-4), as amended or changed from time to time.

(1985 Code, § 36-7-4-600(10.2))

(B) *Hearings.* Upon application for a special exception or variance, and upon appeal from a decision of the Zoning Administrator or Director, the Board shall hold a public hearing. Public notice setting forth the time and place shall be given at least ten days before the date of the hearing in a newspaper of general circulation in the city. Interested parties shall be notified as provided by the Board. The cost of such notices shall be borne by the person applying or appealing.

(1985 Code, § 36-7-4-600(10.3))

§ 153.177 VARIANCES.

(A) The Board may grant a variance with respect to specific property or an intended use if, after a public hearing under § 153.138, it finds that:

- (1) The grant will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) The use or value of the area subject to the property included in the variance will not be adversely affected;
- (3) The need for the variance arises from some condition peculiar to the property involved and does not exist in similar property in the same district; and
- (4) The strict application of the terms of the ordinance will constitute an unusual and unnecessary hardship as applied to the property for which a variance is sought.

(B) The Board shall not grant a variance regarding the following:

- (1) From a use district or classification;
- (2) The extension the time permitted for a temporary mobile home beyond that specified in the original special exception permit.

(C) The Board may require or accept a recorded commitment regarding a variance in the form and manner as provided in § 153.180.

(D) Variances involving minor deviations:

(1) When in public interest, the Director may consider and render decisions on applications involving minor deviations from the provisions of this chapter, limited to the following:

- (a) Lot area requirements may be reduced by not more than 10% of that required in the District;
 - (b) Yard requirements may be reduced by permitting portions of a building or structure to extend into and occupy not more than 10% of the area of a required yard;
 - (c) Maximum building heights may be increased by not more than 10%.
- (2) Such decision shall be based on the provisions of § 153.181.
 - (3) The Director shall make a decision within 15 days of the date of filing such application.
 - (4) The Director shall report his findings and decisions to the Board of Zoning Appeals at its next regular or special meeting.
 - (5) Any person requesting such minor variance may appeal the decision of the Director as provided in this chapter.

(1985 Code, § 36-7-4-600(10.7))

§ 153.178 APPEALS.

(A) A decision of the Zoning Administrator enforcing this chapter may be appealed to the Board by any person who is adversely affected by the decision. The filing fee shall be an amount set forth in the fee schedule adopted by the Commission and shall be deposited in the City General Fund. The appeal shall be filed within 30 days from the date of any order, decision, determination, issuance, or denial of an improvement location permit. The appeal shall be in writing in the form prescribed by the Department.

(B) On an appeal under § 153.999, the Board may make any decision that the Zoning Administrator might have made.

(C) A decision of the Board is subject to review by certiorari.

(1985 Code, § 36-7-4-600(10.8))

§ 153.179 AMENDMENTS.

(A) All amendments to this chapter shall be in accordance with I.C. 36-7-4-600 *et seq.*

(B) The Commission and/or the city may require or accept a recorded commitment regarding an amendment, as provided in § 153.180.

(C) When an application is filed to change property from one district to another the following procedure shall be used by

the staff.

(1) *Verification of petition.* The Director shall verify the completeness of the application and the date of verification shall be noted on the application.

(2) *Planning Department investigation.* The Advisory Planning Department shall send a copy of the application to the following agencies for their review and comments:

- (a) County soil and Water Conservation District;
- (b) County Drainage Board.

(3) *Review.* Each official or agency shall review the application and submit their comments in writing to the Director within ten days.

(4) *Report.* The Director shall then prepare a report to the Advisory Plan Commission, setting forth his findings and those of the above review agencies in regard to the proposed amendment.

(1985 Code, § 36-7-4-600(10.9))

§ 153.180 COMMITMENTS.

(A) *General.* A written commitment by the owner of a parcel of property concerning the use or development of the said parcel may be required or permitted as a condition to approval of procedures as follows.

(B) *Amendments.*

(1) This section shall apply only to a development plan as a requirement for an amendment to the zoning maps incorporated herein this chapter, pursuant to state law.

(2) The Plan Commission may permit or require the owner of a parcel of property to make a written commitment concerning the proposed use or development of that parcel.

(a) The commitment shall be submitted and approved prior to a recommendation being certified to a participating jurisdiction of an amendment.

(b) The commitment shall be in a form satisfactory to the Director and to the attorney of the appropriate participating jurisdiction.

(c) The commitment shall be recorded by the owner in the office of the County Recorder prior to adoption of the amendment ordinance by the participating jurisdiction. The commitment shall take effect upon the adoption of the amendment to the ordinance.

(d) Unless modified or terminated by the Commission, the commitment shall be binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel.

(e) The commitment may be modified or terminated by the Commission only after a public hearing following public notice to the appropriate participating jurisdiction and to adjacent property owners as provided in the Commission's adopted rules and procedures.

(f) This section does not affect the validity of any covenant, easement, equitable servitude, or other land use restriction created in accordance with law.

(C) *Special exceptions and variances.*

(1) This section shall apply only to a development plan as a requirement for a special exception or variance to this chapter, pursuant to state law.

(2) The Board may permit or require the owner of a parcel of property to make a written commitment concerning the proposed use or development of that parcel.

(a) The commitment shall be submitted and approved prior to a decision on the special exception or variance.

(b) The commitment shall be in a form satisfactory to the Director and to the attorney of the Board.

(c) The commitment shall be recorded by the owner in the office of the County Recorder prior to approval of the special exception or variance. The commitment shall take effect upon the approval of the special exception or variance.

(d) Unless modified or terminated by the Board, the commitment shall be binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel.

(e) The commitment may be modified or terminated by the Board only after a public hearing and following public notice to the adjacent property owners as provided for petitions in the Board's adopted rules and procedures.

(f) Conditions imposed on the granting of a special exception or variance is not subject to the rules applicable to commitments.

(g) This section does not affect the validity of any covenant, easement, equitable servitude, or other land use

restriction created in accordance with law.

(1985 Code, § 36-7-4-600(10.10))

§ 153.181 ENFORCEMENT.

(A) The Administrator or any person may, by suit in the Circuit or Superior Courts of the county, enjoin the violation of this chapter.

(B) The Commission or the Board may, by mandatory injunction in the Circuit or Superior Courts of the county, require the removal of a structure erected in violation of this chapter.

(C) A use that violates this chapter shall be treated as if it were a common nuisance and it may be abated in the same manner of such a nuisance or through any other enforcement procedure permitted by statute.

(D) The Administrator may issue an order to any person erecting any structure or using any land in violation of this chapter to immediately cease the violation of the provisions of this chapter. Such stop work order shall be in force only until a mandatory injunction is secured as provided in division (B) above.

(1985 Code, § 36-7-4-600(10.4))

§ 153.182 INTERPRETATIONS.

The Administrator may request that the Board advise the Administrator when a zoning boundary line, use classification, or other requirement of this chapter is unclear or vague. The Administrator shall comply with the Board's interpretation when such a request is made to the Board. Such interpretations shall apply in all similar and subsequent cases.

(1985 Code, § 36-7-4-600(10.6))

§ 153.999 PENALTY.

Any person who violates any provision of this chapter shall be deemed to have committed an ordinance violation and, upon conviction, shall be fined as determined by § 10.99. Each day a violation continues after a legal action has been commenced to abate that nuisance shall constitute a separate violation. No additional notice under this section shall be required to initiate these separate actions once an action has been commenced against the person violating this chapter.

(1985 Code, § 36-7-4-600(10.5))

APPENDIX A: AUTHORIZED USES

X = Permitted Use

P = May be permitted in a PUD in the designated overlay district after hearing

S = Special exception (See §§ 153.135 *et seq.* for special requirements)

Primary Use	AG	RS	R1	R2	R3	R4	R5	PB	AB	LB	CB	CC	GB	SC	I1	I	I3	AZ	MH	PC	PI	PR
Primary Use	AG	RS	R1	R2	R3	R4	R5	PB	AB	LB	CB	CC	GB	SC	I1	I	I3	AZ	MH	PC	PI	PR
Miscellaneous Repair Services																						
Electrical repair shop										X	X		X	X						P	P	P
Reupholstery & furniture repair										X			X							P	P	P
Watch & jewelry repair										X	X	X	X	X						P	P	P
Other SIC 76 uses										X			X							P	P	P
Miscellaneous Services																						
Advertising agencies												X	X	X	X	X				P	P	P
Advertising structures										X	X	X		X	X	X				P	P	P
Blueprinting & photocopying							S			X	X	X								P	P	P
Commercial testing laboratories							S			X		X		X	X	X				P	P	P
Computer programming services							X		X	X	X	X	X	X						P	P	P
Consumer credit, adjustment & collection agencies							S			X	X	X		X						P	P	P
Detective agencies & protective services							S			X	X	X								P	P	P
Direct mail advertising services										X	X	X		X						P	P	P

Disinfecting & exterminating services												X		X	X	X			P	P	P
General office building							S			X	X	X							P	P	P
Private employment agencies							S			X	X	X		X					P	P	P
Signs	X	X					X	X	X	X	X	X	X	X	X	X	S	X	P	P	P
Stenographic or telephone answering and/or paging service offices							X			X	X	X							P	P	P
Temporary help supply services							S			X	X	X							P	P	P
Other uses - SIC 73, 8999							S			X	X	X							P	P	P
Machine shops														S	X	X			P	P	P
Manufacturing, storage or use of explosives	S														X	X				P	
Material storage (open)	S														X	X				P	
Petroleum tank farm (commercial)	S														S	X			P	P	
Truck freight terminal SIC 421														X	X	X			P	P	P
Warehouse (grain storage facilities)	S											S		S	X	X			P	P	P
Warehouse (storage)										X		S		X	X	X			P	P	P
Welding shops														S	X	X			P	P	P
Wholesale business										X		X		S	X	X			P	P	P
Temporary concrete & asphalt batching plants	S	S												S	X	X				P	
Wholesale produce terminal	S													S	X	X			P	P	P
Other uses SIC Div. C & D; SIC 20-39	S	S												S	X	X			P	P	P
Legal Services																					
Attorney or counsel-at-law								X		X	X	X	X	X					P	P	P
Miscellaneous Personal Services																					
Accounting, auditing and bookkeeping services								X		X	X	X	X	X					P	P	P
Engineering and architectural services								X		X	X	X	X	X					P	P	P
Real estate services								X		X	X	X	X	X					P	P	P
Other similar uses SIC 87; SIC 65; SIC 8748								S		X	X	X	X	X					P	P	P
Medical Services																					
Blood banks								X					X						P	P	P
Clinics								S		X	X		X						P	P	P
Convalescent homes						X	X	X											P	P	P
Hospitals						X	X	X											P	P	P
Medical & dental laboratories								X			X	X	X	X					P	P	P
Medical & dental offices								X		X	X	X	X	X					P	P	P
Nursing home						X	X	X					X						P	P	P
Optometrists office and/or laboratories								X			X	X	X	X					P	P	P
Other similar uses SIC 80								X			X		X						P	P	P
Retail Trade; Apparel and Accessory Stores																					
Apparel shop										X	X	X	X	X					P	P	P
Children's & infant's wear										X	X	X	X	X					P	P	P
Custom tailors										X	X	X	X	X					P	P	P
Family clothing										X	X	X	X	X					P	P	P
Furrier & fur shops										X	X	X	X	X					P	P	P
Men's & boy's clothing furnishings										X	X	X	X	X					P	P	P
Shoes										X	X	X	X	X					P	P	P

Women's accessories & specialties										X	X	X	X	X							P	P	P
Other similar uses SIC 56; Div G										X	X	X	X	X							P	P	P
Retail Trade; Eating and Drinking Establishments																							
Cafeteria										X	X	X	X	X	X						P	P	P
Carry out restaurant										X	X	S		X	S						P	P	P
Dinner theater												X	S	X	X						P	P	P
Drive in restaurant										X	S	S		X	X						P	P	P
Lunch room										X	X	X	X	X	X						P	P	P
Night club												X	X	X	S						P	P	P
Restaurant										X	X	X	X	X	X						P	P	
Tavern											X	X	X	X	S						P	P	
Other similar uses SIC 58												X		X	X						P	P	P
Retail Trade – Food Stores																							
Candy, nut and confectionary											X	X	X	X	X						P	P	P
Dairy products											X	X		X	X						P	P	P
Delicatessen											X	X	X	X	X						P	P	P
Fruits & vegetables											X			X	X						P	P	P
Grocery											X	X		X	X						P	P	P
Health foods											X	X	X	X	X						P	P	P
Ice cream											X	X	X	X	X						P	P	P
Live poultry sales														X							P	P	P
Meat & fish											X			X	X						P	P	P
Retail bakeries baking & selling											S			X	X						P	P	P
selling only											X			X	X						P	P	P
Supermarket											X			X	X						P	P	P
Other similar use SIC 54											X			X	X						P	P	P
Retail Trade: Furniture, Home Furnishings & Equipment Stores																							
China, glassware & metalware												X	X	X	X						P	P	P
Drapery, curtain & upholstery												X		X	X						P	P	P
Floor coverings												X		X	X						P	P	P
Furniture												X	X	X	X						P	P	P
Furniture & appliance rental												X	X	X	X						P	P	P
Household appliances												X	X	X	X	X					P	P	P
Music & record												X	X	X	X	X					P	P	P
Radio & television shop												X	X	X	X	X					P	P	P
Other similar uses SIC 57												X		X	S						P	P	P
Retail Trade: General Merchandise																							
Department store												X	X	X	X						P	P	P
Electrical supply store												X	X	X	X						P	P	P
General merchandise store												X	X	X	X						P	P	P
Hardware store												X	X		X	X					P	P	P
Lumber & building materials dealers													X	X	X		X	X			P	P	P
Mobile home dealers														X		X					P	P	
Paint, glass & wallpaper stores												X	X		X	X					P	P	P
Plumbing, heating & air conditioning dealers												S	X		X		X				P	P	P
Variety stores												X	X	X	X	X					P	P	P
Other similar uses SIC 52-53													S		S	S					P	P	P
Retail Trade: Miscellaneous Retail Stores																							
Antique & secondhand stores												X			X						P	P	P

Bait sales	S									X			X						P	P	P
Bicycle shops										X			X	X					P	P	P
Boat sales													X						P	P	P
Book & stationary stores										X	X	X	X	X					P	P	P
Camera & photographic supply stores										X	X	X	X	X					P	P	P
Cigar stores										X	X	X	X	X					P	P	P
Drug & proprietary stores										X	X	X	X	X					P	P	P
Farm & garden supply	S									X			X	X					P	P	P
Florists										X	X	X	X	X					P	P	P
Gift, novelty & souvenir shops									X	X	X	X	X	X					P	P	P
Hobby, toy & game shops										X	X	X	X	X					P	P	P
Jewelry store										X	X	X	X	X					P	P	P
Liquor store										X	X	X	X	X					P	P	P
Monument sales													X		X				P	P	P
News dealers									X	X	X	X	X	X					P	P	P
Pet shop										X	X	X	X	X					P	P	P
Sporting goods									X	X	X	X	X	X					P	P	P
Studio business										X	X	X	X	X					P	P	P
Trading stamp store										X	X	X	X	X					P	P	P
Other similar uses SIC 59										X	X	X	X	X					P	P	P
Convenience store with gasoline sales									X	X	X		X	X					P	P	P
Convenience store without gasoline sales										X	X		X	X				P	P	P	

Home professional office					X	X	X	X												P	P	P	
Hotel or motel (SIC 70)									X		X	X	X					S		P	P	P	
Lake, artificial or 3+ acres	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P	P	
Locker, cold storage for individual use	X									X			X	X						P	P	P	
Mineral extraction, burrow pit, topsoil removal & their storage areas	S														S	S	X						
Mini-warehouses													X		X	X	X			P	P	P	
Mobile home park																		X					
Newspaper publishing											X	X	X		X	X	X			P	P	P	
Shopping center													X	X						P	P	P	
Oil drilling & wells	X	S													S	S	X			P	P		
Petroleum extraction yards & storage	S															S	S			P	P		
Central Core Only - Other Personal Services																							
Other similar uses										X	X	S	X	X						P	P	P	
SIC 72											X	X	S	X	X						P	P	P

(1985 Code, § 36-7-4-600(Table 1)) (Am. Ord. 27-1975, passed 2-18-1976; Am. Ord. 27-1979, passed 11-21-1979; Am. Ord. 44-1981, passed 1-8-1982; Am. Ord. 2-1983, passed 2-2-1983; Am. Ord. 15-1985, passed 7-3-1985; Am. Ord. 05-2005, passed - -)

APPENDIX B: RESIDENTIAL USES AND DISTRICT REQUIREMENTS FOR SINGLE-FAMILY DWELLINGS

<i>District in Which Use is Permitted</i>	<i>AC</i>	<i>AG</i>	<i>RA</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>	<i>R4</i>	<i>R5</i>	<i>PB</i>	<i>AZ</i>
Min. lot area in sq. ft. per dwelling unit										
with sewers	87,120	30,000	15,000	12,000	10,000	8,000	8,000	6,000	6,000	12,000
without sewers	130,680	43,560	40,000	20,000	20,000	16,000	16,000	12,000	12,000	24,000
Min. lot width	150'	150'	100'	90'	75'	70'	60'	50'	50'	80'
Max. building height	35'	25'	25'	25'	25'	35'	35'	35'	35'	25'
Min. front yard										
Arterial highway	50'	50'	50'	40'	30	25'	20'	15'	15'	40'
Collector highway or local street	40'	40'	40'	30	20'	20'	15'	15'	15'	30
Min. side yard in % of lot width, but not less than 5', nor need be greater than 25'	10%	10%	10%	10%	10%	10%	10%	10%	10%	10%
Min. rear yard/main building	20'	20'	20'	20'	20'	20'	20'	20'	20'	20'
Accessory buildings	5'	5'	5'	5'	5'	5'	5'	5'	5'	5'
Min. distance between main & accessory buildings	15'	15'	15'	15'	15'	15'	15'	15'	15'	15'
Vision clearance on corner lots	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Min. ground floor building area in sq. ft.										
One-story dwelling	720	720	720	960	960	720	720	720	960	960
Multi-story dwelling	672	672	672	720	720	672	672	672	720	720

Number of off-street parking spaces to be provided on lot	2	2	2	2	2	2	2	2	2	2
Max. lot coverage in % of lot area	10	10	10	30	30	35	35	35	35	30

(1985 Code, § 36-7-4-600(Table 2a)) (Am. Ord. 14-A-1982, passed 8-16-1982)

APPENDIX C: RESIDENTIAL USES AND DISTRICT REQUIREMENTS FOR TWO-FAMILY AND MULTI-FAMILY DWELLINGS

<i>District in Which Use is Permitted</i>	<i>R3</i>	<i>R4</i>	<i>R5</i>	<i>PB</i>	<i>CB</i>	<i>CC(1)</i>
<i>District in Which Use is Permitted</i>	<i>R3</i>	<i>R4</i>	<i>R5</i>	<i>PB</i>	<i>CB</i>	<i>CC(1)</i>
Minimum lot size in sq. ft.	8,000	8,000	6,000	6,000	6,000	—
Minimum lot area in sq. ft. per dwelling unit						
Multi-family						
With sewers	4,000	2,000	1,000	1,000	1,000	
Without sewers	6,000	4,000	2,000	2,000	2,000	—
Two-family						
With sewers	6,000	4,000	2,000	2,000	2,000	
Without sewers	12,000	8,000	4,000	4,000	4,000	—
Minimum lot width	80'	50'	50'	50'	50'	—
Maximum building height	35'	45'	60'	60'	60'	—
Minimum front yard						—
Arterial highway	25'	25'	20'	20'	20'	
Collector highway or local street	20'	20'	15'	15'	15'	
Minimum side yard in % of lot width, but not less than 5' (2)	10%	10%	10%	10%	10%	—
Minimum rear yard (2)	20'	20'	15'	15'	15'	—
Minimum distance between main and accessory buildings	20'	20'	20'	20'	20'	—
Minimum distance between main buildings	25'	25'	25'	25'	25'	—
Vision clearance on corner lots	Yes	Yes	Yes	Yes	—	—
Minimum ground floor building area in sq. ft.						—
One-story dwelling	720 + 400/D.U.	672 + 400/D.U.	672 + 300/D.U.	672 + 300/D.U.	672 + 200/D.U.	
Multi-story dwelling	672 + 400/D.U.	672 + 300/D.U.	672 + 200/D.U.	672 + 200/D.U.	672 + 100/D.U.	
Number of vehicle parking spaces to be provided on lot	2/D.U.	2/D.U.	1½/D.U.	1½/D.U.	1½/D.U.	—
Maximum lot coverage in % of lot area	35%	40%	50%	50%	50%	—
(1) Subject to special exception permit						
(2) All minimum yard requirements increased by five feet for each story over three, except in CC District						

(1985 Code, § 36-7-4-600(Table 2b)) (Am. Ord. 14-A-1982, passed 8-16-1982)

APPENDIX D: COMMERCIAL AND INDUSTRIAL REQUIREMENTS

<i>District in Which Use is Permitted</i>	<i>PB</i>	<i>AB</i>	<i>LB</i>	<i>CB</i>	<i>CC</i>	<i>GB</i>	<i>SC</i>	<i>I1</i>	<i>I2</i>	<i>I3</i>	<i>AZ</i>
Minimum front yard in feet											
Arterial highway	25'	40'	30'	—	—	20'	30'	30'	25'	20'	40'
Collector highway or local street	20'	30'	25'	—	—	15'	25'	25'	20'	15'	30'
Minimum side yards											
Adjoining residential district	10'	20'	15'	15'	10'	15'	15'	30'	30'	30'	30'
Not adjoining residential district	5'	15'	10'	10'	—	10'	10'	10'	—	—	10'
Minimum street side yard	5'	15'	10'	5'	—	5'	15'	10'	—	—	10'

Minimum rear yard											
Adjoining residential district	20'	25'	20'	5'	5'	5'	20'	25'	25'	25'	25'
Not adjoining residential district	10'	15'	10'	—	—	—	10'	15'	—	—	15'
Maximum building height	35'	35'	35'	75'	—	75'	35'	—	—	—	35'
Maximum lot coverage in % of lot area	40%	50%	35%	—	—	75%	35%	75%	75%	75%	30%
Vision clearance on corner lots	Yes	Yes	Yes	—	—	Yes	Yes	Yes	Yes	Yes	Yes
Off-street parking - sq. ft. of parking space per sq. ft. of building area (1)	2	2	2	2	—	2	(2)	(2)	(2)	(2)	(2)
(1) To be applied to all uses, except those listed in § 153.047											
(2) Requirements of § 153.047 apply											

(1985 Code, § 36-7-4-600(Table 3)) (Am. Ord. 44-1981, passed - -)

APPENDIX E: OFF-STREET PARKING REQUIREMENTS

<i>Use/District</i>	<i>AG</i>	<i>RS/R1/R2/ R3/R4/R5</i>	<i>PB/AB/ LB</i>	<i>CC</i>	<i>SC/GB/ CB</i>	<i>I1/I2/I3</i>	<i>AZ</i>	<i>MH</i>
Agriculture uses SIC 01/02/07/08/09	1	—	1	0	—	1	1	—
Amusement and recreation uses SIC 78/79	2	2	2	0	3	2	2	—
Industrial uses SIC 10/12/13-17/20-39/9050/51/5 9/61	1	—	—	0	—	1	1	—
Institutional uses SIC 43/805/806/82	2	2	2	0	3	2	2	2
Large product retail & services SIC 52/55/5712/5722	—	—	4, 11	0	3, 4	4, 11	—	—
Nonclassified uses SIC 99	BZA	BZA	BZA	0	BZA	BZA	BZA	BZA
Office & business services SIC 60-65/67/73/80/81/83/86/87	—	5, 11	5, 11	0	3, 11	5, 11	—	—
Residential uses SIC 99	6, 7, 8	6, 7, 8, 9	6, 7, 8, 9	0	—	—	—	10
Retail & service uses SIC 53/54/56-59/70/72/75/76/89	5	—	5, 11	0	3, 11	—	—	—
Transportation & utility uses SIC 40-42/44-49	2	2	2	0	3	1	2	2
Multiple purpose/multiple unit leased commercial complexes with variable office, industrial, retail uses & space open to the public	—	—	12	—	12	12	12	—

BZA = As determined by Board of Zoning Appeals

— = Not applicable

0 = No spaces required

1 = 1 parking space per 2 employees

2 = 1 parking space per 2 or average number of employees, customers and users on site at one time

3 = 1 parking space per 100 square feet of sales area and other areas open for public use and access

4 = 1 parking space per 400 square feet gross floor area

5 = 1 parking space per 200 square feet gross floor area

6 = 2 parking spaces per single family dwelling unit

7 = 1.5 parking spaces per multifamily dwelling unit

8 = 1 parking space per bedroom for boarding house, cooperative, tourist home and similar group uses

9 = 2 parking spaces per home professional business or customary home occupation, in addition to dwelling unit requirement

10 = 2 parking spaces per mobile home & 1 per 2 employees

11 = Applies to Marion only. When development is a standard design structure/site for a chain or franchise designed by a professional, parking requirements can be based on documentation (provided by the developer in writing) of parking needs

of established and successful similar development. These requirements can be established by the Advisory Plan Department at its discretion without the need for public hearing

12 = 1 parking space per 150 square feet gross floor area

APPENDIX F: PARKING LOT STANDARDS

<i>Dimension</i>	<i>Angle</i>					
	<i>30</i>	<i>37.5</i>	<i>45</i>	<i>60</i>	<i>75</i>	<i>90</i>
Parking at Wall						
Stall width, parallel to line	9.0	9.0	9.0	9.0	9.0	9.0
Stall width, parallel to aisle	18.0	14.7	12.7	10.3	9.4	9.0
Stall length of line	29.3	27.5	24.5	21.8	19.7	18.0
Stall depth to wall	14.0	15.6	16.8	18.6	18.9	18.0
Offset	13.5	9.3	6.4	2.6	0.6	0.0
Setback	10.9	11.0	10.5	8.1	4.4	0.0
Parking at Interlock						
Stall width, parallel to line	9.0	9.0	9.0	9.0	9.0	9.0
Stall width, parallel to aisle	18.0	14.8	12.7	10.4	9.4	9.0
Stall length to aisle	25.8	23.9	22.5	20.6	19.2	18.0
Stall depth to interlock	12.9	14.5	16.0	17.8	18.5	18.0
Offset	13.5	9.3	6.4	2.6	0.6	0.0
Setback	15.6	14.3	12.7	9.0	4.7	0.0
Parking at Curb						
Stall width, parallel to line	9.0	9.0	9.0	9.0	9.0	9.0
Stall width, parallel to aisle	18.0	14.7	12.7	10.3	9.4	9.0
Stall length of line	25.7	23.2	21.4	19.0	17.2	15.6
Stall depth to curb	12.9	14.1	15.2	16.5	16.6	15.6
Bumper overhang	1.2	1.4	1.7	2.7	2.3	2.4
Offset	13.5	9.3	6.4	2.6	0.7	0.0
Setback	15.6	13.8	12.0	8.2	4.1	0.0
Aisle/Module Dimensions						
Aisle width between stall lines	12.0	12.0	12.0	15.0	22.0	22.0
Cross aisle, one-way	14.0	14.0	14.0	14.0	14.0	14.0
Cross aisle, two-way	22.0	22.0	22.0	22.0	22.0	22.0
Module, wall to wall	40.0	43.2	45.6	52.2	59.8	58.0
Module, wall to curb	38.8	41.8	43.9	49.5	57.5	55.6
Module, wall to interlock	38.9	42.1	44.8	51.4	59.4	58.0
Module, curb to curb	37.6	41.8	43.1	48.7	57.1	55.6
Module, interlock to interlock	37.8	41.0	44.0	50.6	59.0	58.0
Module, interlock to curb	36.6	39.6	42.3	47.9	56.7	55.6