

CHAPTER 157: ZONING

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GENERAL PROVISIONS

§ 157.001 TITLE.

This chapter shall be known as, referred to, and cited as the "Zoning Ordinance of Seymour, Indiana," and is hereinafter referred to as "this Ordinance."

(Ord. 17, 2006, passed 11-27-2006)

§ 157.002 AUTHORITY.

This chapter is adopted under the authority granted by the 600 Series of § 36-7-4 of the Indiana Code and amendments thereto.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.003 PURPOSE.

This chapter is adopted for the following purposes:

- (A) Securing adequate light, air, convenience of access, and safety from fire, flood, and other danger;
- (B) Lessening or avoiding congestion in public ways;
- (C) Promoting the public health, safety, comfort, morals, convenience, and general welfare;
- (D) Implementing the Comprehensive Plan; and
- (E) Otherwise accomplishing the purposes I.C. 36-7-4.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.004 APPLICABILITY AND JURISDICTION.

The provisions of this chapter shall apply to all structures, lands, water, and air within the city and its extraterritorial jurisdictional area, including property owned by city, county, state, or federal agencies, to the extent allowed by law.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.005 COMPLIANCE.

(A) *Compliance required.* No structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, structurally altered, used, or occupied without full compliance with the provisions of this chapter and all other applicable city, county, and state regulations. An improvement location permit is required for any of the following:

- (1) Occupancy or use of any structure hereafter created, erected, changed, converted, or wholly or partly altered or enlarged;
- (2) Occupancy or use of vacant land, except for the raising of crops;
- (3) Change in the use of an existing structure to a different use;
- (4) Change in the use of land to a different use, except for the raising of crops; or
- (5) Change in the use or character of a nonconforming use.

(B) *Minimum requirements.* The provisions of this chapter shall be held to be minimum requirements necessary for the promotion of the public health, safety, and general welfare, and shall be liberally construed in favor of the city and shall not be construed to be a limitation or repeal of any other power now possessed by the city.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.006 CONFLICT.

(A) *Conflicts and relationship with other regulations.*

(1) When the provisions of this chapter are inconsistent with one another, or when the provisions of this chapter conflict with provisions found in other ordinances, codes, or regulations adopted by the city, the more restrictive provision shall govern unless the terms of the provisions specify otherwise.

(2) It shall be the developer's or applicant's responsibility to determine and comply with all other applicable city, county, state, or federal codes or regulations governing development and land use activities.

(B) *Relationship with private-party easements, covenants, or agreements.* This chapter is not intended to interfere with or abrogate any easements, covenants, or agreements between parties, provided that wherever this chapter proposes a greater restriction upon the use of buildings or land, upon the location or height of buildings or structures, or upon requirements for open areas than those that are imposed or required by such easements, covenants, or agreements between parties, the provision of this chapter shall govern. In no case shall the city be obligated to enforce the provisions of any easements, covenants, or agreements between parties.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.007 ZONING MAP.

(A) *Districts.* The city and its jurisdictional area are divided into zones or districts as shown on the official zoning map. This map is hereby adopted by reference and declared to be a part of this chapter. The map is on file in the Seymour City Hall and is available for public inspection during regular business hours. The map may consist of one or more sheets as necessary to accurately depict the boundaries. In the case of overlay districts, a district may be limited to the boundaries of a property containing a single building, structure, or site. The map may divide the overlay district into primary and secondary areas as follows:

- (1) *Primary area.* The principal area of significance.
- (2) *Secondary area.* An area adjacent to a primary area which has a visual relationship to the primary area and could

affect the preservation of the primary area. The purpose of designating a secondary area is to assure its compatibility and harmony with any adjacent primary area.

(B) *Official copy.* The official zoning map shall be identified by the signature of the Mayor and attested to by the Clerk-Treasurer, and bearing the seal of the city under the following words: "This is to certify that this is the Official Zoning Map referred to in Ordinance Number Ordinance No. 5, Council Bill 38, 1977 of the City of Seymour, Indiana," adopted May 23, 1977.

(C) *Amendments.* The zoning map may be amended from time to time as set forth in this chapter.

(D) *Damage.* In the event the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the City Council may direct the Plan Commission to prepare a new official zoning map which when adopted shall supersede the prior map. The new official zoning map may correct drafting or other errors or omissions in the prior map, but no such correction shall have the effect of amending the previous official zoning map. The new official zoning map shall be identified by the signature of the chair of the Mayor, attested to by the Clerk-Treasurer and bearing the seal of the city under the following words: "This is to certify that this Official Zoning Map supersedes and replaces on this day (date) the Official Zoning Map adopted May 23, 1977, as part of Ordinance Number Ordinance No. 5, Council Bill 38, 1977 of the City of Seymour, Indiana."

(E) *Preservation.* Unless the prior official zoning map has been lost or destroyed, the prior map or any significant part thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.008 SEVERABILITY.

If any court of competent jurisdiction rules any provision of this chapter invalid, that ruling shall not affect any provision not specifically included in the judgment. If any court of competent jurisdiction rules invalid the application of any provision of this chapter to a particular property, building, or other structure, or use, that ruling shall not affect the application of the chapter provisions to any property, building, other structure, or use not specifically included in the judgment.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.009 TRANSITIONAL RULES.

(A) *Effective date.* This chapter shall take effect after publication of the Notice of Adoption as provided by I.C. 36-7-4-610.

(B) *Violations continue.* Any violation under previous ordinances repealed by this chapter shall continue to be a violation under this chapter and be subject to penalties and enforcement under § 157.999, unless the use, development, construction, or other activity complies with the provisions of this chapter.

(D) *Nonconformities continue.* Any legal nonconformity under any previous ordinances repealed by this chapter is also a legal nonconformity under this chapter, as long as the situation that resulted in the nonconforming status under the previous ordinances continues to exist. If a nonconformity under the previous ordinances becomes conforming because of the adoption of this chapter, then the situation will no longer be a nonconformity.

(E) *Approved projects.*

(1) Any building, structure, or development for which a permit was issued prior to the effective date of this chapter may, at the applicant's option, be completed in conformance with the issued permit and any other applicable permits and conditions, even if such building, structure, or development does not fully comply with provisions of this chapter.

(2) If the building or structure is not completed within the time allowed under the original permit or any extension granted, then the building, structure, or development may be constructed, completed, or occupied only in compliance with this chapter.

(3) If construction is not commenced or completed according to the applicable permit terms, the building commissioner may, for good cause shown, grant an extension of up to one year for such construction under the terms of the previously applicable ordinance(s).

(4) Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.

(F) *Complete applications.*

(1) Any project for which a complete application was submitted and accepted by the city prior to the effective date of this chapter may, at the applicant's option, be reviewed wholly under the terms of the previous Zoning Ordinance. If approved, these projects may be carried out in accordance with the development standards in effect at the time of application. Any re-application for an expired permit shall meet the standards in effect at the time of re-application.

(2) A project for which no application has been submitted and accepted as complete prior to the effective date of this chapter shall be subject to all requirements and standards of this chapter.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.010 SUBDIVISION OF LAND

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Subdivision of land is permitted in all zoning districts, in accordance with the provisions of the Subdivision Control Ordinance.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.011 ZONING OF ANNEXED AREAS.

(A) *Zoning designation.* Any ordinance annexing into the city property that does not have zoning designation under this chapter shall be accompanied by an ordinance designating the zoning district for said property.

(B) *Rights-of-way.* Whenever an annexed area abuts a public right-of-way, including a street, alley, or other right-of-way, the entire abutting right-of-way shall be included within the property to be annexed.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.012 RULES OF INTERPRETATION.

(A) *Meanings and intent.* All provisions, terms, phrases, and expressions contained in this chapter shall be construed according to this chapter's stated purpose and intent.

(B) *Headings, illustrations, and text.* In case of any difference of meaning or implication between the text of this chapter and any heading, drawing, table, or figure, the text shall control.

(C) *Lists and examples.* Unless otherwise specifically indicated, lists of items or examples that use terms such as "including," "such as," or similar language are intended to provide examples, not to be exhaustive lists of all possibilities.

(D) *Computation of time.* Unless the terms of a specific provision state otherwise (e.g., some provisions specify "business days"), periods of time defined by a number of days shall mean a number of consecutive calendar days, including all weekend days, holidays, and other non-business/working days; however, if the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded.

(E) *References to other regulations and publications.* Whenever reference is made to a resolution, ordinance, statute, regulation, or document, that reference shall be construed as referring to the most recent edition of such regulation (as amended), resolution, ordinance, statute, regulation, or document or to the relevant successor document, unless otherwise expressly stated.

(F) *Delegation of authority.* Whenever a provision appears requiring the head of a department or another officer or employee of the city to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate the responsibility to subordinates, unless the terms of the provision specify otherwise.

(G) *Technical and nontechnical terms.* Words and phrases not otherwise defined in this chapter shall be construed according to the common and approved usage of the language, but technical words and phrases not otherwise defined in this chapter that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

(H) *Public officials and agencies.* All public officials, bodies, and agencies to which references are made are those of the city, Jackson County, or the State of Indiana, unless otherwise expressly stated. Whenever reference is made to a public official chapter or name of a public agency, that reference shall be construed as referring to the most up-to-date chapter or agency name, or to the relevant successor official or agency.

(I) *Mandatory and discretionary terms.* The word "shall" is always mandatory, and the words "may" or "should" are always permissive.

(J) *Conjunctions.* Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

- (1) And indicates that all connected items, conditions, provisions, or events shall apply; and
- (2) Or indicates that one or more of the connected items, conditions, provisions, or events shall apply.

(K) *Tenses and plurals.* Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular shall include the plural, and the plural shall include the singular.

(L) *Gender.* The masculine shall include the feminine, and vice versa.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.013 DEFINITIONS.

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

ACCESSORY STRUCTURE. Any temporary or permanent structure located on the same lot with the principal use and customarily incidental and subordinate to the principal building or use.

ACCESSORY USE. A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

ALLEY. A minor way that provides vehicular access to the back side of property that abuts a street.

ANIMAL SERVICE, MAJOR. A boarding kennel or other animal care use that includes outdoor runs or facilities, animal hospital or veterinary clinic, pet daycare, or similar use.

ANIMAL SERVICE, MINOR. A pet shop, pet grooming salon, pet supply store, or similar use.

ANTENNA. A device used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based structures.

ASSISTED LIVING FACILITY. Residences for the frail elderly or other persons in need of care that provide rooms, meals, personal care, and supervision of self-administered medications. Other services may be provided, including recreational activities, financial services, and transportation.

AUTOMOTIVE SERVICE, MAJOR. Any operation for servicing of automobiles that includes an outdoor area, yard or compound for parking vehicles over night; general repair, rebuilding or reconditioning of engines, motor vehicles, or trailers, including body work, frame work, welding and painting service; keeping or storing one or more unlicensed vehicles, or the remains thereof, for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale of scrap, storage or abandonment; or any similar use.

AUTOMOTIVE SERVICE, MINOR. Sale or dispensing of fuel; washing, detailing, or upholstering; replacement of any part or repair of any part that does not require the removal of the engine head or pan, engine, transmission or differential, incidental body and fender work, or minor painting applied to passenger automobiles, motorcycles, snowmobiles, small engines and trucks not exceeding 9,000 pounds rated capacity.

BED AND BREAKFAST USE. A single-family dwelling in which overnight accommodations and a morning meal are provided to transients for compensation.

BUILDING. Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal process, equipment, goods or materials of any kind.

BUILDING LINE. A line parallel to the street line touching that part of a building closest to the street.

BUILDING SCALE. The relationship between the mass of a building and its surroundings, including the width of street, open space, and mass of surrounding buildings. Mass is determined by the three-dimensional bulk of a structure: height, width, and depth.

BUSINESS SERVICE. An establishment primarily engaged in rendering financial or contractual services to businesses or individuals. These uses include but are not limited to financial institutions; insurance services, printing, mailing and packaging, photo finishing, billing services, employment services, protective services, and office equipment rental and leasing.

CAMPGROUND or RV PARK. A lot or parcel on which two or more tents, cabins, lean-tos, recreational vehicle or other similar object is established or maintained as temporary living quarters for recreation, education, or vacation purposes.

CLUB. An establishment operated for social, recreational or educational purposes that is open only to members and not to the general public.

CLINIC. An establishment in which patients are admitted on an outpatient basis by one or more physicians, dentists, other medical personnel, psychologists, or social workers and where patients are not usually lodged overnight.

COMMERCIAL CENTER. A group of four or more separately operated commercial establishments, planned, developed, owned, and managed as a unit, with common off-street parking provided on the property.

COMMERCIAL RECREATION. An establishment primarily engaged in providing recreational services to the general public, including auditorium, theater, bowling alley, billiard room, dance studio and amusement facility.

CONVENIENCE STORE. Any retail establishment not exceeding 3,500 square feet in area offering for sale prepackaged food products, household items, newspapers and magazines, along with other convenience items such as sandwiches, donuts, salads, coffee, and fountain drinks.

CONVENTIONAL SUBDIVISION. A subdivision in which all the land is divided into house lots and streets, with the only open space being undevelopable land such as wetlands, steep slopes, floodplains and stormwater management areas. Such subdivisions are laid out according to design principles that include but are not limited to blocks accommodating two tiers of lots, curvilinear or grid streets, and little or no common or public open space.

CUL-DE-SAC. A street with only one outlet and having a paved, usually circular, turn-around at one end.

DEVELOPMENT PLAN. A specific plan required by § 157.094 and in accordance with I.C. 36-7-4, the 1400 Series, showing the development details as required by § 157.094.

DISCONTINUANCE OF USE or ABANDONMENT. The relinquishment of property or a discontinuance of the use of the property by the owner or lessee for a continuous period of one year or more.

DRIVE-IN RESTAURANT. A food service establishment where food is consumed on the premises outside of fully enclosed buildings or structures.

DRIVE-THROUGH ESTABLISHMENT. Any portion of a building or structure from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle, which is usually left running, during such business transactions.

DWELLING. A structure or portion thereof that is used exclusively for human habitation.

(1) **DWELLING, SINGLE-FAMILY.** A building that contains one dwelling unit and is not attached to any other dwelling unit.

(2) **DWELLING, TWO-FAMILY.** A building that contains two dwelling units totally separated from each other by an unpierced wall extending from ground to roof.

(3) **DWELLING, MULTIFAMILY.** A building containing three or more dwelling units, including units that are located one over the other.

FAMILY. A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common management plan based on an intentionally structured relationship providing organization and stability. This definition does not including a group occupying a hotel, motel, club, nurses' home, dormitory, or fraternity or sorority house.

FENCE. An upright, freestanding structure made of wood, masonry, vinyl, or similar material and designed to enclose, screen, or separate areas. Fences may not be made from trash, inoperable or junk vehicles, barrels, or any other material not designed to be used as fencing.

FRONTAGE. The distance for which a lot line of a zone lot adjoins a public street, from one lot line intersecting such street to the farthest distant lot line intersecting the same street.

GARDEN SUPPLY CENTER. A premises used for the sale of plants and trees, fertilizer, bagged mulch, lawn ornaments and similar items.

GREENHOUSE. A building with a roof and sides made largely of a transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or personal use or enjoyment.

GUESTHOUSE. Living quarters within an accessory building for temporary use by guests of the occupants of the premises. Such quarters shall have no kitchen facilities and shall not be rented or otherwise used as a separate dwelling.

HEALTH SERVICE, MAJOR. An institution providing inpatient and outpatient primary health and wellness services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices, and staff residence.

HEALTH SERVICE, MINOR. An establishment providing outpatient health and wellness services. These uses include but are not limited to urgent care clinics, chiropractic services, medical and dental offices.

HEIGHT, BUILDING. The vertical distance from the average grade adjoining the walls of the structure to the average of the highest points of the roof surface of a flat roof; or to the deck line of a mansard roof; or the mean height level between eaves and ridge for a gable, hip or gambrel roof.

HEIGHT, SIGN. The distance measured in a vertical plane from grade at the edge of pavement of the adjacent street from which the property has immediate access to the highest point of the sign.

HOME-BASED BUSINESS. A business or profession that is clearly subordinate to a residential use, operated by occupants of the residence on the premises.

INDUSTRIAL PARK. A tract of land that is planned, developed, and operated as an integrated facility for several individual industrial uses, with consideration to transportation facilities, circulation, parking, utilities, aesthetics, and compatibility.

INFILL DEVELOPMENT. The construction of new buildings on scattered sites in built-up areas.

JUNK. Any scrap, waste, reclaimable material, or debris, that for sale, or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed, or other use or disposition.

JUNKYARD. Any area, lot, or other parcel of land used for the storage, collection, processing, purchase, sale, salvage, or disposal of junk.

KENNEL. A facility in which four or more dogs or other domesticated animals more than six months of age are housed, groomed, bred, boarded, trained, or sold.

LEGAL LOT OF RECORD. Lot created in accordance with applicable regulations that and shown or described on a plat or deed in the office of the County Recorder.

MANUFACTURED HOME. A factory-built, single-family structure that meets the National Manufactured Home

Construction and Safety Standards Act (42 U.S.C. Section 5401), commonly known as the HUD (U.S. Department of Housing and Urban Development) Code.

MANUFACTURED HOME PARK. A parcel of land containing 20 or more spaces, with required improvements and utilities, leased for the long-term placement of manufactured homes.

MANUFACTURING. The mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

MOBILE HOME. A structure transportable in one or more sections manufactured prior to June 15, 1976, which is the effective date of the Manufactured Home Construction and Safety Act of 1974. In the traveling mode, it is eight body feet or more in width at its narrowest dimension. When erected on site, it contains 320 or more square feet, is anchored in accordance with Rule 410 IAC 6-6-11 or anchored to a permanent foundation and is connected to the required utilities.

MOBILE HOME PARK. A parcel of land containing two or more spaces, with required improvements and utilities, leased for the long-term placement of mobile homes.

MOBILE or MANUFACTURED HOME SITE. A parcel of land intended to accommodate one mobile or manufactured home.

NURSING HOME. A facility licensed for the long-term inpatient care of the aged or infirm.

OUTDOOR SALES. The display and sale of products and services primarily outside of a building or structure. Outdoor retail sales uses include but are not limited to boat sales, farm equipment sales, flea markets, auctions, lumber yards, and landscaping materials sales.

PERSONAL CARE SERVICES. Facilities that offer supervision, assistance, and activities for special populations. Uses include but are not limited to day care centers for children or adults, children's homes, nursing homes, senior centers, and neighborhood social centers.

PERSONAL SERVICES. Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel. These uses include but are not limited to laundry, dry cleaning, beauty or barber shops, diaper service, and shoe repair.

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).

PROCESSING. An operation or series of operations, usually in a continuous and regular action or succession of actions in which there is a chemical transformation of materials or substances into new products.

PROCESSING AND WAREHOUSING. A place where materials are stored, combined, broken down, or aggregated for transport, shipment or storage and where the original material is not chemically or physically changed.

RECREATIONAL FACILITY. A place designed and equipped for the conduct of sports and leisure-time activities.

RECREATIONAL FACILITY, PRIVATE. A recreational facility operated by a commercial enterprise or by a nonprofit organization.

RECREATIONAL FACILITY, PUBLIC. A recreational facility owned or operated by a unit of government, a recreational facility included in a subdivision approved by the Plan Commission and operated for the benefit of all of the lot owners in the subdivision.

RECREATIONAL VEHICLE. A vehicular-type portable structure without permanent foundation that can be towed, hauled, or driven. It may be designed as temporary living accommodations and used for recreational, camping, and travel use. Recreational vehicles include, but are not limited to truck trailers, truck campers, pop-up tents, boats, jet skis, personal watercraft, snowmobiles, camping trailers, and self propelled campers.

RELIGIOUS FACILITY. A structure or place in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held. This definition includes a parochial school.

RETAIL SERVICES. Establishments primarily engaged in the sale of everyday household and consumer goods, including but not limited to drugstores, variety stores, book and stationery stores, newsstands, candy and ice cream stores, grocery stores, florist, gift, antique, art, music, toy and hobby shops, package liquor stores, paint and wallpaper stores, jewelry stores.

RETAIL SALES, OUTDOOR. The display and sale of products and services outside of a building or structure commensurate with indoor sales activities. Outdoor retail sales uses include but are not limited to automobile sales, lawn and garden equipment sales, and home improvement materials sales.

RETAIL USE, BIG BOX. A single retail establishment containing 75,000 square feet or more.

RETAIL USE, GENERAL. An establishment primarily engaged in the sale of goods or provision of services to the general public, including but not limited to department stores, furniture, carpet, interior decorating, upholstering, furrier, and office supply stores; restaurants and catering establishments; hotels, taverns and nightclubs; and storage, processing and/or

conditioning when incidental to any of these uses.

ROOMING HOUSE. A dwelling or part thereof in which, for compensation, lodging or lodging and meals are provided to at least three and not more than ten non-transient persons.

SELF-STORAGE FACILITY. A structure containing separate, individual, and private storage spaces of varying sizes leased or rented to individuals for varying periods of time.

SETBACK. The distance between a building and any lot line.

SETBACK LINE. The line that is the required minimum distance from any lot line and that establishes the area within which the building or structure must be erected or placed.

STORAGE, MAJOR. A distribution facility or a warehouse operated primarily for a specific commercial establishment or group of establishments in a particular industry or field. It also means any outdoor storage area associated with a business, industry, or institution.

STORAGE, MINOR. The keeping of goods or materials associated with a principal use, incidental and subordinate to the principal use, and on the same premises with the principal use; or a self-storage facility.

STREET. A right-of-way dedicated or otherwise legally established for public use, which affords 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. A street may also be classified according to function as follows:

(1) Expressways are limited-access highways that carry large volumes of traffic and are of more importance regionally than locally. They provide continuous, high-speed traffic flow.

(2) Arterial streets are high-capacity, high-volume streets that provide access to and through the county. The primary function of these streets is traffic movement, not access to property.

(3) Collector streets are medium-volume roads that collect and distribute traffic from lower-classification streets to arterials and expressways or activity centers. Traffic movement on these roads is a higher priority than access to property.

(4) Local streets are medium-volume roads that form the majority of the county road network. Often they are part of the numbered county road system and are typically longer than subdivision streets. While in some cases these streets may provide direct access to property, their primary function is traffic movement.

STRUCTURE. Anything constructed or erected on the ground or having a fixed location on the ground or attached to something having a fixed location on the ground, including but not limited to buildings, factories, sheds, detached garages, cabins, mobile homes, manufactured homes, freestanding signs, and other similar items.

TOWNHOUSE. A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, not unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

TRAVEL-ORIENTED BUSINESS. An establishment catering to the traveling public, such as a hotel, motel, restaurant, fast-food restaurant, automobile service station or similar use.

WAREHOUSE. A building used primarily for the storage of goods and materials.

WASTE DISPOSAL FACILITY. A tract of land that is used to store or process materials that are discarded by households, businesses, industries, or other entities. Waste includes both recyclable and non-recyclable materials.

YARD. An open space that lies between the principal building or buildings and the nearest lot line. The minimum required yard as set forth in the ordinance is unoccupied and unobstructed from the ground upward except as specifically provided in this chapter.

(1) Front yard means a space extending the full width of the lot between any building and the front lot line and measured perpendicular to the building at the closest point to the front lot line.

(2) Rear yard means a space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line.

(3) Required yard means the open space between a lot line and the yard line within which no structure shall be located except as provided in this chapter.

(4) Side yard means a space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building.

ZONE LOT. A parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such yards and other open spaces as required by this chapter.

(Ord. 17, 2006, passed 11-27-2006; Am. Ord. 17, 2023, passed 8-28-2023)

ADMINISTRATION

§ 157.025 ADMINISTRATIVE AND DECISION MAKING BODIES.

The City Council, the Plan Commission, the Board of Zoning Appeals, and the staff have administrative and decision-making responsibilities with regard to this chapter as set forth in this section. The following table summarizes their roles.

Review and Decision-Making Authority

S= Staff review, R=Review and recommend, D= Final decision, A= Appeal

Process	Staff	Plan Commission	Board of Zoning Appeals	City Council
Map amendment (rezoning), including overlay zone	S	R		D
Text amendment	S	R		D
Preliminary planned unit development	S	R		D
Final planned unit development	S	D		
Development plan	S	D		
Variance	S	R-Use Variances ONLY	D	
Conditional use	S		D	
Administrative adjustment	D			
Improvement location permit	D	A	A	
Interpretation	D		A	

(A) *City Council.*

(1) *General authority.* As provided in I.C. 36-4-6-2, the City Council serves as the legislative body of Seymour.

(2) *Powers and duties.*

(a) In accordance with I.C. 36-7-4-207 the City Council shall appoint one of its members to serve as a member of the Plan Commission.

(b) In accordance with I.C. 36-7-4-902, the City Council shall appoint one person residing within the city or its extraterritorial jurisdictional area to serve as a member of the Board of Zoning Appeals.

(c) The City Council shall, after report and recommendation from the Plan Commission, approve or deny any proposed amendment to the text of this chapter or to the zoning map.

(d) If the Council rejects or amends a proposal to amend the ordinance text recommended favorably by the Plan Commission, the Council shall return the proposal to the Plan Commission with the written reasons for the rejection or amendment, as provided in (B)(1) and in I.C. 36-7-4-607.

(e) As provided in I.C. 36-7-4-607 and 36-7-4-608, if the Council fails to act on a recommendation from the Plan Commission within the time limit prescribed by the Indiana Code, the Plan Commission recommendation stands as if the Council had acted upon it.

(B) *Plan Commission.*

(1) *Powers and duties.*

(a) The Plan Commission shall adopt rules for the conduct of its hearings and shall adopt by rule a schedule of reasonable fees for the following:

1. Processing and hearing administrative appeals and petitions for rezoning, conditional uses, and variances;
2. Issuing permits; and
3. Other official actions taken in accordance with I.C. 36-7-4.

(b) The Plan Commission shall provide for notice and conduct public hearings on amendments to the map or text of this chapter, use variances, final planned unit developments, and development plans.

(c) The Plan Commission shall forward proposals to amend the zoning map or the text of this chapter to the City Council with a favorable, unfavorable, or no recommendation in accordance with I.C. 36-7-4-607 and 36-7-4-608 and the

Plan Commission's Rules of Procedure.

(d) The Plan Commission shall hear and approve, approve with conditions, or deny final planned unit developments and development plans as provided in §§ 157.031, and 157.094.

(2) *Membership.* The members of the Seymour Plan Commission shall be appointed In accordance with I.C. 36-7-4-208 and 36-7-4-214.

(C) *Board of Zoning Appeals.*

(1) *Powers and duties.*

(a) The Board of Zoning Appeals shall hear and decide all applications for variances and conditional uses and all appeals from administrative decisions made under the provisions of this chapter.

(b) The Board of Zoning Appeals shall provide for public notice to interested parties of hearings before the Board in accordance with I.C. 5-3-1-2 and I.C. 5-3-1-4 at least ten days before the date set for the hearing. The Board shall, by rule, determine who are interested parties, how notice is to be given to them, and who is required to give that notice. The party taking the appeal or applying for the exception, use, or variance, may be required to assume the cost of public notice and due notice to interested parties.

(c) The staff may appear before the Board at the hearing and present evidence relevant to the effect on the Comprehensive Plan or Zoning Ordinance of the granting of a variance or the determination of any other matter.

(d) The Board of Zoning Appeals shall make a decision on any matter that it is required to hear either at the meeting at which the matter is first presented, or at the conclusion of the hearing on that matter, if it is continued. Within five days of making a decision, the Board shall file a written copy of its decision in the office of the Board.

(e) The Board shall keep minutes of its proceedings, keep records of its examinations and other official actions, prepare findings, and record the specifics of each vote on all actions taken. All minutes and records shall be filed in the offices of the Board and shall be a public record.

(f) The Board of Zoning Appeals shall adopt rules of procedure concerning the filing of appeals, applications for variances, and conditional uses, giving of notice, conduct of hearings and other such matters as may be necessary to carry out its duties under this chapter. At the first meeting of each year, the Board shall elect a Chair and Vice-Chair from among its members.

(2) *Membership.* The members of the Board of Zoning Appeals shall be appointed In accordance with I.C. 36-7-4-902.

(3) *Alternates.*

(a) The Mayor, City Council, and Plan Commission each may appoint alternate members to the Board of Zoning Appeals.

(b) Alternate members shall have all of the rights and privileges of members of the Board of Zoning Appeals and may participate in the discussion and evaluation of petitions before the Board.

(c) An alternate member shall serve as a voting member of the Board of Zoning Appeals and may be entitled to vote when the regular member for whom the person is an alternate is absent or abstains from participating in consideration of a matter before the Board.

(d) The alternate members shall have the same qualifications as the regular members as specified in (C)(2).

(4) *Removal of members.* The appointing authority (Mayor, City Council, or Plan Commission) may remove a member from the Board of Zoning Appeals for cause. The appointing authority shall mail notice of the removal, along with written reason for the removal, to the member at his residence address. A member who is removed may, within 30 days after receiving notice of the removal, appeal the removal to the Circuit or Superior Court of the county.

(5) *Limitation on re-filing.* Any petition approved by the Board of Zoning Appeals, unless otherwise stipulated, shall expire and become void one year after the date of its granting unless the petitioner or his agent has substantially put into effect the use on the property for which the petition was approved. Within 90 days of approval of a petition, the petitioner shall apply for an improvement location permit, or building permit as appropriate.

(6) *Majority vote required.* An affirmative vote by a majority of the Board of Zoning Appeals shall be required to approve or deny a petition before the Board.

(D) *Staff.*

(1) *Authority.* The staff shall have the authority to take those lawful actions necessary to enforce the terms of this chapter on behalf of the Plan Commission and Board of Zoning Appeals.

(2) *Powers and duties.* The authority to perform inspections, review applications, issue permits, and grant administrative adjustments is hereby delegated to the staff.

(a) The staff is authorized to issue improvement location permits as described in §157.002.

(b) The staff is authorized to make inspections of all lands located within the jurisdiction of the Plan Commission in

order to enforce this chapter. In order to execute inspections, the staff shall have the right to enter upon any premises at any reasonable time for the purpose of carrying out their duties in the enforcement of these regulations. If the owner or occupant of the premises refuses to permit entry, the staff may make application to any judge of the Circuit or Superior Courts of Jackson County, Indiana, for the issuance of an administrative search warrant. Such application shall identify the premises upon which entry is sought and the purpose for which entry is desired. The application shall state the facts giving rise to the belief that a violation of these regulations exists on such premises.

(c) The staff is authorized to approve administrative adjustments of no more than 10% to any numerical dimensional or intensity standard in accordance with the following criteria:

1. The adjustment is requested because it eliminates an unnecessary inconvenience to the applicant and will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public;
2. The requested administrative modification is of a technical nature and is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general;
3. The adjustment does not alter access to property nor on-site circulation; and
4. The adjustment does not decrease the amount of off-street parking to an amount not adequate for the use. In determining the amount of parking that is adequate, the staff shall consider the amount otherwise required by the zoning ordinance for this use, the information available from the Institute of Traffic Engineers, empirical studies of the parking needs for the use.

(3) *Interpretation.* The Building Commissioner is hereby authorized to interpret the various provisions of this chapter. The Building Commissioner's interpretation may be appealed to the Board of Zoning Appeals. The Building Commissioner shall follow the rules of interpretation contained in § 157.012.

(Ord. 17, 2006, passed 11-27-2006; Am. Ord. 14, 2008, passed 6-9-2008)

§ 157.026 COMMON REVIEW PROCEDURES.

(A) *Authority to file applications.* Applications under this chapter may be initiated by one of the following:

- (1) The requisite percentage of the owners of the property that is the subject of the application;
- (2) The owners' authorized agents;
- (3) City staff on behalf of the city; and
- (4) Any review or decision-making body.

(B) *Application contents.* The Plan Commission shall prescribe in its rules the form and content of all applications. Only applications filed in compliance with these rules shall be considered to be valid applications.

(C) *Fees.* Each application shall be accompanied by the appropriate filing fee as prescribed in the Plan Commission Rules of Procedure. Such fees are non-refundable.

(D) *Pre-application conference.*

(1) The purposes of the pre-application conference are to provide an opportunity for the applicant and the staff to discuss the review process schedule and submittal requirements, the scope of the project, and compliance with this chapter. Staff opinions presented during pre-petition meetings are informational only and do not represent a commitment on behalf of the city regarding the acceptability of the development proposal.

(2) An applicant for any matter requiring Plan Commission approval may schedule and hold a pre-application conference with the staff before filing such application. Attendees may include representatives from other city agencies or other persons the staff deems appropriate to a meaningful discussion.

(E) *Determination of completeness.* All applications shall be filed in accordance with the Plan Commission's rules. The staff shall review the application for completeness within the time limit established in the Plan Commission's rules. An application shall be deemed complete if it is submitted in the prescribed form and contains all mandatory materials and the requisite number of copies.

(F) *Simultaneous processing of applications.* Whenever two or more forms of review and approval are required under this chapter (e.g., a rezoning and a conditional use permit), the applications for those development approvals may, at the option of the applicant and with the concurrence of the staff be processed simultaneously, so long as all applicable state and local requirements are satisfied for all applications.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.027 SPECIFIC REVIEW CRITERIA.

(A) *Amendments.*

- (1) *Zoning map (rezoning).*

(a) *Initiation.* Map amendments may be initiated by the owners of 50% or more of the area involved in the petition, by the Plan Commission, or by the City Council.

(b) *Criteria.* In preparing and considering proposals to amend the zoning ordinance, the Plan Commission and City Council shall pay reasonable regard to the following matters in accordance with state law (I.C. 36-7-4-603):

1. The comprehensive plan;
2. Current conditions and the character of current structures and uses in each district;
3. The most desirable use for which the land in each district is adapted;
4. The conservation of property values throughout the jurisdiction;
5. Responsible development and growth.

(c) *Procedure.*

1. The Plan Commission shall give notice and hold a public hearing on each proposed amendment. Notice shall be given in a manner prescribed in the Commission Rules of Procedure to interested parties as defined in those rules. After the hearing, the Plan Commission may make a favorable, unfavorable, or no recommendation to the City Council.

2. The City Council shall consider the recommendation, if any, of the Plan Commission before acting on a proposal to amend the zoning map. The City Council shall approve or deny the request as provided by Indiana law.

(2) *Text amendments.*

(a) *Initiation.* Text amendments may be initiated by the Plan Commission or by the City Council.

(b) *Criteria.* The criteria for text amendments shall be the same as those set forth in (A)(1)(b).

(c) *Procedure.*

1. The Plan Commission shall give notice and hold a public hearing on each proposed amendment as set forth in I.C. 5-3-1. After the hearing, the Plan Commission may make a favorable, unfavorable, or no recommendation to the City Council.

2. The City Council shall consider the recommendation, if any, of the Plan Commission before acting on a proposal to amend the text of the zoning ordinance. The City Council shall approve, reject, or amend the proposal as provided by Indiana law. (See (B)(1)).

(3) *Written commitments.* When considering an amendment to the zoning map, the Plan Commission shall require the petitioner to submit written commitments, as specified in I.C. 36-7-4-615, which restrict the use(s) and/or developmental standards of the proposed zoning district. If the applicant seeking the rezoning proposes any improvements to the real estate, then the written commitments shall specify a timeline for installation of any such improvements that are being proposed. In the event that the improvements are not installed as specified, the ordinance shall not take effect and shall be considered null and void. As a condition of approval, the Plan Commission or the City Council may also require appropriate financial guarantees to insure the timely completion of any proposed public improvements related to the proposed zoning district.

(a) *Initial rezoning.* Written commitments in addition to those submitted by the petitioner may also be initiated by the Plan Commission, or by the City Council.

(b) In approving written commitments, the City Council shall include a requirement that such commitments may not be modified by the Plan Commission without the City Council's consent.

(c) *Modifications or termination of commitments after initial zoning.* The Plan Commission may modify or terminate written commitments relating to the development standards after notice is provided in accordance with the Plan Commission rules of procedure. The modification may be initiated by the owner of the property, by the commission, or by the City Council. The modification must be forwarded to the City Council for final action.

(d) Modifications or termination of commitments involving permitted uses may be allowed only through the same procedure as the initial rezoning. In approving, modifying, or terminating commitments, the Plan Commission shall consider the factors listed in (B).

(e) The written commitments shall be recorded in accordance with the I.C. 36-7-4-615. Recorded commitments are binding on the owner of the parcel, a subsequent owner of a parcel, and any person who acquires an interest in the parcel. An ordinance amending the zoning map that includes written commitments shall not be effective until the commitments are recorded. After the ordinance is adopted and the commitments are recorded, the zoning map shall be amended to indicate the new district designation with the letter "C" appended to indicate that commitments accompany the district designation.

The commitments must be recorded within 90 days after the City Council adopts the amendment, unless the Plan Commission grants an extension. In the event the commitments are not recorded within the specified time, the ordinance shall not take effect and shall be considered null and void.

(f) An improvement location permit shall not be issued for any property subject to written commitments unless the use and development on the property comply with the recorded written commitments.

(g) Any violations associated with written commitments are subject to the penalties in §157.999.

(B) *Overlay zones.*

(1) *General.*

(a) Overlay zones may be established by the Seymour City Council in the same manner as an amendment to the Zoning Map. In addition to the rezoning criteria contained in § 157.049, the City Council shall determine that the overlay district accomplishes the following:

1. Protects resources of community value that have been established by the Seymour Comprehensive Plan;
2. Retains and does not repeal or in any respect alter the provisions and requirements of any other applicable local, state or federal regulations.

(b) In order to establish the boundaries of an overlay district, the Plan Commission shall conduct a survey that identifies the features the district is intended to protect and recommends the boundaries of the area to be included in order to accomplish the purposes of the district.

(c) In the event that the overlay district no longer meets the purpose, intent and criteria of this chapter, the City Council may remove the overlay district in the same manner as an amendment to the Zoning Map.

(2) U.S. 50 Highway corridor overlay zone.

(3) Traditional neighborhood overlay zone.

(4) Historic overlay zones.

(C) *Variances.*

(1) *General.*

(a) The Board of Zoning Appeals shall grant a variance from the terms of this chapter only if all applicable criteria are met.

(b) Variance applications shall be filed in accordance with the BZA Rules of Procedure.

(c) Whenever the decision of the Board is conditioned upon the petitioners compliance with a requirement imposed by the Board concerning construction or site development (e.g., installation of landscaping, fencing, paving, curb stops or any comparable requirement) and such condition is recited in the notice to the petitioner of the Board's decision, petitioner shall be required to notify the staff in writing of the timely fulfillment of such requirement. If the time for fulfillment of the condition is stated in the Board's decision, the written notification must be received within 90 days after the commencement of the use or completion of construction authorized by the Board's decision, whichever is earlier.

(d) Failure to comply with any conditions imposed by the Board of Zoning Appeals shall constitute a violation enforceable by governmental authority pursuant to the provisions of § 157.999.

(e) If it deems advisable, the Board may require or permit the petitioner to make written commitments concerning the use or development of

the subject property. The commitments shall be reduced to writing in recordable form and signed by the owner(s) of the real estate. The commitments shall authorize their recording by the Administrative Official in the office of the Recorder of Jackson County, Indiana.

(f) The Board may require in such commitment the designation of any specially affected persons or categories of specially affected persons, who shall be entitled to enforcement thereof pursuant to § 157.999.

(g) The commitments may be modified or terminated by a decision of the Board of Zoning Appeals made at public hearing after proper notice has been given. Any modification or termination of the commitments approved by the Board shall not be in full force and effect until reduced to writing by the present owner(s) of the real estate, endorsed by the Board, and recorded in the office of the Recorder of Jackson County, Indiana.

(2) *Use variance.* The BZA may grant a request for a use variance only if all of the following criteria are met:

(a) The approval will not be injurious to the public health, safety, and general welfare of the community;

(b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;

(c) The need for the variance arises from some condition peculiar to the property involved;

(d) The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and

(e) The approval does not interfere substantially with the Comprehensive Plan.

(3) *Development standards variance.* The BZA may grant a request for a development standards variance only if all of the following criteria are met:

- (a) The approval will not be injurious to the public health, safety, and general welfare of the community;
 - (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
 - (c) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property; and
 - (d) The variance granted is the minimum necessary and does not correct a hardship caused by an owner, previous or present, of the property.
- (4) *Conditions and commitments.* The Board may require all such conditions and commitments as it deems necessary in the public interest. Such conditions and commitments shall be subject to the requirements of § 157.027.
- (5) *Notice and hearing.* The BZA shall give notice and hold a public hearing as required by Indiana law and in accordance with the Board's Rules of Procedure.
- (6) *Findings of fact.* The Board shall make written findings of fact on all applicable criteria and shall provide the applicant with a copy of the findings.

(Ord. 17, 2006, passed 11-27-2006; Am. Ord. 11, 2010, passed 8-23-2010)

Editor's note:

I.C. 36-7-4-615 was repealed by P.L. 126-2011, Sec. 68.

§ 157.028 CONDITIONAL USES.

- (A) The Board of Zoning Appeals shall hear and decide only such conditional uses as are specifically authorized by this chapter. The Board shall approve only those conditional uses that are found to meet the criteria in this subchapter and shall deny any conditional use that is inconsistent with the purposes and intent of this chapter.
- (B) The Board shall impose such safeguards and conditions on the granting of a conditional use that the Board finds necessary to ensure that the purposes of this chapter are met.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.029 CRITERIA.

The Board shall not grant a conditional use unless it finds that the following criteria are met, as applicable:

- (A) There will be adequate ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or other catastrophe.
- (B) Off-street parking and loading areas, will be adequate for the use.
- (C) Adequate utilities are available to serve the use.
- (D) Adequate landscaping and buffering will be provided.
- (E) Signs and proposed exterior lighting will be adequate and will not be a nuisance.
- (F) The use will meet required setback distances, yards and other open space provisions of this chapter.
- (G) The use will not constitute an unfair advantage or create special privilege to an individual.
- (H) The conditional use is appropriate to the property and is not granted solely for the convenience of the owner or occupant of the property.
- (I) The proposed use will be compatible with adjoining properties, with reference to site development standards designed for their mutual protection and the environmental harmony of the district.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.030 ADMINISTRATIVE APPEALS.

- (A) *Authority.* The Board of Zoning Appeals shall hear and decide appeals where it is alleged there is error in any of the requirements, decision or determination made by an administrative official or body charged with the administration and enforcement of this chapter.

(B) *Application.*

- (1) Any person aggrieved by any decision of an authorized official concerning interpretation, administration or enforcement may file an appeal with the BZA.
- (2) An appeal shall specify the ground thereof and shall be filed within 30 days of the decision alleged to be in error. The administrative official or body from whom the appeal is taken shall forthwith transmit to the Board all documents, plans

and papers constituting the record of the action from which the appeal is taken.

(C) *Decision.* The Board of Zoning Appeals may, so long as such action is in conformity with this chapter, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from and may make such order, requirements, decision or determination as in its opinion ought to be made, and to that end shall have the powers of the administrative official or body from whom the appeal is taken.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.031 PLANNED UNIT DEVELOPMENTS.

(A) *Initiation.* A petition to rezone property to PUD or to modify an approved PUD may be filed by any of the following:

- (1) The owners of all lots or parcels within the area proposed for rezoning;
- (2) In the case of a single lot or parcel with multiple owners, all those having ownership interest in the lot or parcel.

(B) *Hearing and decision.*

(1) The Plan Commission shall hold a public hearing and make a recommendation to the City Council on the proposed PUD ordinance and PUD zoning in the same manner as for a map amendment. The Plan Commission may recommend approval or disapproval of the rezoning request. The Commission may impose conditions on a favorable recommendation and/or request written commitments in accordance with § 157.027.

(2) The City Council may impose reasonable conditions on a proposed PUD and allow or require the owner of the real property to make written commitments in accordance with § 157.027.

(3) Adoption of the PUD ordinance by the city council constitutes final approval of the preliminary PUD plan. After the PUD ordinance is adopted, the Plan Commission shall exercise continuing jurisdiction. The Plan Commission is hereby authorized to conduct secondary reviews, grant approvals, and make modifications to approved detailed PUD plans. The Commission shall not modify the preliminary PUD plan or any condition or commitment allowed or required by the City Council.

(C) *Modification procedure.*

(1) In the exercise of its continuing jurisdiction, the Plan Commission may from time to time allow the petitioner to modify the approved detailed PUD in a manner consistent with the approved preliminary PUD plan to allow for changed circumstances and conditions unforeseen at the time of original approval. Except as provided below, such modifications shall be considered in the same manner as the secondary review, and notice shall be given and a hearing held in accordance with the Commission's Rules of Procedure.

(2) The staff is authorized to approve administrative adjustments as specified in §157.026.

(D) *Review procedure.*

(1) An application for rezoning to PUD shall include or incorporate by reference those materials specified in the Plan Commission Rules of Procedure.

(2) The Plan Commission shall conduct secondary review as specified in Indiana law and further described in this section.

(3) The Commission may approve a detailed PUD plan only after a public hearing. Notice shall be given to interested parties and the hearing conducted in accordance with the Commission's Rules of Procedure.

(4) No development shall take place until the Commission has approved a detailed PUD plan. If a subdivision plat is filed in conjunction with the detailed PUD plan, appropriate plans and details listed below may be included on the subdivision plat rather than on the PUD plan. The detailed PUD plan or subdivision plat shall include such information and materials as are required by the Plan Commission Rules of Procedure.

(5) Approval of the detailed PUD plan shall be granted only upon a finding by the Commission that the plan is consistent with the approved preliminary PUD plan.

(6) The approved detailed PUD plan shall be marked, "Approved Detailed Planned Unit Development," be signed by the president and secretary of the Commission, and bear the Commission's seal. One copy shall be permanently retained in the offices of the Plan Commission. No permits shall be issued until the detailed plan and all accompanying documents have been recorded in the Office of the Jackson County Recorder.

(7) Any decision of the Plan Commission to approve or deny approval of a detailed PUD plan hereunder is a final decision that may be appealed to the City Council, provided that any refusal by the Commission to approve a detailed PUD plan shall not limit the right of the petitioner to continue to seek approval, nor shall it impair the right of the petitioner to request an extension of time for approval, if no appeal is filed.

(8) The Plan Commission may allow the petitioner to develop the property involved in phases. If such phasing is permitted, the petitioner shall submit detailed PUD plans that correspond to the phases involved, and the phases shall be developed in the order approved by the Commission. Such detailed PUD plans for phases, when approved, shall be treated in the same manner as the approved detailed PUD plan for an entire PUD.

(9) Where platting, or replatting of streets within all or a portion of the land involved is contemplated, the Plan Commission shall handle such matters in accordance with its regular procedures in accordance with law.

(10) No construction or installation work shall be done on any public improvement until satisfactory plans and specifications therefore have been approved by the Plan Commission as part of the approved detailed PUD plan or as part of a subdivision in accordance with the Subdivision Control Ordinance.

(E) *Administrative adjustments.*

(1) Administrative adjustments are permitted for changes that do not do any of the following:

- (a) Alter the basic relationship of the proposed development to adjacent property.
- (b) Change the uses permitted.
- (c) Increase any of the following by more than 15% (this total is cumulative for all modifications to the PUD):
 1. The maximum density;
 2. The maximum floor area;
 3. The maximum height;
 4. Decrease the amount of off-street parking to an amount not adequate for the use. In determining the amount of parking that is adequate, the staff shall consider the amount otherwise required by the zoning ordinance for this use, the information available from the Institute of Traffic Engineers and empirical studies of the parking needs for the use;
 5. Reduce the approved yards or setbacks by more than 15%; and
 6. Alter site ingress or egress in any way or create a substantial change to on-site circulation, as determined by the appropriate engineering or highway department.

(2) Upon receiving a request for an administrative adjustment the staff shall have ten working days to respond to the petitioner, by either approving or rejecting the request. An applicant may appeal the decision of the staff to the Plan Commission.

(F) *Abandonment or expiration.*

(1) The City Council's approval of the preliminary PUD plan shall be valid for two years after the date the City Council adopts the PUD ordinance. Within this two-year period the PUD shall receive approval of the final detailed PUD plan for the first section or the entire development. Should the planned development not receive approval of the detailed PUD plan for at least one section or the entire development within the two years, the City Council, Plan Commission, or property owner may initiate a rezoning of the property. The Plan Commission may extend the approval period, not to exceed five successive periods of no more than two years each. The approval of the detailed PUD plan for each section of the Preliminary PUD Plan shall extend the approval length of the Preliminary PUD Plan for two years.

(2) Commission approval of a detailed PUD plan shall expire if the plan is not recorded within six months after the approval date. Commission approval of a detailed PUD plan shall expire after a period of five years from the approval of a detailed PUD unless the development in any phase has been substantially begun and pursued with due diligence. The Commission may grant extensions of time not to exceed five successive periods of no more than two years each. If the detailed PUD plan expires as provided in this section, the Commission may require the plan to be resubmitted for approval, and it shall conduct a secondary review as if the plan were a new filing. Alternatively, the Commission may opt to initiate a rezoning of the property to a classification other than PUD.

(3) A development approved under this chapter shall be deemed to be abandoned or discontinued if it has expired under (F) above or when no improvements have been made pursuant to the detailed PUD plan for a period of 24 consecutive months. When a PUD has been abandoned or discontinued, the detailed PUD plan shall no longer be valid, and no development shall be permitted until the plan is re-approved, and/or the property is rezoned.

(G) *Permits and enforcement.*

(1) The staff shall not issue any permit for development or improvements in a PUD district unless all recording required by this chapter has been effected. No certificate of completion or occupancy shall be issued for a PUD district unless the development complies with the approved detailed PUD.

(2) All development shall be in conformity with the approved detailed PUD. In the exercise of its continuing jurisdiction, the Plan Commission shall take cognizance of any material deviations from the approved detailed PUD and take appropriate enforcement action. Only those uses shown on the approved detailed PUD Plan shall be permitted; all other uses are prohibited.

(H) *Covenants and maintenance; financial guarantees.*

(1) Covenants may be required by the Commission as an ingredient for stability and longevity of the PUD. If submitted, the covenants shall set forth in detail provisions for the ownership, administration, and maintenance of facilities held in common so as to ensure their continuity and conservation. Such covenant provisions shall include specific remedies in the event facilities held in common are permitted to deteriorate or are not maintained in a condition consistent with the best

interests of the city, and in such event the city, may take those remedial steps provided for such provision. The covenants shall be recorded with the detailed PUD plan.

(2) The Commission may require the recording of covenants for any reasonable public or semipublic purpose, including but not limited to the allocation of land by the petitioner for public thoroughfares, parks, schools, recreational facilities and other public and semipublic purposes wherever necessary in conformity with the land use plan of current adoption. Such covenants may provide that if a governmental unit or agency thereof does not proceed with acquisition of the allocated land within the specified period of time, the applicable elements of the covenants shall automatically terminate. If such termination occurs, the petitioner shall then submit for approval by the Commission a modified detailed PUD plan for such land consistent with the approved preliminary PUD plan. Such modified detailed PUD plans, when approved, shall be treated in the same manner as approved detailed PUD plans for an entire PUD.

(3) The Commission may require the recording of covenants for any other reasonable purpose, including but not limited to imposing standards for development of property in a PUD. Such development standards may include, but are not limited to, requirements as to the following:

- (a) Lot area;
- (b) Floor area;
- (c) Ratios of floor space to land area;
- (d) Buildable area or the area in which structures may be built;
- (e) Open space;
- (f) Setback lines and minimum yards;
- (g) Building separations;
- (h) Height of structures;
- (i) Signs;
- (j) Off-street parking and loading space;
- (k) Design standards; and
- (l) Phasing of development.

(4) Enforcement of the covenants shall be the responsibility of the property owners, unless the city is, with its consent, specifically made a party to one or more covenants. Public enforcement shall apply only to those covenants to which a public entity is a party.

(5) The petitioner shall provide financial assurance for the satisfactory installation of all public facilities in the form of bonds or such other assurances as are required in the normal procedures of platting pursuant to the provisions of the Subdivision Control Ordinance.

(6) Adequate provision shall be made for a private organization with direct responsibility to and control by the property owners involved to provide for the operation and maintenance of all common facilities, including private streets. Assurances or guarantees, satisfactory to the Plan Commission shall be provided to demonstrate that the private organization is self-perpetuating and adequately funded to accomplish its purposes.

(7) Common facilities that are not dedicated to the public shall be maintained to standards assuring continuous and adequate maintenance at a reasonable and nondiscriminatory rate of charge to the beneficiaries thereof. Common facilities not dedicated to the public shall be operated and maintained at no expense to any governmental unit.

(8) All private streets shall be maintained by the responsible private organization in such a manner that adequate access is provided at all times to vehicular traffic, so that fire, police, health, sanitation and public utility vehicles can serve the properties contiguous or adjacent thereto, and so that such vehicles will have adequate maneuvering area. Such private streets shall be developed in accordance with the Subdivision Control Ordinance.

(9) As a condition of approval, the Plan Commission and/or City Council shall require any appropriate financial guarantees to insure the timely completion of any improvement related to the PUD as required by the Subdivision Control Ordinance.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.032 DEVELOPMENT PLANS.

(A) *Primary approval.*

(1) An applicant for development plan approval shall submit an application accompanied by all information, materials and fees required by the Plan Commission Rules of Procedure.

(2) The Plan Commission shall determine if the development plan is consistent with the comprehensive plan; and satisfies the development requirements specified in this chapter.

(3) The Plan Commission may do the following:

(a) Impose conditions on the approval of a development plan if the conditions are reasonably necessary to satisfy the development requirements specified in the zoning ordinance for approval of the development plan.

(b) Provide that approval of a development plan is conditioned on the furnishing to the Plan Commission of a bond or written assurance that:

1. Guarantees the timely completion of a proposed public improvement in the proposed development; and
2. Is satisfactory to the Plan Commission.

(c) Permit or require the owner of real property to make a written commitment as provided in § 157.027(A)(3).

(4) The Plan Commission shall make written findings concerning each decision to approve or disapprove a development plan. The Plan Commission president is hereby designated as the official authorized to sign the written findings.

(B) *Secondary approval.* The staff is hereby authorized to grant secondary approval of Development Plans. After meeting all conditions of primary approval, the applicant may submit the development plan for secondary approval. The staff shall review the application and if all conditions have been met, the staff shall grant secondary approval. Any refusal to grant secondary approval may be appealed to the Plan Commission.

(Ord. 17, 2006, passed 11-27-2006)

ZONE DISTRICTS

§ 157.045 GENERAL.

(A) *Districts established.* The city is hereby divided into zoning districts as detailed in this subchapter to carry out the purposes of this chapter. These districts are described in this subchapter. The boundaries are as shown on the official zoning map.

(B) *Overlay districts.* In addition to all requirements of the underlying zoning district, overlay districts are subject to any additional regulations superimposed by the terms of this chapter.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.046 RESIDENTIAL DISTRICTS.

(A) *Purpose.* The residential districts in this section are created for the following purposes:

(1) Provide appropriately located areas for a variety of types of residential development that are consistent with the Seymour Comprehensive Plan and with standards of public health and safety established by this chapter and any other appropriate governmental body;

(2) Ensure adequate light, air, privacy and open space for each dwelling;

(3) Insulate residents from the harmful effects of excessive noise, population density, traffic congestion, and other significant adverse environmental effects;

(4) Protect residential areas from fires, explosions, toxic fumes and substances, and other public safety hazards;

(5) Provide sites for public and semipublic land uses needed to complement residential development or requiring a residential environment; and

(6) Ensure the provision of public services and facilities needed to accommodate planned population densities.

(B) *Districts.* The residential districts listed below are hereby created in the city and its jurisdictional area, for the purposes stated.

(1) *RS, suburban residential district.* The purpose of the RS district is to accommodate residential subdivisions on relatively large parcels in developing areas of the community. For areas not served by public sewers, the lot sizes will be increased to properly accommodate septic systems.

(2) *RS-1, suburban residential district.* The purpose of the RS -1 district is to accommodate existing and new residential subdivisions served by approved infrastructure. This district is intended for single-family development on relatively large parcels.

(3) *R-1, urban residential district.* The purpose of the R-1 district is to accommodate existing high-density residential development and infill development in urban areas served by approved infrastructure.

(4) *R-2, multifamily residential district.* The purpose of the R-2 district is to accommodate multifamily dwellings in appropriate locations served by approved infrastructure.

(5) *R-3, neighborhood residential district.* The purpose of the R-3 district is to protect and enhance older neighborhoods in Seymour. These neighborhoods often contain a mixture of housing types on relatively small lots.

(6) *R-4, manufactured home district.* The purpose R-4 district is to provide suitable locations for manufactured housing developments in areas served by approved infrastructure.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.047 COMMERCIAL DISTRICTS.

(A) *Purpose.* The commercial districts are established for the following purposes:

(1) To provide appropriately located areas for a full range of office and commercial uses for Seymour residents, visitors, businesses, and workers;

(2) To strengthen Seymour's economic base, and to provide employment opportunities; and

(3) To create suitable environments for various types of commercial uses, and protect them from the adverse effects of incompatible uses.

(B) *Districts.* The commercial districts listed below are hereby created in the city and its jurisdictional area, for the purposes stated.

(1) *C-1, Neighborhood commercial district.* The C-1, neighborhood commercial district, is intended to provide suitable locations for businesses provided goods and services needed on a day-to-day basis by nearby residents.

(2) *C-2, general commercial district.* The C-2, general commercial district, is intended to provide suitable locations for establishments offering a full range of goods and services to the public.

(3) *C-3, highway commercial district.* The C-3, highway commercial district, is intended to provide suitable locations for establishments offering goods and services to the traveling public and to accommodate those businesses that require highway locations and large traffic volumes.

(4) *C-4, central business district.* The C-4, central business district, is intended as the traditional center of commerce for the city. This district is characterized by traditional downtown development patterns and uses, including buildings located close to the street, pedestrian orientation, financial and government centers, retail and entertainment uses.

(5) *C-5, commercial industrial district.* The C-5, commercial industrial district, is intended to provide suitable locations for uses that have characteristics of both commercial and industrial uses, such as office/warehouse development, light manufacturing with a retail component, or storage uses with showrooms.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.048 INDUSTRIAL DISTRICTS.

The industrial districts listed are hereby created in the city and its jurisdictional area, for the purposes stated.

(A) *Purpose and intent.* The industrial districts are established for the following purposes:

(1) To provide appropriately located areas consistent with the Seymour Comprehensive Plan for a variety of industrial uses;

(2) To strengthen the city's economic base, and provide employment opportunities close to home for residents of the city and surrounding communities;

(3) To create suitable environments for various types of and industrial uses, and protect them from the adverse effects of incompatible uses;

(B) *Districts.*

(1) *I-1, enclosed industrial district.* The I-1, enclosed industrial district, is intended to provide suitable locations for manufacturing or research operations that are conducted entirely within enclosed buildings and do not emit nuisance factors such as noise, air pollution, heat or glare outside of the buildings.

(2) *I-2, general industrial district.* The I-2, general industrial district, is intended to provide suitable locations for industrial operations that require outside storage of materials or goods and which may have nuisance factors that make them incompatible in other areas.

(3) *I-3, Industrial park district.* The I-3, industrial park district, is intended to provide for development of new industrial areas, planned as a unit and providing a campus-like environment for new economic enterprises.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.049 OVERLAY DISTRICTS.

(A) *Purpose and intent.* The purpose of the overlay districts is to accommodate special situations that are not generally appropriate to a zoning district. Overlay districts are areas representing a significant community resource. The overlay zones may encompass one or more underlying zoning districts, and the provisions of the overlay district are superimposed upon the property included in the district. An overlay district is shown on the zoning district map and constitutes a second level of development standards in addition to those specified by the underlying zoning district.

(B) *Districts.*

(1) *O-1, US 50 corridor overlay district.* The O-1, US 50 corridor overlay district, is intended to provide an attractive business corridor through Seymour, with appropriate traffic access control, landscaping, and other features.

(2) *O-2, traditional neighborhood overlay district.* The O-2, traditional neighborhood overlay district is intended to preserve traditional neighborhood patterns (including building size, mass, placement, etc.) and uses (including mixed use) and to encourage compatible infill development.

(3) *O-3, historic overlay district.* The O-3, historic overlay district, is intended to protect and conserve existing buildings and areas of historic significance.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.050 PERMITTED USES.

(A) *Residential districts.* The following shows the uses permitted in residential districts. These uses are subject to the standards set forth in § 157.046.

Residential Districts

P= Permitted, C= Conditional

Use	RS	RS-1	R-1	R-2	R-3	R-4
Use	RS	RS-1	R-1	R-2	R-3	R-4
Agricultural uses						
Farm buildings	P					
Paddocks	C					
Keeping and raising of animals	C					
Raising of crops	P					
Residential uses						
Single-family dwelling	P	P	P		P	C
Two-family dwelling			C		P	
Multi-family dwelling				P	P	
Townhouse				P	P	
Manufactured home	C	C	C		C	P
Manufactured home park						P
Manufactured home subdivision						P
Commercial uses						
Bed and breakfast use	C	C	C		P	
Rooming house	C	C	C		P	
Use	RS	RS-1	R-1	R-2	R-3	R-4
Use	RS	RS-1	R-1	R-2	R-3	R-4
Plant nursery	C	C				
Boat storage	C	C	C	C		C
Marina	C	C	C	C		C
Pet kennel	C	C				
Riding stable or equine	C	C				
Boarding facility						
Campground or RV park	C	C				
Home business	See § 157.096					
Institutional or recreational uses						
Nursing home or assisted living facility	C	C	C	C	C	C

Public building	C	C	C	C	C	C
Public or semipublic park or recreational facility	P	P	P	P	P	P
Private park or recreational facility	C	C	C	C	C	C
Private club or lodge	C	C	C	C	C	C
Public or private school	P	P	P	P	P	P
Boarding school	C	C	C	C	C	C
Religious facility	P	P	P	P	P	P
Cemetery	C	C	C	C	C	C
Waste disposal facility	C	C				
Jail or person	C	C				

(B) *Commercial uses.*

Commercial Districts

P=Permitted, C= Conditional uses

Use	C-1	C-2	C-3	C-4	C-5
Use	C-1	C-2	C-3	C-4	C-5
Residential uses					
Single-family dwelling	P			P ¹	
Two-family dwelling	C				
Multi-family dwelling	C			P1	
Rooming house	C				
Commercial uses					
Animal service, major		P	P		P
Animal service, minor	C	P	P	P	P
Automotive service, major		C	P		P
Automotive service, minor	C	P			
Business service	P	P	P	P	P
Commercial center	P	P	P	C	P
Commercial recreation, indoor	C	P	P	C	P
Commercial recreation, use outdoor		C	P	C	C
Enclosed mall		P	P	C	
Health service, major		P	P	C	C
Health service, minor	P	P	P	P	P
Outdoor sales					P
Outdoor retail sales		C	P	C	P
Parking lot or garage	C	C	C	C	C
Personal service	P	P	P	P	P
Professional office	P	P	P	P	P
Retail, big box		C	P		
Retail, general		P	P	P	P
Use	C-1	C-2	C-3	C-4	C-5
Use	C-1	C-2	C-3	C-4	C-5
Retail service	P	P	P	P	P
Storage, major		C	P		P
Storage, minor	C	P	P	C	P
Theater or similar entertainment	C	P	P	P	C
Travel-oriented business	C	P	P	C	P

Industrial uses					
Research and development		P	P	C	P
Other industrial	C	C	C	C	C
Institutional uses					
Personal care		P	P	P	
Public building	P	P	P	P	P
Public or semipublic park or recreational facility	P	P	P	P	P
Private club or lodge	C	P	P	P	P
Public or private school	P	P	P	P	
Boarding school		C	C	C	
Religious facility	P	P	P	P	P
Cemetery	C	C	C	C	C

1 Residences are not permitted on the ground floor

(C) *Industrial uses.*

Industrial Districts

P = Permitted, C = Conditional use

<i>Use</i>	<i>I-1</i>	<i>I-2</i>	<i>I-3</i>
<i>Use</i>	<i>I-1</i>	<i>I-2</i>	<i>I-3</i>
Commercial uses			
Automotive service, major	C	P	P
Business service	P	P	P
Health service, minor	P	P	P
Office	P	P	P
Retail service	P	P	P
Industrial uses			
Manufacturing	P	P	P
Mass transit terminals		C	P
Processing	C	P	P
Processing and warehousing	C	P	P
Junkyard		P	
Research and development	P	P	P
Storage, major	P	P	P
Other industrial	C	P	P
Institutional uses			
Public building	P	P	P
Religious facility	P	C	P
Semipublic recreational facility	C	C	P

(Ord. 17, 2006, passed 11-27-2006; Am. Ord. 17, 2023, passed 8-28-2023)

§ 157.051 STANDARDS APPLICABLE TO ALL DISTRICTS.

(A) *Performance standards.*

(1) *Noise.*

(a) No uses or activities shall create noise levels for more than five minutes in any hour that exceed those shown on the following table.

Maximum Noise Levels

Zoning classification	Maximum Noise Level (dBA)		Maximum nighttime noise level (dBA) 9:00 p.m. to 7:00 a.m.
	At property line	At residential district boundary	At residential district boundary
RS, RS-1	65	65	50
R-1, R-2, R-3, R-4	50		
C-, C-2, C-3, C-4	65	60	50
C-5, I-1, I-2, I-3	70	60	50
Mixed use	65	60	50
Public/institutional	65	60	50

(b) Noise that is produced for no more than a cumulative period of five minutes in any hour may exceed the above standards by a maximum of five dBA, except between the hours of 9:00 p.m. to 7:00 a.m.

(c) Noise that is produced for no more than a cumulative period of one minute in any hour may exceed the above standard by ten dBA, except between the hours of 9:00 a.m. and 7:00 a.m..

(d) Mechanical and electrical equipment shall provide adequate shielding and baffling so that noise levels from such equipment will not exceed the above noise levels.

(e) Noise shall be measured with a sound level meter that meets the standards of the American National Standards Institute. Noise levels shall be measured in decibels on a sound level meter using the A-weighted filter network (dBA). Calibration checks of the instrument shall be made at the time any noise measurement is made.

(f) Occasional sounds generated by public safety vehicles, tornado warning systems, railroad equipment, agricultural equipment, and similar activities are exempt from these standards.

(2) *Odor.* Except in the RS District, no continuous, frequent, or repetitive odors that are perceptible on or beyond adjacent property lines are prohibited. An odor detected no more than a total of 15 minutes in any one day shall not be deemed to be continuous, frequent, or repetitive.

(3) *Sewage disposal.* Plans and specifications for proposed sewage disposal facilities shall be submitted to and a written approval obtained from the Indiana Department of Environmental Management or other agency having jurisdiction over such system.

(4) *Storm drainage.* For all development other than a one- or two-family dwelling, plans and specifications for proposed storm drainage facilities shall be certified by a registered engineer and submitted to and written approval obtained from the Board of Public Works and Safety.

(B) *Use of lots.* In any district, no more than one primary structure and its customary accessory uses shall be located on a single lot; except that primary structures designed and platted as a single unit under single ownership and control, such as a multifamily residential project or commercial center are permitted on a single lot.

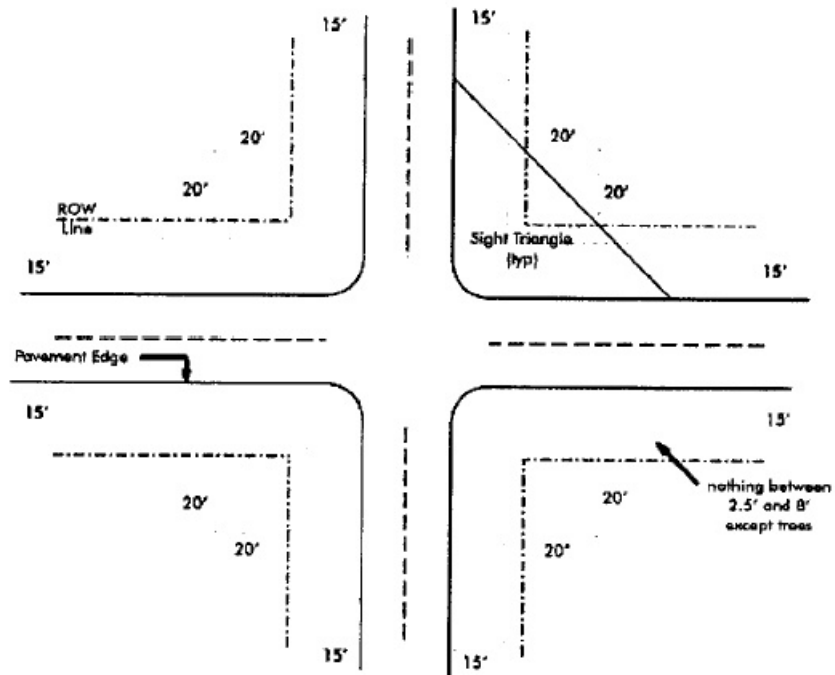
(C) *Access and frontage.* Every building hereafter erected or moved shall be located on a lot with frontage and access on a public street, or with frontage and access to an approved private street or access easement, and all buildings shall be so located on lots as to provide for safe and convenient access, on-site circulation, fire protection, and required off-street parking.

(D) *Storage.* No portion of any required yard shall be used for the permanent storage of motor vehicles, trailers, airplanes, boats or parts thereof or of any rubbish, garbage, junk, tent or building materials, except during construction and in accordance with the terms of this chapter. Permanent storage for purpose of this section shall be construed as the presence of such storage for a period of 48 consecutive hours in any one-week period.

(E) *Intersection visibility.*

(1) A clear line of sight between a height of 2.5 feet and eight feet above the centerline grades shall be maintained within 15 feet of all rights-of-way.

(2) At intersecting streets and drives nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision within the "visibility triangle" (See figure on following page). The "visibility triangle" is hereby established as follows:

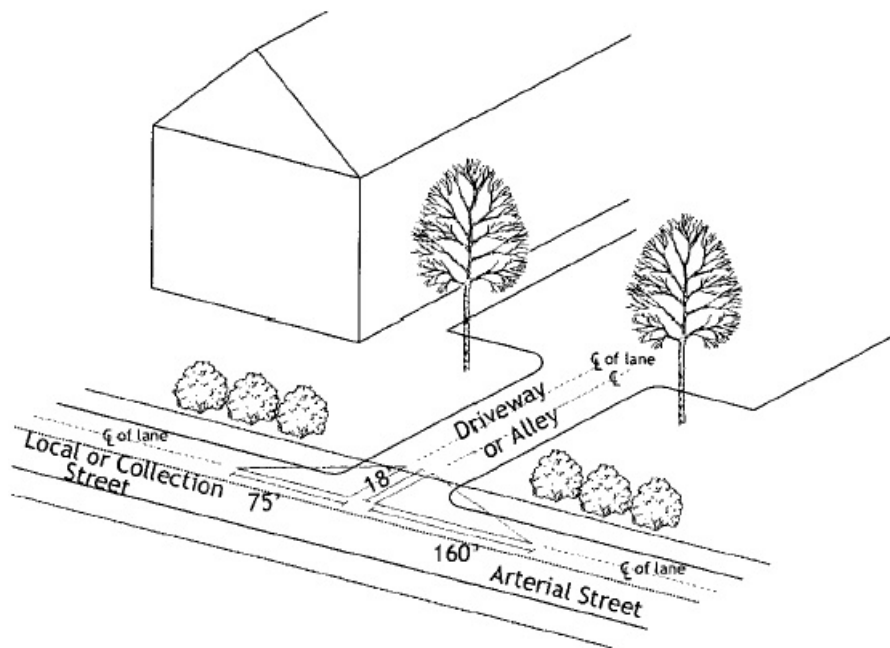


Sight Distance Restrictions at Intersections

(a) For corner lots, the triangle is defined as the area formed by connecting a point 20 feet from the intersection of the right-of-way lines.

(b) When a driveway or alley intersects with a local or collector street, the visibility triangle is formed by the center lines of the driveway or alley and the street and a line connecting points 18 feet for driveways and alleys and 75 feet for local and collector streets.

(c) When a driveway or alley intersects with an arterial street, the visibility triangle is formed by the center lines of driveways, alleys and streets and a line connecting points 18 feet for driveways and alleys and 160 feet for arterial streets. (See figure on following page.)



Sight Triangle for Driveway for Alley

(3) Notwithstanding (E)(1), above, plantings, structures and other improvements may be permitted within the visibility triangle if the city engineer makes a determination that such improvement will not impede visibility.

(4) Plantings, structures and other improvements within the visibility triangle shall be reviewed and approved by the City Engineer where road intersections or driveway/alley access points occur at angles other than 90° or where the slope of the cross street exceeds 3%.

(5) The provisions of this section shall not apply to official warning signs or signals necessary to the public safety.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.052 STANDARDS FOR CONDUCT OF USES IN RESIDENTIAL DISTRICTS.

(A) *Residential uses.*

(1) *Dwelling units.*

(a) Residential dwelling units shall be used only as living quarters and shall not be used for business purposes except for home-based businesses meeting the standards of this chapter.

(b) Every dwelling unit shall be set on a permanent ground-set foundation which shall include an exterior wall of stone, concrete, brick, or masonry product.

(c) Each single-family dwelling shall comply with the following standards:

1. The dwelling shall be at least 24 feet wide at its narrowest dimension.

2. The primary entrance to a dwelling shall be facing the street, unless otherwise required for handicap access.

3. The roof pitch shall not be less than 5:12.

4. The dwelling unit shall be set on a permanent ground set foundation which shall include an exterior wall of stone, concrete, brick, or other masonry product, or any material complying with the Indiana Building Code.

5. The dwelling shall include a minimum of three of the following:

a. Covered porch;

b. Deck;

c. Use of more than one exterior material or color along the front of the home;

d. Covered front doorway;

e. Recesses, projections or significant offsets in wall plane;

f. Bay window or dormer;

g. Shutters; and

h. Change in roof plane.

(d) Any manufactured home that does not comply with the criteria in §157.087 shall be permitted only in manufactured home parks or manufactured home subdivisions as specified in this section.

(2) *Rooming house.*

(a) The property owner shall reside on the premises.

(b) No separate structures, garages, or outbuildings shall be used as boarding rooms.

(c) Bathroom(s) and kitchen shall be accessible without exiting the dwelling and reentering through another door.

(d) Parking shall comply with § 157.086.

(B) *Business uses.*

(1) *Bed and breakfast use.*

(a) There shall be a maximum of five guest rooms in a bed and breakfast use.

(b) In RS districts, there shall be one off-street parking space for each guest room plus two off-street parking spaces for the owners or operators of the bed and breakfast use.

(c) The operator of the bed and breakfast use shall reside within the dwelling containing it.

(d) Breakfast shall be served only to guests staying on the premises, not to the general public.

(e) Bed and breakfast uses may offer occasional special events only if the Board of Zoning Appeals grants a conditional use permit for such uses. The permit shall state the limitations and requirements relating to the use.

(2) *Home-based business.* See § 157.096.

(3) *Campground or recreational vehicle park.*

(a) See § 157.055, Kennel.

(b) Outdoor runs or any other facility not within an enclosed building shall be set back at least 200 feet from each property line abutting a residential district or an institutional use, and, at least 50 feet from any other property line.

(C) *Institutional uses.*

(1) *Religious facility.* Religious facilities shall comply with all development standards of this chapter, including but not limited to lot size, setbacks, and off-street parking.

(2) *Park or recreational facility.* A park or recreational facility that is approved as part of a subdivision plat does not require Board of Zoning Appeals approval but instead is subject to any conditions imposed by the Plan Commission as part of the subdivision approval.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.053 STANDARDS FOR CONDUCT OF USES IN BUSINESS DISTRICTS.

(A) *Development plans.* All development of commercial centers or structures larger than 20,000 square feet in business districts is subject to development plan approval, as provided in § 157.032.

(B) *Residential uses.* In the C-1 and C-4 districts, single-family residences are permitted only in the same building with one or more commercial uses. In the C-2, C-3, and C-5 districts, detached single-family residences are allowed only as accessory uses to commercial uses, such housing for on-site managers or security personnel (§ 157.055, Accessory uses).

(C) *Establishment size.* In the C-1 district, no individual establishment may exceed 8,000 square feet of gross floor area.

(D) *Manufactured homes.* Structures designed as manufactured homes shall not be used as commercial structures unless they are located within manufactured home parks or manufactured home subdivisions.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.054 STANDARDS FOR CONDUCT OF USES IN INDUSTRIAL DISTRICTS.

(A) *Environmental compliance.* All uses shall comply with all federal and state environmental standards and regulations.

(B) *Development plan.* Industrial development in the I-3 district or any industrial building larger than 40,000 sq. ft. in the I-1 or I-2 district is permitted only in accordance with a development plan approved pursuant to § 157.032.

(C) *Storage.* All materials shall be stored within buildings or screened from view.

(1) Outdoor storage is permitted provided that the storage area is screened with an opaque fence or landscaping. Opaque fencing shall be composed of wood, masonry, or an equivalent synthetic material. Chain link fences with opaque slats are not permitted. No materials or objects shall be stored outside of the fence, and no materials or objects shall extend above the fence.

(2) Outdoor display of and sale of products is permitted, provided that the display and sales area is approved as part of the development plan required under § 157.032.

(3) Junkyards shall be screened from view from all streets and all neighboring properties. Screening shall include an opaque fence that is at least six feet and not more than nine feet high. No materials or objects shall be displayed or stored outside of the fence, and no materials or objects shall extend above the fence.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.055 ACCESSORY USES.

Accessory uses shall be permitted in all zone districts in accordance with the sections of this chapter. In order to further the objectives of the Comprehensive Plan, to promote public safety and general welfare, and to encourage the development and maintenance of attractive residential, commercial, industrial, and open space areas, limitations are placed on the nature, bulk, height, extent, and placement of accessory uses.

(A) *General requirements.* Accessory uses shall meet the following criteria:

(1) The use shall be incidental and subordinate to and commonly associated with the operation of the primary use of the lot.

(2) An accessory use shall be operated and maintained under the same ownership or control and on the same lot as the primary use. When a platted lot or other lot described by deed as a single parcel is interrupted by a right-of-way, the principal building and accessory building may be on noncontiguous parcels, provided that the parcels would be contiguous if the right-of-way were disregarded. Such parcels may not be sold separately but shall in perpetuity be considered as single lots, unless they are subdivided through the platting process in accordance with the Seymour Subdivision Control Ordinance.

(3) Accessory uses shall be clearly subordinate in height, area, bulk, extent and purpose to the primary use served.

(4) All accessory uses shall comply with the setback requirements of this chapter, unless the accessory use is listed as exempt.

(5) Accessory uses shall not be established prior to the primary use, unless a temporary permit is obtained in accordance with § 157.056.

(6) The accessory uses shown on the following tables are permitted as indicated, subject to the additional provisions and limitations contained in this section. This list is not all-inclusive, and uses the staff deems similar or equivalent are to be treated in like manner to those listed. A staff decision under this section may be appealed to the Board of Zoning Appeals.

(B) *Permitted accessory uses.*

(1) *Residential districts.*

Permitted Accessory Uses Residential Districts

P = Permitted, C = Conditional use

Use	RS, RS-1	R-1	R-2	R-3	R-4
Accessory apartment	C	C		P	
Garage, carport	P	P	P	P	P
Clubhouse or community building	P	P	C	P	
Convenience store				C	P
Patio, canopy, deck, porch	P	P	P	P	P
Parking space for RV or commercial vehicle	P	P	P	P	P
Use	RS, RS-1	R-1	R-2	R-3	R-4
Use	RS, RS-1	R-1	R-2	R-3	R-4
Cabana, bathhouse, playhouse	P	P	P	P	P
Storage shed	P	P	P	P	P
Greenhouse	P	P		P	
Guesthouse	C	C		C	
Play equipment, gazebo, doghouse	P	P	P	P	P
Swimming pool, tennis court	P	P	P	P	P
Amateur radio antenna	P	P		P	
Stable or riding facility	C				
Pet kennel	C				
Management office, laundry	C		P	C	P

(2) *Commercial districts.*

Use	C-1	C-2	C-3	C-4	C-5
Antenna	P	P	P	P	P
Caretaker dwelling		P	P		P
Drive-through window	P	P	P	P	P

Enclosed storage	C	P	P	C	P
Outdoor retail sales		P	P	C	P
Wireless communication	C	C	C	C	C

Use	C-1	C-2	C-3	C-4	C-5
Tower					
Other use customarily associated with and subordinate to a permitted use	P	P	P	P	P

(3) *Industrial districts.*

Use	I-1	I-2	I-3
Use	I-1	I-2	I-3
Antenna	P	P	P
Caretaker dwelling	P	P	P
Child care facility for company employees	P	P	P
Enclosed storage	P	P	P
Outdoor storage	C	P	P
Office	P	P	P
Retail sales of company products	P	P	P
Wireless communication tower	C	C	C
Other use customarily associated with and subordinate to a permitted use	P	P	P

(C) *Accessory use standards.*

(1) *General.*

(a) *Fences and walls.*

1. Ornamental fences, walls and structural screens may be permitted in any required side or rear yard or setback distance; in accordance with the accessory structure height requirements of the respective zone district. Ornamental fences, walls and structural screens may be permitted in any required front yard in accordance with the accessory structure height requirements of the respective zone district; provided, that no fence, wall, or structural screen in a front yard toward which a structure is oriented may be allowed to exceed 42 inches in height. The height shall be determined by measurement perpendicular from the nearest ground level.

2. Nothing contained in this section shall be deemed to prohibit the erection or maintenance of an open fence in connection with agricultural uses, recreation use or the public safety or a security fence in nonresidential districts.

3. The provisions of this section shall not apply to retaining walls.

(2) *Residential districts.*

(a) Garages and carports shall be used only for the storage of vehicles and equipment that are clearly incidental and subordinate to the residential use. In these districts, open off-street motor vehicle parking and loading areas are permitted, provided, that not more than one such space shall be provided for a commercial vehicle of more than three-ton manufacturer's rating.

(b) Clubhouses or community buildings shall be for use by residents of the neighborhood or subdivision in which they are located and not available to the general public.

(c) Convenience stores shall be for use only by residents of the multifamily dwelling development or manufactured home park in which they the store is located. Such stores shall be oriented to the interior of the development and shall not be so located or designed as to draw the attention of non-residents.

(d) No more than two recreational vehicles may be stored in the open. In districts allowing residences, recreational

vehicles stored in the open must be placed in a side or rear yard.

(e) In the R-1 and R-3 districts, greenhouses shall not be larger than 200 square feet in area and shall not be used for commercial purposes.

(f) Amateur radio sending and receiving antennae, including masts, shall not exceed 100 feet measured from finished lot grade.

(g) Signs shall comply with the requirements of §157.055.

(h) Swimming pools shall comply with all Indiana safety regulations.

(i) Apartment management offices and other facilities normally associated with tenants' convenience shall be only for the use of residents of the multifamily complex. There shall be no exterior display, and the facilities shall not be available to the general public.

(j) Unless otherwise stated in this chapter, standards for accessory uses allowed only as conditional uses shall be subject to those standards deemed appropriate by the Board of Zoning Appeals.

(3) *Commercial districts.*

(a) Antennas associated with the operation of the business are permitted. Antennas for other businesses, such as wireless communication towers, shall be permitted only in accordance with § 157.115. Wireless communication towers as accessory uses must be one of the following:

1. An alternative tower structure as defined in §157.115;

2. Co-located with an already existing telecommunications facility.

3. Located on the roof of an associated principal building provided the telecommunications facilities do not exceed the maximum height in the zone district by a more than 20 feet.

(b) Caretaker dwellings are restricted to occupancy by a person employed on the premises.

(c) *Storage and display.*

1. All materials shall be stored within buildings or screened from view.

2. In the C-1 and C-4 districts, there shall be no outdoor storage of equipment or goods. Outside display of items for sale is permitted, provided that such display does not block public sidewalks and does not occupy an area greater than 5% of the floor area of the building.

3. In the C-2, C-3, and C-5 districts, outdoor storage is permitted provided that the storage area is screened with an opaque fence or landscaping. Opaque fencing shall be composed of wood, masonry, or an equivalent synthetic material. Chain link fences with opaque slats are not permitted.

(d) *Drive-through windows.*

1. Drive-through windows shall comply with the standards for stacking spaces in §157.085(H)(1) and the on-site traffic circulation shall be approved by the city engineer.

2. In the C-1 and C-3 Districts, drive-through windows are permitted in business districts only if the drive-through arrangement is approved as part of the Development Plan required under § 157.054.

(4) *Industrial districts.*

(a) Antennas associated with the operation of the business are permitted. Antennas for other businesses, such as wireless communication towers, shall be permitted only in accordance with § 157.115.

(b) Caretaker dwellings are restricted to occupancy by a person employed on the premises.

(c) Child care is restricted to family members of persons employed on the premises and shall not be available to the general public.

(d) All materials shall be stored within buildings or screened from view with an opaque fence or landscaping. Opaque fencing shall be composed of wood, masonry, or an equivalent synthetic material. Chain link fences with opaque slats are not permitted. The height of stored materials shall not exceed the height of the opaque screen. Company products may be displayed outdoors provided that such display does not occupy an area greater than 1,000 square feet.

(e) Offices are permitted only as accessory to the principal use on the premises, and not as separate uses.

(Ord. 17-2006, passed 11-27-2006)

§ 157.056 TEMPORARY USES.

(A) *Permitted uses.* Temporary uses are permitted, subject to the time limits and regulations contained in this section. Permitted temporary uses include those listed below.

(1) Manufactured home as a temporary residence to house a person in need of care on the same lot with another dwelling. The manufactured home must be located in the side or rear yard, and it must be used either as a residence for a person acting as a care-provider for someone living in the other dwelling unit, or by a person who is being cared for by someone living in the other dwelling unit on the parcel. At least one of the occupants must be over the age of 65, or in ill health or at a level of dependency where on-site care is necessary, as certified by a physician. After a two-year period, the petitioner must update documentation of the continuing medical condition to staff. The manufactured home must be removed as soon as it is no longer needed for the care arrangement. Such manufactured home shall have an approved sewage disposal system and be provided with perimeter skirting.

(2) Manufactured home as temporary housing while a permanent dwelling is being constructed, reconstructed, or undergoing a major renovation, for a maximum of two years.

(3) Temporary office, model home or model apartment and incidental signs thereof, both incidental and necessary for the sale, rental or lease of real property in the zone district for a maximum of 18 months.

(4) Construction of an accessory structure prior to the primary use, only if a building permit has been issued for the principal use. The maximum time the accessory structure may be used prior to issuance of a certificate of occupancy for the principal use is six months.

(5) Noncommercial concrete batching plant incidental and necessary to construction, for a maximum of 18 months.

(6) Temporary building or yard for construction materials and equipment, both incidental and necessary to construction for a maximum of 18 months.

(7) Special event (such as a festival or carnival) for a maximum of 30 days.

(8) Bazaars, carnivals, rummage or garage sales and similar temporary uses, for a maximum of ten days in any calendar year.

(9) Sale of Christmas trees or other seasonal items for a maximum of 60 days.

(10) Parking of recreational vehicles in agricultural or residential areas for visitation for a maximum of 15 days. Parking of such vehicles for short-term occupancy in non-residential districts is prohibited.

(11) Construction trailers as a temporary office during the period of construction and development.

(12) A recreational vehicle may be used for the following temporary purposes:

(a) A public health program sponsored by a public health department.

(b) A program sponsored by any unit of government.

(c) A carnival or other public affair or function authorized by proper authority.

(13) Other similar uses deemed temporary by the staff and attached with such time period, conditions and safeguards as the staff may deem necessary.

(B) *Standards, prohibitions and restrictions.*

(1) Adequate access and off-street parking facilities shall be provided, and the use shall not interfere with traffic movement on adjacent streets.

(2) No public address systems or other noise producing devices shall be permitted in a residential district. These systems are permitted for auctions in any district where auctions are permitted.

(3) Any floodlights or other lighting shall be directed upon the premises and shall not be detrimental to adjacent properties.

(4) The lot shall be put in clean condition, devoid of temporary use remnants upon termination of the temporary period (Ord. 17, 2006, passed 11-27-2006)

§ 157.057 STOREFRONT FIRST-FLOOR RESIDENCIES.

(A) *Purpose.* To prohibit use of the storefront portion of the first-floor of any structure in the Downtown Business District from use and occupancy as a residence or living area.

(B) *Definitions.*

DOWNTOWN BUSINESS DISTRICT. Restricted areas shall include the geographic area bounded by Fourth Street on the North, Ewing Street on the East, Bruce Street on the South, and Pine Street on the West.

(C) *Use in Downtown Business District prohibited.* No person shall use the storefront portion of the first-floor of any structure in the Downtown Business District, commonly designated C-4, Central Business District, as a residence or living area.

(1) The Zoning Code provides that the Central Business District is intended as a traditional center of commerce for the

city. This district is characterized by traditional downtown developmental patterns and uses, including buildings located close to the street, pedestrian orientation, financial and governmental centers, retail and entertainment uses.

(2) Use of the storefront portion of the any such structure as a residence or living area, within C-4, Central Business District, is hereby prohibited.

(3) The Board of Zoning Appeals of the city is specifically prohibited from granting variances from this section, nor shall it grant a conditional use.

(D) *Enforcement.* This section shall be enforced by the authorized Ordinance Administrator.

(Ord. 5, 2007, passed 3-26-2007) Penalty, see §157.999

DENSITY, INTENSITY AND DIMENSIONAL STANDARDS

§ 157.070 DIMENSIONAL STANDARDS TABLES.

(A) *Residential districts.*

(1) *Minimum standards for conventional subdivisions and infill development.* Development in residential districts shall comply with the standards set forth on the following table.

Residential Dimensional and Intensity Standards Permitted Uses

District	Use	Maximum density	Minimum lot area	Minimum lot width	Front	Side	Rear	Maximum height	Maximum lot coverage
District	Use	Maximum density	Minimum lot area	Minimum lot width	Front	Side	Rear	Maximum height	Maximum lot coverage
All R	Institutional	NA	10,000	100 feet	See § 157.085	10% of width	20 feet	35 feet	50%%
RS	Rasing of crops	NA	3 acres	150 feet	NA	NA	NA	NA	NA
	Farm building	NA	3 acres	150 feet	See § 157.085	10% of width	50 feet	50 feet	30%
	One-family dwelling								
	With sewers	3 unites per acre	15,000 square feet	100 feet	See § 157.085	10% of width	20 feet	35 feet	50%
	Without sewers	1 unit per acre	1 square acre	150 feet	See § 157.085	10% of width	20 feet	35 feet	50%
RS-1	One-family dwelling	4 units per acre	10,000 square feet	80 feet	See § 157.085	10% of width	20 feet	35 feet	50%
R-1	One-family dwelling	NA	6,000 square feet	50 feet	See § 157.085	10% of width	20 feet	35 feet	60%

District	Use	Maximum density	Minimum lot area	Minimum lot width	Front	Side	Rear	Maximum height	Maximum lot coverage
R-2	Multi-family dwelling	15 units per acre	10,000 square feet	100 feet	See § 157.085	10% of width (5 feet mini mum)	10 feet	35 feet	50%
R-3	One-family dwelling	NA	5,000 square feet	40 feet	See § 157.085	10%	10 feet	35 feet	60%
	Two-family dwelling	2,500 square feet per unit	5,000 square feet	50 feet	See § 157.085	10% of width	10 feet	35 feet	60%

	Multi-family dwelling or townhouse	20 units per acre	10,000 square feet	75 feet	See § 157.085	10 feet	20 feet	35 feet	60%
R-4	Manufactured home (See § 157.087)	9 units per acre	5 acres	300 feet for park	30 feet for park	25 feet for park	25 feet	15 feet	50%
		9 units per acre	5 acres	75 feet for unit	10 feet for unit	5 feet for unit	25 feet	15 feet	50%

(2) *Bonuses.* For subdivisions meeting the requirements of §§ 156.60 through 156.63, the Plan Commission may, as part of the subdivision approval, permit reduced lot sizes and setbacks as indicated on the following table (Minimum area width bonus for qualifying), provided that the overall density does not exceed the amount shown on the previous table (Residential dimensional and intensity standards permitted uses).

Minimum Area Width Bonus for Qualifying

<i>District</i>	<i>Use</i>	<i>Front setback</i>	<i>Side setback</i>	<i>Minimum lot area</i>	<i>Minimum lot width</i>
RS	One-family dwelling	15 feet	20 feet	8,000 square feet	75 feet
	One-family dwelling without sewers	No change	No change	20,000 square feet ¹	100 feet
RS -1	One-family dwelling	15 feet	15 feet	6,000 square feet	60 feet
R-2	One-family dwelling, townhouse	12 feet	2 feet	No change	No change
R-3	One-family dwelling, townhouse	12 feet	2 feet	No change	No change

1 The reduced lot size available only for subdivisions with qualifying sewage disposal systems, such as constructed wetlands or community subsurface disposal systems.

2 One side only

(B) *Commercial districts.*

Commercial Dimensional and Intensity Standards

<i>District</i>	<i>Minimum lot area (square feet)</i>	<i>Minimum lot width (feet)</i>	<i>Maximum height (feet)</i>	<i>Minimum front setback (feet)</i>	<i>Minimum side setback (feet)</i>	<i>Minimum rear setback (feet)</i>
C-1	10,000	100	35	See § 157.085	0	5
C-2	10,000	100	45 *	See § 157.085	0	5
C-3	10,000	100	45 *	See § 157.085	10	5
C-4	4,000	50	100	0	0	5
C-5	15,000	150	45 *	See § 157.085	20	10

* Unless within 200 feet of a residential zone 3.

(C) *Industrial districts.*

Industrial Dimensional and Intensity Standards

<i>District</i>	<i>Minimum lot area (square feet)</i>	<i>Minimum lot width (feet)</i>	<i>Maximum height (feet)</i>	<i>Minimum front setback (feet)</i>	<i>Minimum side setback (feet)</i>	<i>Minimum rear setback (feet)</i>
I-1	20000	200	35	75	30	30
I-2	40000	400	50	75	30	30
I-3 ¹	10 acres for park	400 for park	50	50	30	30

1 Within the industrial park, lot sizes and widths shall be those approved by the Plan Commission as part of the development plan required under § 157.054.

(Ord. 17-2006, passed 11-27-2006)

§ 157.071 MEASUREMENTS.

(A) *Percentages and fractions.* When a measurement results in a fractional number or percentage, any fraction of 1/2 or less shall be rounded down to the next lower whole number and any fraction of more than 1/2 shall be rounded up to the next higher whole number. Any percentage of .5 or greater shall be rounded up to the next higher whole number and any percentage less than .5 shall be rounded down to the next lower whole number.

(B) *Distances.*

(1) When a minimum distance between buildings or uses is specified, such distance shall be measured in a straight line without regard to intervening structures or objects, between the two closest lot lines of the properties in question.

(2) The distance between signs is measured between signs on the along the centerline of the road to which the sign is oriented.

(C) *Lot area.* The lot area is the total area within the lot lines of a lot, excluding any street right-of-way but including any water features such as lakes, ponds, or streams.

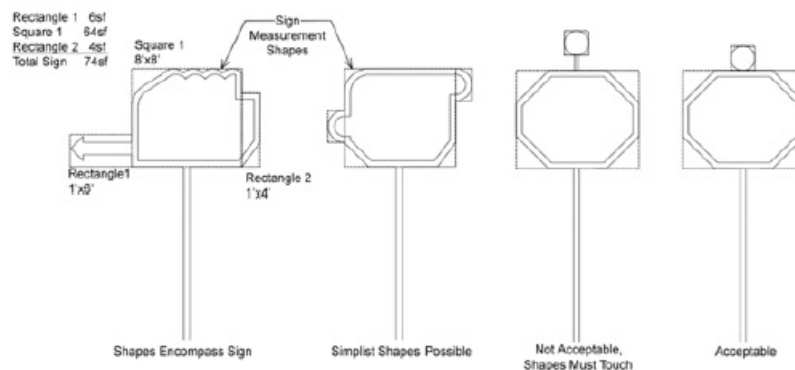
(D) *Sign area.*

(1) For individual signs, the area of a sign face shall be measured by the smallest square, circle, rectangle, or combination thereof that will encompass the entire sign area.

(2) For multi-faced signs, the area shall be computed by adding together the area of all sign faces visible from any one point at the same time. When two identical sign faces are placed back-to-back so that only one face is visible from an point at any time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, only one of the faces shall be counted toward the sign area.

(3) The total area of signs permitted on a lot shall be determined as specified in §157.095.

Sign Measurements

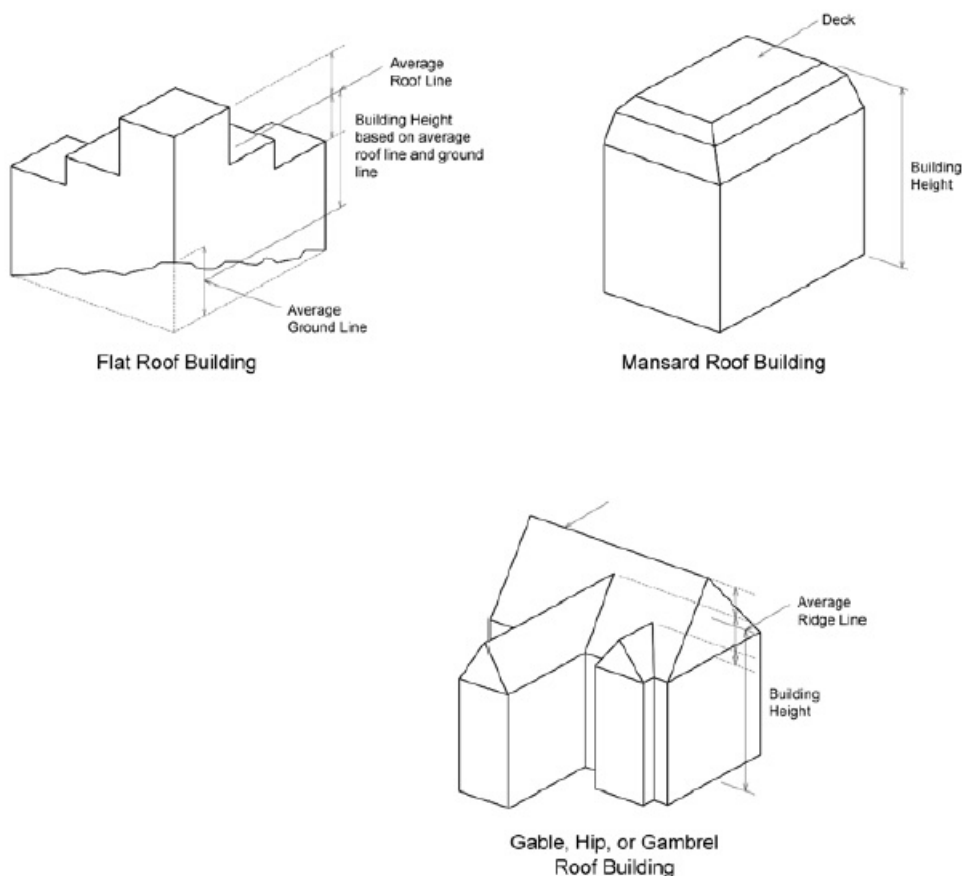


(E) *Height.*

(1) *Measurement.*

(a) *Building height.* The height of a structure shall be measured from the average grade

adjoining the walls of the structure to the average of the highest points of the roof surface of a flat roof; or to the deck line of a mansard roof; or the mean height level between eaves and ridge for a gable, hip or gambrel roof.



Building Height Measurements

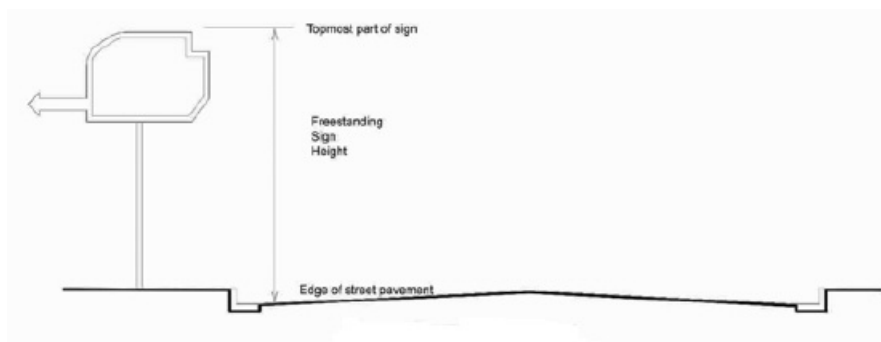
(b) Sign height.

1. The height of a sign shall be measured in a vertical plane from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of

a. Existing grade prior to construction; or

b. The newly established grade after construction, exclusive of any fill, berming, mounding or excavating solely for the purpose of locating the sign.

2. In cases where the normal grade cannot reasonably be determined, sign height shall be measured from the grade at the edge of pavement of the street to which the sign is oriented to the highest point of the sign.



Freestanding Sign Height Measurement

(2) *Exceptions.* The following uses and structures are exempt from the height limitations of this chapter:

(a) Architectural projections, including but not limited to spires, steeples, belfries, parapet walls, cupolas, domes, flues, and chimneys;

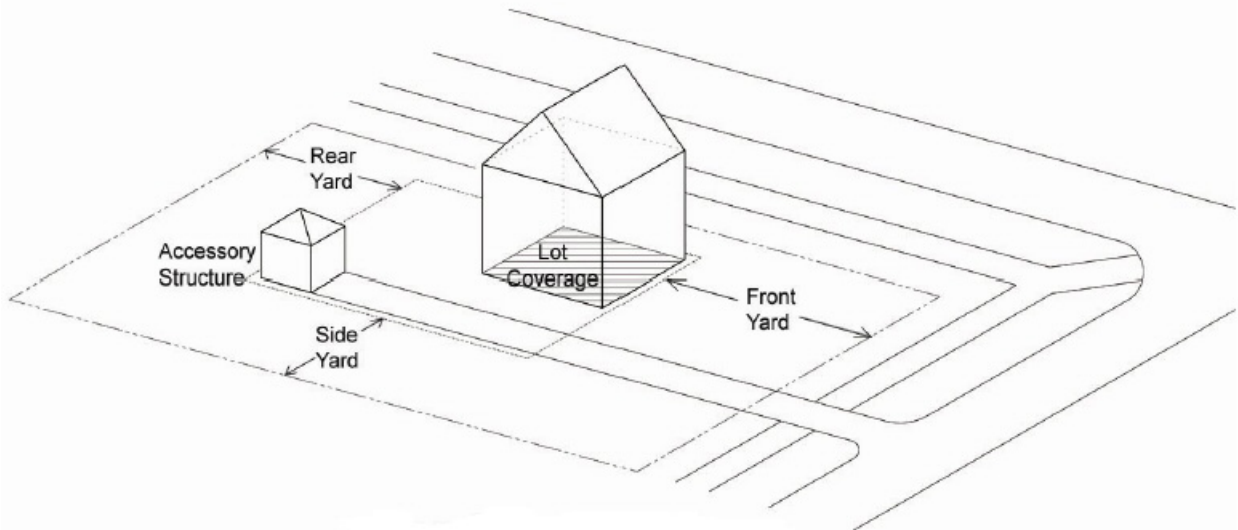
(b) Special structures such as silos, windmills, elevator penthouses, gas tanks, grain elevators, observation towers, scenery lofts, heating and air conditioning equipment and necessary mechanical appurtenances, cooling towers, fire towers, ornamental towers, substations, and smoke stacks;

(c) Towers and utility structures including but not limited to water towers, electric power and communication

transmission lines. Wireless communication towers are regulated by § 157.115.

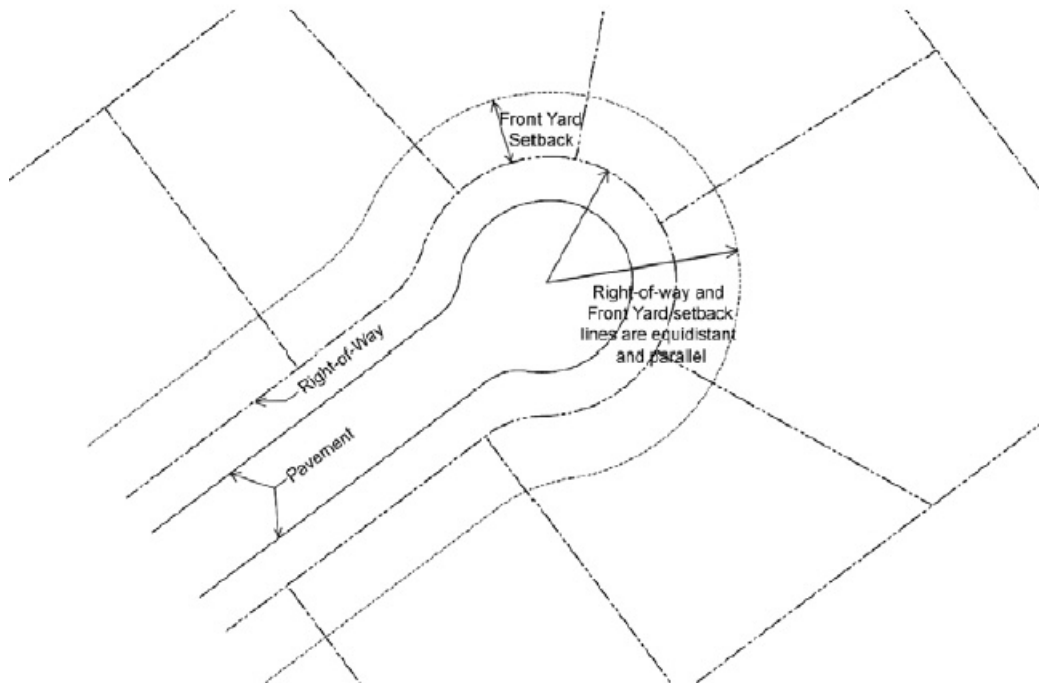
(F) *Setback.*

(1) *Lot lines.* Building setback shall be measured from a line drawn parallel to a lot line at a distance equal to the depth of the required yard setback. The distance shall be measured along a straight line drawn perpendicular to the lot line and the setback line (See the following figure). For front yards, setbacks are measured from the centerline of the adjacent street, as established by the thoroughfare plan. Lots having more than one street frontage are considered to have a front yard for each such frontage.



Yard Definitions

(2) *Cul-de-sacs.* The required setback on cul-de-sacs and curved streets shall be determined by measuring the required setback from the radius of the cul-de-sac resulting in a setback line that is parallel to the arc of the street right-of-way.



Cul-De-Sacs

DEVELOPMENT STANDARDS

§ 157.085 SETBACKS.

(A) *Minimum requirements.* Unless otherwise provided in this chapter, minimum front building setback lines shall be in

accordance with the following table.

Minimum Front Setback Requirements

Street classification	Minimum front setback (feet)		
	One- or two-family residential	Multifamily, commercial, institutional	Industrial
Expressway	40	40	40
Arterial	40	40	40
Collector	30	30	30
Local	25	30	25
Marginal access or cul-de-sac	25	25	25

(B) *Transitional setbacks.* Where commercial or industrial uses abut property zoned for residential use, transitional setbacks shall be provided in accordance with the following table.

Transitional Setbacks

Use	Front (feet)	Side (feet)	Rear (feet)
Commercial	30	20	20
Industrial	100	150	150

(C) *Setbacks in improved areas.*

(1) For the purpose of this section an improved area shall be defined as any block that contains at least three lots or parcels, each containing a legally established building. For the purposes of this section, a block consists of one side of the street, not interrupted by any streets. In any case where a proposed building site has no buildings within 500 feet in either direction on the same side of the street, the property shall be considered to be in an unimproved area.

(2) Front setback lines for improved areas shall be in accordance with the setback distance already established. In any improved area, the minimum required building setback line for any new building or structure shall be the average of such established setback line, provided that such structure does not encroach into the right-of-way as established by the thoroughfare plan.

(3) Such setback lines shall be as required in this section with the following exceptions:

(a) Those encroachments listed in (E) are permitted.

(b) Where another section of this chapter requires a larger setback, the higher or most restrictive requirement shall govern.

(D) *Undesignated streets.* Any street not designated on the thoroughfare plan of current adoption shall be assumed to be a local street designation for the purpose of determining the building setback line, unless the City Engineer determines that a higher classification applies. Private streets shall be considered to be local streets for the purposes of this section.

(E) *Exceptions.* The following are permitted within the setback area:

(1) Incidental features such as birdbaths, lawn balls, and yard sculptures. Doghouses are permitted in the side or rear yard only.

(2) Uncovered stairs, decks sized for entry purposes only, porches, landings, fire escapes, gutters, decks and awnings may project into any yard but not to exceed six feet and not closer than five feet to any lot line.

(3) Architectural projections including, wing walls, belt courses, and bay windows may project into any yard, but such projection shall not exceed three feet.

(4) Ornamental fences, walls and structural screens may be permitted in any required side or rear yard or setback distance, in accordance with the accessory structure height requirements of the respective zone district. Ornamental fences, walls and structural screens may be permitted in any required front yard in accordance with the accessory structure height requirements of the respective zone district; provided, that no fence, wall, or structural screen in a front yard toward which a structure is oriented may be allowed to exceed 48 inches in height. The height shall be determined by measurement perpendicular from the nearest ground level.

(5) Nothing contained in this section shall be deemed to prohibit the erection or maintenance of an open fence in

connection with agricultural uses, recreation use or the public safety or a security fence in nonresidential districts.

(6) The provisions of this section shall not apply to retaining walls.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.086 PARKING AND LOADING.

(A) *Purpose and intent.* Accessory off-street parking and loading facilities shall be provided and maintained for all buildings, structures or premises used in whole or in part for purposes permitted by this chapter. These regulations are designed to alleviate or prevent congestion of the public streets by establishing minimum requirements for on-site storage of motor vehicles in accordance with the use to which the property is occupied.

(B) *Existing uses.*

(1) No use lawfully established prior to the effective date of this chapter shall be required to provide and maintain the parking and loading requirements of this chapter;

(2) For any nonconforming use which is hereafter damaged or partially destroyed, and which is lawfully reconstructed, reestablished or repaired, off-street parking and loading facilities equivalent to those maintained at the time of such damage or partial destruction shall be restored and continued in operation; provided, that in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this chapter for equivalent new uses.

(3) When the intensity of use of any building, structure or premises shall be increased through the addition of dwelling units, floor area, beds, seating capacity or other unit of measurement, parking and loading facilities as required in this chapter shall be provided for such increase in intensity of use.

(4) Whenever the existing use of a building, structure or premises shall hereafter be changed or converted to a new use permitted by this chapter, parking and loading facilities shall be provided as required for such new use.

(5) Accessory off-street parking or loading facilities in existence on the effective date of this chapter shall not hereafter be reduced below, or if already less than shall not be further reduced below, the requirements for a similar new use under the sections of this chapter.

(C) *Location.*

(1) Accessory off-street parking and loading spaces shall be provided on the same lot as the use served, except as otherwise provided in this chapter, and may be situated as one or more individual areas.

(2) Residential parking shall meet the following standards:

(a) *Front yards.*

1. Parking for single-family residential uses shall be prohibited within the setback between the street and the building except on a single driveway not exceeding the width of an attached garage facing the street or 22 feet in width where there is no attached garage facing the street. Parking on any other portion of the setback between the street and the building or on a lawn shall be prohibited. Parking shall not be permitted in driveways serving parking lots.

2. Parking for multifamily residential uses shall be prohibited within the required street setback as set forth in § 157.085. Parking shall not be permitted in driveways serving parking lots. Parking shall be prohibited on lawns.

(b) *Side and rear yards.*

1. Parking areas for single-family uses may occupy a maximum of 50% of the area extending from the rear of the principal structure to the rear lot line between side lot lines.

2. The side and rear parking setback requirement for multifamily uses shall be 1/2 the building setback for the district or five feet, whichever is greater.

(D) *Parking standards.*

(1) Off-street parking spaces shall comply with the minimum dimensions shown on the following table.

Parking Space Dimensions

<i>Vehicle, space type</i>	<i>Minimum width</i>	<i>Minimum length</i>
Automobile, parallel	9	22
Automobile, angled or 90°	9	20
Compact car, parallel	9	20
Compact car, angled or 90°	9	18
Bus, parallel	10	48
Bus, angled	12	42

(2) Aisle widths for off-street parking shall comply with the following table.

Parking Aisle Widths*

<i>Parking angle</i>	<i>Aisle width</i>
45°	14 feet
60°	18 feet
90°	24 feet

*The parking angle shall be measured between the centerline of the parking space and the centerline of the aisle.

(3) All off-street parking or loading facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner that least interferes with traffic movement.

(E) Minimum off-street parking space requirements.

(1) Accessory off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements for each such use; provided, that all regulations governing location of accessory parking spaces, in relation to the use served, are adhered to; provided further, that no parking space or portion thereof shall serve as a required space for more than one use unless otherwise authorized by the Board of Zoning Appeals.

(2) The minimum required number of off-street parking or loading spaces shall be calculated as follows:

(a) If the unit of measurement is any fraction of the unit specified in relation to the number of spaces to be provided, such fraction shall be considered as being the next unit and shall be counted as requiring one space.

(b) In sports arenas, churches and other places of assembly in which patrons occupy benches, pews or other similar seating facilities, each 20 inches of such seating shall be counted as one seat for the purpose of determining requirements hereunder.

(c) In the case of open floor areas used for temporary seating purposes, an area of 16 square feet usable for seating shall be counted as one seat for the purpose of determining requirements hereunder.

(d) For uses involving more than one activity (i.e., manufacturing and office, office and retail, automobile service and convenience store), the requirements for each use shall be calculated separately and then aggregated.

(3) A maximum of 25% of the required parking spaces may be designated as compact car spaces.

(4) The minimum number of required off-street parking spaces shall be as indicated on the following table.

Parking Space Requirements

<i>Use</i>	<i>Minimum number of required spaces</i>
<i>Use</i>	<i>Minimum number of required spaces</i>
Agricultural uses	No requirement, except for roadside stands and other commercial or similar uses, when there shall be an adequate number of spaces to serve the public.
Amusement uses, including skating rinks video arcades, pool and billiard rooms, and similar facilities	One space for each 500 square feet of gross floor area
Automobile repair uses, including muffler shops, tire shops, quick lubricating, and other similar uses	2.5 spaces for each service bay.
Bowling alleys	Four spaces for each lane
Child care uses, including children's homes, day care centers, nurseries and kindergartens and similar uses	One space for each five children
Commercial centers	
Less than 50,000 square feet	One space for each 200 square feet of gross floor area
50,000 square feet or larger	One space for each 250 square feet of gross floor area

Community center uses, including clubs, lodges, community centers, libraries, museums and similar places of assembly	One space for each 100 square feet of assembly area
Drive-through uses (other than restaurants), including banks, dry cleaners, and similar uses	One space for each 400 square feet of gross floor area, plus stacking spaces as required in § 157.086(H)(1)
Funeral service	One space for each 35 square feet of seating area
Group housing, including rooming and boarding houses, dormitories, fraternities and sororities, elderly housing, halfway houses, nursing homes and similar group quarters	One space for each two beds, sleeping units, rooming units or dwelling units plus one space for each 100 square feet of assembly or common area
Health club uses, including athletic clubs and spas	One space for each 400 square feet of gross floor area
Use	Minimum number of required spaces
Use	Minimum number of required spaces
Health uses, including hospitals, in-patient clinics, and similar uses	One space for each patient bed
Hotel uses, including hotels, motels, apartment hotels and other facilities for the transient public	One space for each guest room
Higher education uses, including colleges, universities, professional schools, junior colleges, and vocational schools	0.8 spaces for each student, based upon the maximum number of students attending classes on the premises during any 24-hour period. If the school provides on-site housing, this requirement may be reduced to 0.5 spaces for each student
Industrial uses, including manufacturing and similar uses, not catering to the retail trade	
Less than 3,000 square feet	One space for each two employees
3,000 to 5,000 square feet	One space for each two employees
5,001 to 10,000 square feet	One space for each two employees
Open air business uses	One space for each 1,000 square feet of outdoor storage or display area
Professional office uses	
Medical and dental	One space for each 200 square feet of gross floor area
Other	One space for each 300 square feet of gross floor area
Religious facility	
Place of worship	One space for each three seats in the sanctuary
Residential uses	
Single-family or two-family	Two spaces per dwelling unit
Multifamily	1.5 spaces for each one-bedroom or efficiency unit; two spaces for each two-bedroom unit, plus 0.25 guest spaces per unit
Restaurant uses	
Drive-through or fast-food	One space for each 75 square feet of gross floor area plus stacking spaces as required by § 157.086(H)(1)
Use	Minimum number of required spaces
Use	Minimum number of required spaces
General	One space for each 100 square feet of gross floor area
Retail uses	

Furniture, appliances or other large consumer goods	One space for each 500 square feet of gross floor area
Convenience stores	One space for each 200 square feet of gross floor area
Other retail	One space for each 250 square feet of gross floor area
Schools	
Elementary or middle school	Three spaces for each classroom
High school	Eight spaces for each classroom
Theater uses, including auditoriums, movie theaters, performing arts facilities, and sports arenas	One space for each four seats
Warehouse	
Mini-warehouse	One space for each two employees
General	One space for each two employees

(5) *Uses not specified.* For uses not specified in this section or in such instance when the requirement for an adequate number of spaces is unclear, the number of parking spaces shall be determined by the staff on the basis of similar requirements, the number of persons served or employed and the capability of adequately serving the visiting public. Such determination may be appealed to the Board of Zoning Appeals.

(F) *Off-site parking facilities.*

(1) Required off-street parking facilities shall be provided on site, except as provided in this section.

(2) In the C-4 district any or all of the parking may be off-site, provided that there are public parking lots available within 900 feet of the use to be served. On-street parking may be counted toward the parking requirements in this district.

(G) *Loading requirements.*

(1) Uses and buildings with a gross floor area of less than 5,000 square feet shall provide adequate receiving facilities, so as not to obstruct the free movement of pedestrians and vehicles over a sidewalk, street or alley.

(2) Loading spaces shall have a minimum length of 55 feet, a minimum width of 12 feet, and a minimum height clearance of 15 feet.

(3) Uses and buildings with a gross floor area of 5,000 square feet or more shall provide off-street loading spaces in accordance with the following table.

Loading Space Requirement

<i>Use</i>	<i>Floor area (square feet)</i>	<i>Minimum number of loading spaces</i>
25,001-60,000	2	
60,001-100,000	3	
	Each additional 50,000	1
Office buildings hotels, retail sales, commercial centers, hospitals, and similar uses.	5,000-60,000	1
	60,001-100,000	2
	Each additional 100,000	1

(H) *Vehicle stacking areas.*

(1) *Number of spaces.* Vehicle stacking spaces shall be provided as specified on the following table.

Stacking Spaces

<i>Activity type</i>	<i>Minimum stacking spaces</i>	<i>Measured from</i>
Bank teller lane	4	Teller or window
Automated teller machine	3	Teller

Restaurant drive-through	6	Order box
Restaurant drive-through	4	Order box to Pick-up window

Activity type	Minimum stacking spaces	Measured from
Car wash stall, automatic	6	Entrance
Car wash stall, self-service	3	Entrance
Gasoline pump island	2	Pump island
Other	Minimum of 2 per window	

(2) *Stacking space specifications.*

(a) *Size.* Stacking spaces must be a minimum of eight feet by 20 feet in size.

(b) *Location.* Stacking spaces may not impede on or off-site traffic movements or movements into or out of off-street parking spaces.

(I) *Accessible parking for physically challenged persons.*

(1) A portion of the total number of required off-street parking spaces in each off-street parking area shall be specifically designated, located and reserved for use by persons with physical challenges.

(2) The minimum number of accessible spaces to be provided shall be a portion of the total number of off-street parking spaces required, as determined by table located at § 157.086(E)(4). Parking spaces reserved for persons with physical challenges shall be counted toward fulfilling off-street parking standards. Spaces shall be provided in accordance with the following table.

Accessible Parking

<i>Total parking spaces provided</i>	<i>Minimum number of accessible spaces</i>	<i>Minimum number of van-accessible spaces</i>	<i>Minimum number of car-accessible spaces</i>
<i>Total parking spaces provided</i>	<i>Minimum number of accessible spaces</i>	<i>Minimum number of van-accessible spaces</i>	<i>Minimum number of car-accessible spaces</i>
1-25	1	1	0
26-50	2	1	1
51-75	3	1	2
76-100	4	1	3
101-150	5	1	4
151-200	6	1	5
201-300	7	1	6
301-400	8	1	7
401-500	9	2	7
501-1,000	2% of total spaces	One out of every eight accessible spaces	Seven out of every eight accessible spaces
Over 1,000	20 + one per each 100 spaces over 1,000		

(3) *Minimum dimensions.* All parking spaces reserved for persons with physical challenges shall comply with the parking space dimension standards of this section, provided that access aisles shall be provided immediately abutting such spaces, as follows:

(a) *Car-accessible spaces.* Car-accessible spaces shall have at least a five-foot wide access aisle located abutting the designated parking space.

(b) *Van-accessible spaces.* Van-accessible spaces shall have at least an eight-foot wide access aisle located abutting the designated parking space.

(4) *Location of spaces.* Required spaces for persons with physical challenges shall be located in close proximity to building entrances and shall be designed to permit occupants of vehicles to reach the building entrance on an unobstructed

path.

(5) *Signs and marking.* Required spaces for persons with physical challenges shall be identified with signs and pavement markings identifying them as reserved for persons with physical challenges. Signs shall be posted directly in front of the parking space at a height of no less than 42 inches and no more than 72 inches above pavement level.

(J) *Parking and loading space specifications.*

(1) All loading areas and all off-street parking areas for four or more vehicles shall be developed in accordance with the standards of this section, except for one- and two- family dwellings, agricultural and rural uses and storage of vehicular merchandise not counting toward the minimum requirements of this chapter.

(2) Required off-street parking spaces shall be so designed, arranged and regulated as to have individual spaces marked, be unobstructed and have access to an aisle or driveway so that any automobile may be moved without moving another, and so that no maneuvering directly incidental to entering or leaving a parking space shall be on any public right-of-way or walkway.

(3) Off-street parking spaces may be open to the sky or enclosed in a building. In any instance when a building is constructed or used by parking facilities on the zone lot, such building shall be treated as any major structure and subject to all requirements thereof.

(4) No repair work, sales or service of any kind shall be permitted in association with accessory off-street parking facilities unless such facilities are enclosed in a building and otherwise permitted in the zone district.

(5) All open off-street parking and loading areas, including driveways and other circulation areas, shall be surfaced with an all-weather paving material capable of carrying a wheel load of 4,000 pounds, or improved with concrete or a compacted macadam base and surfaced with an asphalted pavement, to adequately provide a durable and dust-free surface which shall be maintained in good condition and free of weeds, dirt, trash and debris. Parking spaces associated with a one- or two-family dwelling are exempt from the paving requirements but shall be maintained with a dust-free surface.

(6) Driveway entrances or exits shall be no closer than 25 feet to an adjoining residential property line or ten feet to an adjoining nonresidential property line or designed in such a manner as to least interfere with traffic movement. No driveway across public property at the right-of-way line shall exceed a width of 30 feet; provided, that two driveways not exceeding 30 feet in width each may constitute a single entrance-exit divider designed driveway; provided further, that such driveways shall conform to the requirements of engineering departments having jurisdiction thereof.

(7) Any lighting facilities used to illuminate off-street parking areas shall be so located, shielded and directed upon the parking area in such a manner that they do not reflect or cause glare onto adjacent properties or interfere with street traffic. In no instance shall bare un-shaded bulbs be used for such illumination. Lighting shall comply with § 157.093.

(8) Parking areas shall be graded and properly drained in such a manner that there will be no free flow of water onto either adjacent property or public sidewalks.

(9) Parking areas shall be so lined or designated as to insure the most efficient use of the parking spaces and shall be provided with bumper guards or wheel guards so located that no part of the parked vehicle will extend beyond the boundary of the established parking area into any minimum required yard or onto any adjoining property

(K) *Parking alternatives.*

(1) The Board of Zoning Appeals may, as a conditional use, waive any requirement of this section to the extent that the applicant can demonstrate that the regulation is unnecessarily stringent for the following reasons:

- (a) Unique times of day of use;
- (b) Shared or dual use;
- (c) Availability and projected use of alternative transportation modes; and
- (d) Anticipated reduction in vehicle use or ownership in connection with a specified use.

(2) A site development plan for an off-site or shared parking facility shall be filed with the Board as a required exhibit accompanying the conditional use petition and shall be made part of the conditions of any approval therefore. Such site development plan shall demonstrate compliance with all applicable standards of this chapter and shall indicate:

- (a) Adjacent streets, alleys and lots;
- (b) All individual primary uses to be served, including the location, use and number of parking spaces for each such use;
- (c) A layout drawn to scale of aisles and driveways, entrances, exits and turnoff lanes, parking spaces, setbacks, drainage facilities and landscaping; and
- (d) Off-site or shared parking facilities shall be encumbered by an instrument duly executed and acknowledged which subject such accessory off-street parking facilities to parking uses in connection with the primary use served. Such instrument shall specify the time period. Such instrument shall be recorded in the applicable zoning compliance permit files of the Plan Commission, and placed of public record in the office of the County Recorder.

(L) *Use of required off-street parking areas.*

(1) Accessory off-street parking facilities required in this section shall be utilized solely for the parking of passenger automobiles or light trucks of less than one-ton capacity, of patrons, occupants or employees of specified uses. Such parking facilities shall not be used for the storage, display, sales, repair, dismantling or wrecking of any vehicle, equipment or material.

(2) Parking areas may be used for permitted temporary uses in accordance with §157.085, upon a finding by staff that such temporary use will not create on-site parking shortages or traffic congestion.

(Ord. 17-2006, passed 11-27-2006; Am. Ord. 2, 2007, passed 2-12-2007)

§ 157.087 MANUFACTURED HOUSING.

(A) *Purpose and intent.* This section is intended to establish reasonable standards for the development of manufactured housing neighborhoods as an affordable housing alternative in the city.

(B) *Applicability.* The standards in this section apply to all manufactured home parks and manufactured home subdivisions hereinafter established or developed in the city or its extraterritorial jurisdiction.

(C) *General requirements.* Manufactured home parks and manufactured home subdivisions require Development Plan Approval in accordance with § 157.086.

(D) *Specific standards.*

(1) *Manufactured home parks.*

(a) Manufactured home parks shall be in accordance with I.C. 16-41-27-1 et seq., Title 410 IAC 6-6 and subsequent amendments, the State Board of Health Regulations, and the requirements of this chapter.

(b) Access to the park shall be from street designated and built as a collector street or higher. In no case shall access be permitted through local residential streets in RS, RS-1 or R-1 districts.

(c) Each manufactured home park shall have at least two entrances.

(d) Uses other than dwellings shall be subordinate to the residential character of the park.

(e) Uses shall be located, designed and intended to serve only the needs of persons living in the park.

(2) *Manufactured home subdivisions.*

(a) Manufactured home subdivisions shall comply with the Subdivision Control Ordinance.

(b) There shall be a notation on the recorded plat stating that the development is exclusively for manufactured housing.

(c) Manufactured home subdivisions shall meet all applicable standards of this chapter. In addition, the following development standards shall apply:

1. The development shall contain at least ten acres and 20 lots.

2. Each dwelling unit shall meet the standards contained in §§157.070 and 157.071.

3. Each parcel shall meet the dimensional requirements contained in §§157.070 and 157.071.

(Ord. 17, 2006, passed 11-27-1006)

§ 157.088 CAMPGROUNDS AND RECREATIONAL VEHICLE PARKS.

(A) *Permitted uses.*

(1) Campsites for recreational vehicles, tents, cabins, lean-to's, or similar temporary abodes;

(2) Community activities building;

(3) Recreational areas and facilities, such as swimming pools, tennis courts, sports fields, hiking or walking trails, and picnic areas;

(4) Laundry facilities;

(5) Restroom and shower facilities;

(6) Convenience store;

(7) Management office;

(8) Manager housing;

(9) Off-season storage of recreational vehicles; and

(10) Sales and rental of recreational vehicles.

(B) *Occupancy standards.*

(1) Each recreational vehicle, other than those that are for sale, shall display a current, valid license plate.

(2) Campsites shall be for seasonal, temporary occupancy only, limited to the time periods shown on the table below.

Occupancy Limits

Campground and RV parks

<i>Type of camping unit</i>	<i>Maximum occupancy time</i>
Recreational vehicle	90 days/calendar year
Cabin	90 days/calendar year
Tent or other temporary abode	30 days/calendar year

(C) *Dimensional requirements.*

Dimensional Requirements

Campgrounds and RV parks

<i>Use</i>	<i>Minimum area</i>	<i>Minimum setbacks</i>			<i>Minimum width</i>
		<i>Front</i>	<i>Side</i>	<i>Rear</i>	
Campground or RV park	5 acres	75 feet	25 feet	25 feet	None
RV or cabin campsite	1,500 square feet	20 feet minimum separation			35 feet
Other campsite	800 square feet	20 feet minimum separation			35 feet

(D) *Development standards.*

(1) All campgrounds and RV parks shall meet all state and local standards and shall have adequate sewage disposal, rubbish disposal, and water supply. The health and safety standards contained in Section 410 of the Indiana Administrative Code apply to all campgrounds regardless of size.

(2) At least 10% of the gross land area in the park shall be maintained as usable open space or recreation areas.

(3) The park shall have perimeter landscaping in accordance with §157.092.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.089 U.S. 50 CORRIDOR OVERLAY DISTRICT (O-1).

[Reserved]

(Ord. 17, 2006, passed 11-27-2006)

§ 157.090 TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT (O-2).

[Reserved]

(Ord. 17, 2006, passed 11-27-2006)

§ 157.091 HISTORIC OVERLAY DISTRICT (O-3).

[Reserved]

(Ord. 17, 2006, passed 11-27, 2006)

§ 157.092 LANDSCAPING STANDARDS.

(A) *Purpose and intent.* It is the intent of the city to promote the health, safety and welfare of its existing and future residents by establishing minimum standards to:

- (1) Protect, preserve and promote the aesthetic character of the roadway network and surrounding neighborhoods;
- (2) Improve environmental quality through reduction of visual pollution, improved air quality, and reduction of storm water runoff;
- (3) Mitigate impacts created between incompatible land uses; and
- (4) Enhance the community's natural resources through tree preservation and increased green space.

(B) *Applicability.* The provisions of this section shall apply to the following activities:

- (1) Any new building, structure, or impervious surface (including gravel) used for vehicles;
- (2) Expansion or reconstruction of an existing building footprint, structure or impervious surface used for vehicles by 20% or greater;
- (3) Any subdivision of land resulting in the creation of three or more lots from a single parent tract over any period of time.

(C) *Definitions.* For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LANDSCAPE BUFFER AREA (LBA). An area set aside to accommodate the required landscape and screening materials. No buildings, accessory structures or parking shall occur within the **LBA**.

LANDSCAPE ISLAND. A curbed planting area located in or immediately adjacent to a vehicular use area used to mitigate the environmental and visual impacts of the impervious surface.

TREE PROTECTION AREA (TPA). An existing tree area to be preserved and counted towards the tree requirements.

TREE PROTECTION FENCE. A durable, highly visible barrier, at least four feet in height, used to demark trees or tree masses to be protected during the construction process. Typically a plastic mesh fence, commonly known as "snow fence" is used.

VEHICULAR USE AREA (VUA). An impervious surface used for vehicular movements such as a parking lot, loading area or drive lane. Surfaces include: asphalt, concrete, clay pavers and compacted gravel.

(D) *Materials standards.* The following standards shall apply to all plant material used to satisfy the requirements of this chapter:

(1) Trees and shrubs shall meet the minimum requirements of the American Standard for Nursery Stock (ANSI Z60.1, Latest Edition) as published by The American Nursery and Landscape Association. Trees roots are preferred to be balled and burlapped. The planting minimum for trees is one growing season in a five-gallon container. Shrubs shall be well-rooted in a three-gallon container or greater.

(2) Deciduous trees at the time of planting shall be a minimum of 1.5 inches in diameter measured four feet from the ground. Evergreen trees shall be a minimum of six feet tall at the time of planting.

(3) Shrubs shall be a minimum of 12 to 24 inches tall at the time of planting.

(4) Trees used to meet Street Tree requirements shall be reviewed and approved by the Seymour City Engineer.

(5) Up to one third of the trees selected to meet VUA landscape requirements may be of a variety considered to be ornamental (such as Flowering Dogwood). No trees used to meet VUA landscape requirements may be fruit producing (such as apple trees).

(6) Plants used to meet code requirements that are lost, damaged, or die shall be permanently maintained and replaced with a similar species at the landowner's expense.

(E) *Technical standards.* The technical standards contained in this chapter represent the minimum requirements for buffer areas and plant material. Plant material provided for any development proposal beyond the minimum standards listed below is encouraged and is not subject to the review and approval process.

(1) Landscape buffer areas (LBAs) shall be provided for all common property boundaries as indicated in the table below. LBAs shall not be required within the CBD Zoning District.

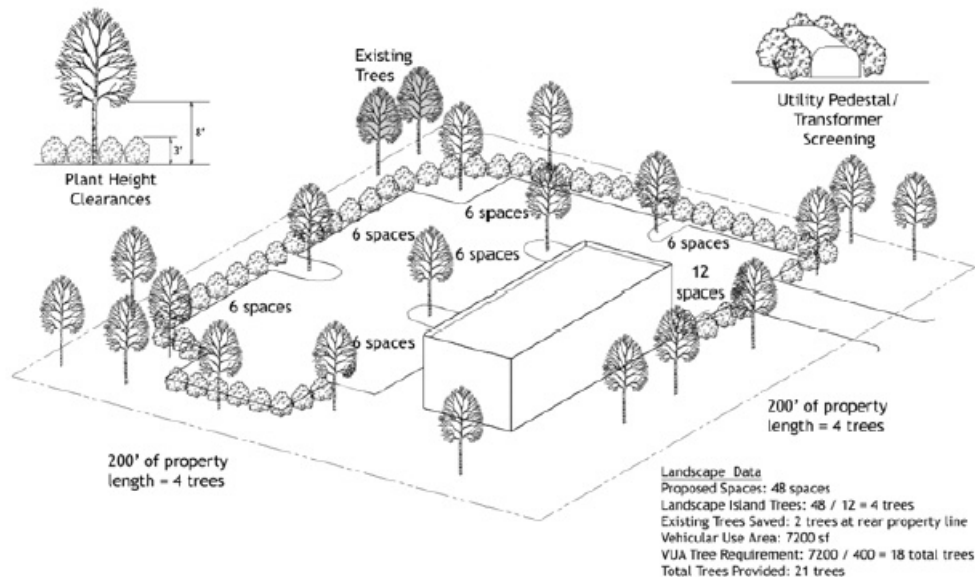
(2) Street trees are required for any new subdivision or new development site where adjacent to an existing or proposed right-of-way. Street trees shall be planted at a rate of one tree for every linear 75 feet for non-residential zones and at a rate of one tree for every 50 feet for residential zones. Trees may be grouped or staggered but shall not be planted closer than 25 feet apart. (See the following figures.)

(3) One tree per 400 square feet of vehicular use area (VUA) shall be provided within landscape islands or immediately adjacent to VUAs. Trees shall be generally distributed throughout the VUA and not concentrated in just a few small areas. Landscape islands shall be a minimum of 150 square feet in area and nine feet in width.

Minimum Required Plant Material

<i>Proposed use/zone</i>	<i>Adjoining use/zone</i>	<i>Minimum LBA</i>	<i>Required plant material (along common boundary)</i>
Office/retail	Residential	10 feet	Trees per technical standards plus a six feet continuous screen ¹
Any	Street	5 feet (Zero feet in CBD)	Trees per technical standards
Multi-family	Single-family	10 feet	Trees per technical standards
Industrial/utility facility	Residential	15 feet	Trees per technical standards plus a six feet continuous screen ¹
Industrial	Office/retail	10 feet	Trees per technical standards plus a six feet continuous screen ¹

¹ Continuous screen shall consist of a hedae, fence, wall, earth mound, or combination thereof that creates a visually continuous barrier. Evergreen trees may be used to satisfy both the tree and screen requirements.

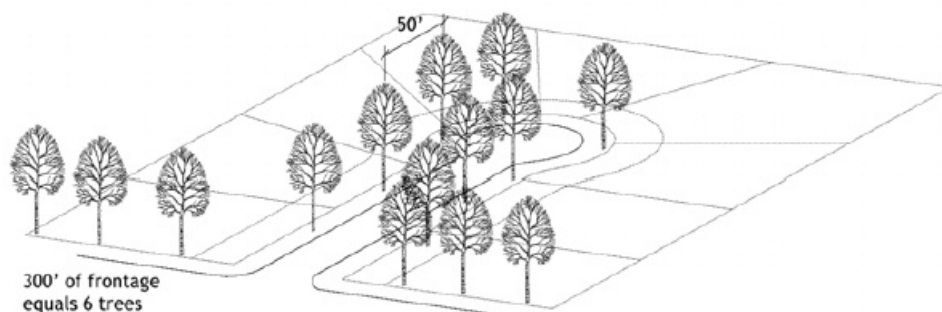


Non-Residential Requirements

(4) Trees for the property perimeter may be planted in the right-of-way as a street tree with the permission of the Seymour Board of Public Works and Safety.

(5) Existing trees in good health greater than four inches in diameter can be counted toward the total trees required for a site. Every four inches of diameter may be applied toward one required tree (i.e., an existing tree in good health with a 12 inch diameter measured four feet from the ground would equal three required new trees).

(6) Shrubs that will reach a minimum height of three feet shall be planted adjacent to all VUAs where parking is visible from a public/private street or a residential use or zone. Shrubs used to meet this requirement shall be planted a maximum of five feet apart and shall create a visually continuous screen at maturity.



Residential Landscape Requirements

(7) Plants shall be kept three feet from edge of any VUA as protection from vehicle overhang.

(8) Plants greater than three feet in height shall not to be planted within the sight distance triangle (measured from the edge of the drive lanes) at intersections and access points.

(9) Dumpsters shall be screened on at least three sides with either wood fencing or masonry walls to establish a visually opaque screen so as not to be visible from the street or adjacent properties. Screening shall be constructed a height of six feet or 12 feet above the height of the dumpster, whichever is greater. The dumpster enclosure materials shall be consistent with or complementary to the building materials of the primary structure.

(10) Loading/unloading areas shall be screened from adjacent properties with either evergreen plantings (six feet in height or greater at installation), wood fencing, a masonry wall, or some combination thereof.

(11) Utility pedestals/transformers, air conditioning units or similar equipment shall be screened to establish a visually opaque screen so as not to be visible from the street or adjacent properties.

Where plantings are used to satisfy this requirement, they must be able to achieve a mature height at least equal to the height of the item being screened.

(F) *Tree protection.* Existing trees used to meet tree requirements shall meet the following criteria:

(1) Shall be healthy (less than 15% dead branches, no visible wounds or girdling roots, and free from obvious signs of disease.)

(2) Shall be four inches in diameter or greater, measured four feet from ground level. Trees smaller than four inches may still be preserved, but will not count toward the required tree plantings.

(3) Tree protection fence shall be erected three feet beyond the canopy to form a tree protection area (TPA) prior to any construction activity.

(4) No material storage, parking, grading, fill or other construction activity shall take place inside of the TPA.

(5) The tree protection fence may be removed only after all construction is completed.

(6) Removal understory plants, weeds and groundcovers inside the TPA may take place after the tree protection fencing is removed. Care shall be taken to minimize damage to surface roots. Replanting of the TPA with sod, annuals, perennials or mulch is permitted.

(7) Should a preserved tree that was used to meet these tree planting requirements die, the tree shall be re-planted with a similar tree species. If the size of the existing tree allowed for that tree to count as more than one required tree, a comparable number of replacement trees shall be installed.

(G) *Timing of installation.* All plant material used to meet these requirements shall be planted prior to occupancy or, when no structure is involved, prior to use. When weather conditions preclude the timely installation of the landscape materials, planting may be delayed for a period not to exceed six months, provided that a financial guarantee in an amount equal to 110% of the installed cost of the materials is posted with the city prior to occupancy or use of the site.

(H) *Maintenance.* All landscaping shall be properly maintained. Dead plant materials shall be replaced in a timely manner, and landscaped areas shall be kept free of weeds and debris. Failure to maintain landscaping properly shall constitute a violation of this chapter.

(Ord. 17, 2006, passed 11-17-2006; Am. Ord. 12, 2024, passed 3-11-2024)

§ 157.093 EXTERIOR LIGHTING STANDARDS.

(A) *Purpose and intent.* It is the intent of the city to promote the health, safety and welfare of its residents by establishing exterior lighting standards that:

- (1) Reduce glare and light trespass;
- (2) Guide exterior lighting to compliment the city's character; and
- (3) Provide a secure nighttime environment.

(B) *Applicability.*

(1) The standards in this section shall apply to exterior lighting in any of the following:

- (a) All new private development;
- (b) Existing development where the number of existing fixtures is being increased by 50% or more; and
- (c) Existing private development where 50% or more of the exterior lighting is being replaced.

(2) The following activities shall be exempt from this regulation:

(a) Airport, tower, or structure lighting required by federal or state agencies (such as tall communications towers, water towers or tall chimneys where lighting is required to prevent airplane collisions).

(b) Seasonal decorations using typical unshielded low-wattage incandescent lamps.

(c) Street lights authorized by government agencies.

(C) *Definitions.* For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCENT LIGHTING. The type of outdoor lighting used to illuminate landscaping areas (flower beds, trees, vegetation) and other aesthetic features on a parcel (flag poles, etc.).

AMBIENT LIGHT. Existing, non-directional light present in the environment.

DIRECT LIGHT. Light emitted directly from the lamp, the reflector, the reflector diffuser, the refractor or the diffuser lens of a luminaire.

FOOT-CANDLE. Unit of illuminance measured on a surface where all points are at a distance of one foot from a directionally uniform point source of one candle and equal to one lumen per square foot.

FULLY-SHIELDED. Light emitted by the fixture, either directly or indirectly, is projected below a horizontal plane established at the lowest light emitting part of the luminaire. **FULLY-SHIELDED** luminaires are also known as a full-cutoff, cutoff or down lighting luminaires.

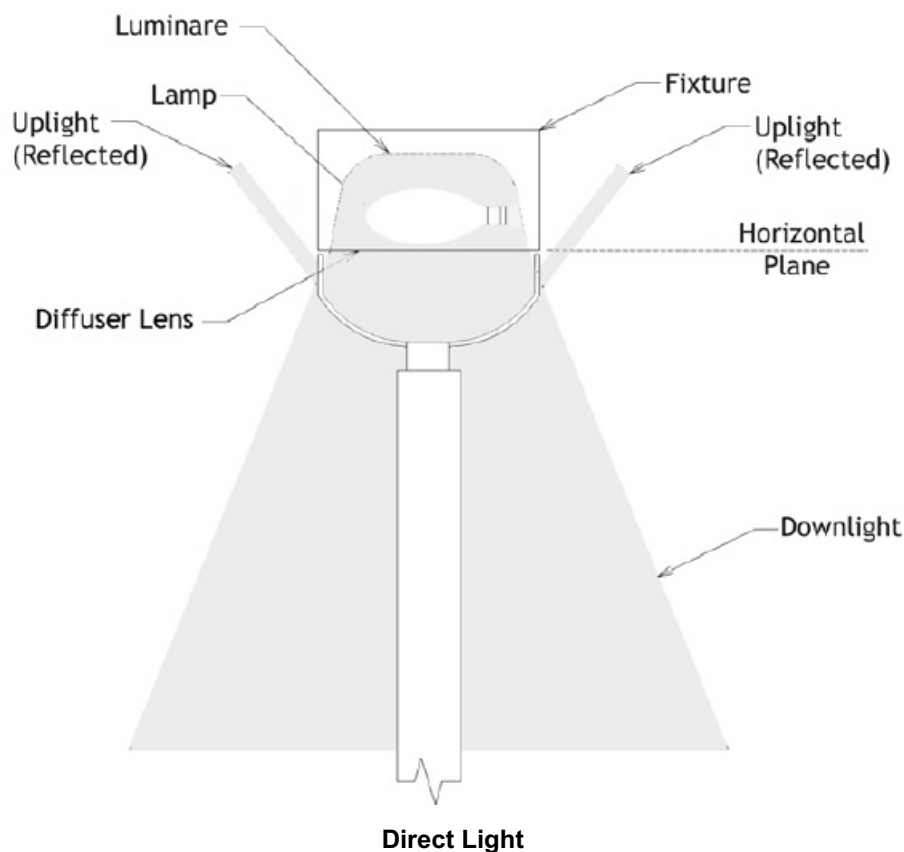
GLARE. means light emitting from a luminaire with an intensity that can reduce a viewer's ability to see.

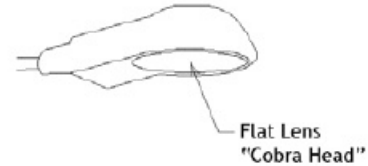
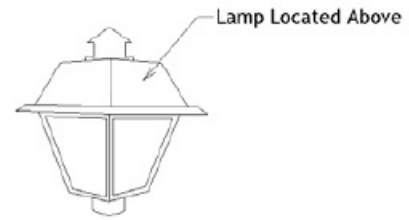
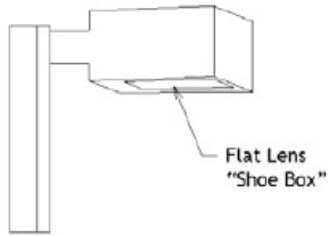
ILLUMINANCE. The quantity of light arriving at a surface, measured in foot-candles, divided by the area of the illuminated surface.

LIGHT TRESPASS. Direct light produced by an artificial light source that shines beyond the boundaries of the property on which it is located.

LUMINAIRE. Complete lighting system consisting of a lamp or lamps and a fixture.

UP-LIGHTING. Any light source that distributes illumination above a 90° horizontal plane.





Examples of Full-Cutoff Fixtures

(D) *Design standards.*

(1) *Glare.* All luminaires shall be aimed in such a way that direct light will not cause glare toward adjacent properties, public open spaces or parks, or public right-of-way.

(2) *Shielding.* All luminaires other than those listed below shall be fully-shielded:

(a) Internally lighted freestanding signs; and

(b) Recreational facilities lighting at least 500 feet from any residential use, provided that the Plan Commission has approved a lighting plan for the facility. The plan shall document the effect of lighting on adjacent residential areas. The Plan Commission may require modification of the lighting plan or impose conditions on its approval as necessary to mitigate the impacts of the lighting.

(3) *Freestanding signs.*

(a) Lighting fixtures used to illuminate a freestanding business sign shall be mounted on the top of the sign structure and directed towards the ground. Freestanding business signs with bottom-mounted lighting shall only be used if the fixtures are pointed directly at the sign.

(b) Freestanding business signs of the type constructed of translucent materials and wholly illuminated from within do not require shielding

(4) *Development lighting.*

(a) Lighting within a development shall have consistent luminaires in style, design, height, size and color for each lighting type (e.g.; wall mounted security light, pole mounting parking lot light, path light).

(b) Searchlights or aerial laser displays directed into the sky for purposes of advertising are prohibited as specified in § 157.095.

(5) *Accent lighting.*

(a) Landscape lighting used to illuminate building facades, walls, landscaping, flags, fountains, statues, or other architectural or design items shall be carefully located and aimed so that up-lighting is directed only onto the surface of the item it is intended to illuminate.

(b) Accent lighting used to illuminate building facades, walls, landscaping, flags, fountains, statues, or other architectural or design items shall not create glare for traffic on streets or roads.

(6) *Lighting height.* Pole-mounted lighting shall be no more than 30 feet in height.

(7) *Lighting levels.*

(a) Light levels shall be measured with an illuminance meter at eye height on a plane perpendicular to the line of sight.

(b) The level of lighting shall not exceed 50 foot-candles at any point beneath a canopy, pavilion, or drive-through bay.

(c) The level of lighting in parking facilities shall not exceed 2.5 foot-candles.

(8) *Light trespass.*

(a) The lighting level along any property line shall not exceed 0.5 foot-candles when adjacent to residential zones and 1.0 foot-candles when adjacent to all other zones or right-of-way.

(b) If the ambient light level prior to the development is 0.5 foot-candles or greater at the property line, then the development shall not add more than 0.5 foot-candles of light along any property line.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.094 DEVELOPMENT PLANS.

(A) *Purpose and intent.* Development plans are intended to ensure that districts and uses with special needs for compatibility are developed in a responsible manner, consistent with the Comprehensive Plan and with the spirit and intent of this chapter. They are intended to provide an opportunity for public and staff input into the specific design of new developments.

(B) *Authority.* In accordance with I.C. 36-7-4, the 1400 Series, the Plan Commission is hereby authorized to approve or disapprove Development Plans.

(C) *Criteria.* The Plan Commission shall approve a Development Plan only if the following criteria are met:

(1) The development is compatible with surrounding land uses.

(2) The development will have adequate sewage disposal, water supply, drainage, and other utilities.

(3) Traffic will be managed in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community as described below:

(4) The design and location of proposed street and highway access points minimize safety hazards and congestion.

(5) The capacity of adjacent streets and highways is sufficient to safely and efficiently accept traffic that will be generated by the new development.

(6) The entrances, streets, and internal traffic circulation facilities in the development plan are compatible with existing and planned streets and adjacent developments and are safe for pedestrian and vehicular traffic.

(D) *Applicability.* Development Plans are required for certain uses and/or zoning districts as specified in this chapter.

(E) *Development plan design standards.* In order to carry out the purposes and intent of this section, along with the goals, objectives, and policies of the City Comprehensive Plan, all development plans shall be designed, reviewed and approved in accordance with the following design standards.

(1) *Building separation.* As part of its review of a proposed development plan, the Plan Commission shall determine that all proposed structures are located to allow for: adequate light and air; ease of access and entry for vehicles, occupants and pedestrians; and safety from fire, flood and other safety hazards.

(2) *Yard and setback requirements and height limitations.* All minimum yard and setback requirements and height limitations required by this chapter shall be maintained, unless specifically waived or modified by the Plan Commission as part of the development plan approval.

(3) *Sanitary sewer.* Complete sanitary sewer facilities shall be installed to serve the proposed development. The design, layout, and construction of the proposed facilities shall comply with all applicable policies, standards, and specifications of the Seymour Engineering Department or other appropriate regulatory agency.

(4) *Water.* Complete water supply facilities shall be installed to serve the proposed development. The design, layout, and construction of the proposed facilities shall comply with all applicable policies, standards, and specifications of the Seymour Engineering Department, or other appropriate regulatory agency.

(5) *Storm water drainage.* Complete storm water drainage facilities shall be installed to serve the proposed development. The design, layout, and construction of the proposed facilities shall comply with all applicable policies, standards, and specifications the Seymour Engineering Department or other appropriate regulatory agency.

(6) *Street and outdoor site lighting.* Street lighting facilities shall be installed by the developer as necessary to serve the proposed development. Additional outdoor site lighting may also be provided as needed.

(7) *Streets.* Adequate street facilities shall be installed as necessary to serve the proposed development. Proposed streets shall be constructed and maintained as private streets, unless otherwise required or permitted by the Board of Public Works and the Plan Commission. The design, layout, construction, dedication, and acceptance of any proposed public street shall comply with all applicable policies, standards, and specifications of the Board of Public Works and Safety and the Seymour Engineering Department, or other appropriate regulatory agency.

(8) *Access and traffic management.* The design, layout, and construction of all access facilities, roadway improvements, internal traffic and circulation facilities, and other traffic management facilities shall comply with all applicable policies, standards, and specifications of the Board of Public Works, the Seymour Engineering Department, or other appropriate regulatory agency. As part of its review of a proposed development plan, the Commission shall consider and determine if the development's access and traffic management proposals manage traffic in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community, and accomplishes the

following:

(a) That the design and location of proposed street and highway access points minimizes safety hazards and congestion;

(b) That the capacity of adjacent streets and highways is sufficient to safely and efficiently accept traffic that will be generated by the new development; and

(c) That the entrances, streets, and internal traffic circulation facilities in the development plan are compatible with existing and planned streets and adjacent developments.

(9) *Natural features and landscaping.*

(a) *Natural features.* As part of its review of a proposed development plan, the Plan Commission shall consider whether the development is compatible with surrounding zoning and land uses. To help achieve compatibility and appropriate site design and development, the applicant or developer is encouraged to preserve as many existing trees and other natural site features as is practical. The location and nature of these site features shall be considered by the applicant or developer in the planning and design of the site development.

(b) *Landscaping.* To help achieve compatibility and appropriate site design and development, landscaping shall be provided in accordance with the parking area landscaping requirements unless specifically waived or modified by the Commission or its designated representative as part of the development plan approval.

(c) *Shade trees.* Existing shade trees shall be retained or new trees planted along all public streets in accordance with the standards and specifications of the city.

(10) *Pedestrian circulation.*

(a) Pedestrian walkways and circulation paths shall be provided to serve the proposed development. Sidewalks or other circulation paths shall be designed to allow for:

1. Access from parking areas to individual buildings;
2. Access between individual buildings and/or uses within the development; and
3. Coordination with and connection to existing or proposed sidewalks or uses.

(b) Public sidewalks shall be provided on both sides of any new public street(s) or existing public streets proposed to serve the development, unless specifically waived or modified by the Plan Commission as part of the development plan approval. The Commission may also require replacement of existing sidewalks along existing streets which abut the proposed development.

(c) The Plan Commission may require the provision of sidewalks along any existing or proposed private streets within the proposed development.

(d) The design and construction of all sidewalks shall comply with the applicable requirements of the Americans with Disabilities Act (ADA).

(11) *Signs.* All proposed signs shall comply with the applicable provisions and requirements of this chapter. As part of its review and approval of a proposed development plan, the Plan Commission may grant waivers to those signage provisions and requirements.

(12) *Parking.* Adequate off-street parking facilities shall be provided to serve the proposed development according to the provisions and requirements of this chapter. The minimum number of parking spaces shall be provided, unless specifically waived as part of the development plan approval.

(13) *Easements.* Easements shall be provided as necessary for utility lines, storm water drainage facilities, and other similar facilities and uses. Easements shall be designed and laid out so that adequate utility service and storm drainage can be provided, and proper continuity exists between areas, uses, structures, parcels, and developments. Easement widths and locations shall comply with all applicable policies, standards, and specifications of the Board of Public Works, City Utilities, or other applicable utility or regulatory agency.

(14) *Traffic.* As part of its review of any proposed primary development plan, the Commission may require the preparation and submission of a traffic impact study and/or any other studies or information the Commission determines is necessary for proper consideration and review of the request.

(F) *Waivers.* The Plan Commission may waive or modify certain development plan design standards as part of its approval of a primary or secondary development plan. Such a waiver or modification may be granted provided that the following criteria are met:

(1) The waiver or modification is in conformance with the purposes and intent of this chapter along with the goals, objectives, and policies of the Comprehensive Plan.

(2) The Commission determines the applicant has submitted adequate evidence in support of the requested waiver or modification;

(3) The requested waiver or modification will be compatible with the immediate area, and will not be unduly detrimental

to the use and value of the area adjacent to the property included in the request, and;

(4) The failure to grant the requested waiver would result in practical difficulties in the use of the property for the proposed development.

(Ord. 17, 2006, passed 11-27-2006 ; Am. Ord. 5, 2010, passed 4-26-2010)

§ 157.095 SIGNS.

(A) *Purpose and intent.* The purposes of this section are as follows:

- (1) To encourage effective use of signs as a means of communication;
- (2) To maintain and enhance the aesthetic quality of the city and thereby make the city more attractive to sources of economic development and growth;
- (3) To improved pedestrian and vehicular traffic safety;
- (4) To minimize the possible adverse effect of signs on nearby public and private property; and
- (5) To enable the fair and consistent enforcement of the sign regulations.

(B) *Applicability.* A sign may be erected, place, established, painted, created or maintained in the jurisdiction of the City of Seymour Plan Commission only in conformance with these regulations. In order to accomplish the purposes set forth in does the following:

- (1) Allows certain signs to be displayed without permits;
- (2) Prohibits certain signs; and
- (3) Requires permits for all signs not specifically exempted.

(C) *Definitions.* For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMATED SIGN. Any sign which moves or which appears to move by any mean, including fluttering or rotating. **ANIMATED SIGNS** shall include but are not limited to pennants, flags, balloons, ribbons, streamers, inflatable devices or propellers. For purposes of this section, this term does not refer to flashing or changing signs, all of which are separately defined.

BANNER. Any sign of lightweight fabric or similar material that contains a message or any kind. National flags, state or municipal flags, or the official flag on any institution or business shall not be considered **BANNERS**.

BEACON. Any light with one or more beams directed into the atmosphere or directed at one or more pints not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

BILLBOARD. A sign that advertises products or services not sold or distributed on the premises on which the sign is located.

BUILDING MARKER. Any sign indicating the name of a building and the date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

BUILDING SIGN. Any sign attached to any part of a building, as contrasted to a freestanding sign.

CANOPY SIGN. Any sign that is part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

CHANGEABLE COPY SIGN (AUTOMATIC). A sign such as an electronically or electrically controlled display sign or reader board where different copy changes are shown on the same lamp bank. A sign on which the message changes more than eight times per day shall be considered an **ELECTRONIC MESSAGE CENTER SIGN** and not a **CHANGEABLE COPY SIGN**.

CHANGEABLE COPY SIGN (MANUAL). A sign on which copy is changed manually and the area of which shall be included within the allotted face of sign square footage.

COMMERCIAL MESSAGE. Any sign wording. Logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business product, service, or other commercial activity.

ELECTRONIC MESSAGE CENTER SIGN. A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

FLAG. Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

FREESTANDING SIGN. Any sign supported by structures or supports that are placed on or anchored in the ground and that are independent from any building or other structure.

INCIDENTAL SIGN. A sign, generally informational, that has a purpose secondary to the zone lot on which it is located,

such as "no parking," "loading only," and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

MARQUEE. Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

MARQUEE SIGN. Any sign attached in any manner to or made part of a marquee.

NAMEPLATE. A sign containing the name of the occupant or building and/or the address of the site.

NONCONFORMING SIGN. Any sign that does not conform to the requirements of this chapter.

PENNANT. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

PROJECTING SIGN. Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall, but not more than 18 inches from the building.

RESIDENTIAL SIGN. Any sign located in a district zoned for residential use, provided such sign contains no commercial message except where advertising for goods or services legally offered on the premises is permitted, and only if offering such service at such location conforms to all requirements of this chapter.

ROOF SIGN. Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

ROOF SIGN, INTEGRAL. Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

SIGN. Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, or writing to advertise, announce the purpose of a person or entity, or to communication information of any kind to the public.

SUSPENDED SIGN. A sign that is suspended from the under side of a horizontal plane surface and is supported by such surface.

TEMPORARY SIGN. Any sign that is used or designed or intended to be used only temporarily and is not permanently mounted.

WALL SIGN. Any sign attached parallel to, but within 18 inches of a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

WINDOW SIGN. Any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

(D) *General requirements.*

(1) *Computations.* (See § 157.094)

(2) *Permits.* Unless specifically exempted by this chapter, each sign placed, constructed, erected, or modified on a zone lot requires a permit. The form and content of sign permit applications shall be in conformance with the Plan Commission Rules of Procedure.

(3) *Exemptions.* The following types of signs are exempt from regulation:

- (a) Any public notice or warning required by a valid and applicable federal, state, or local law or regulation;
- (b) Any sign inside a building, not attached to a window or door within the lot line of the zone lot or parcel and not designed or intended to be read from a public right-of-way;
- (c) Works of art that do not include a commercial message;
- (d) Holiday lights and decorations with no commercial message, but only between November 15 and January 15;
- (e) Traffic control devices on private property, such as stop, yield, one-way, no parking, and similar signs, the face of which meet Indiana Department of Transportation standards and which do not contain any commercial message;
- (f) Directional or informational signs of a public or quasi-public nature, not exceeding 8 square feet in area containing no commercial message for any of the following purposes:
 - 1. Indicating the name and/or location of a place such as a town, village, hospital, community center, private school, college, religious facility, or official civic body; and
 - 2. Indicating the name and/or location of a special event, such as a state or county fair, community festival, or concert;
- (g) Real estate signs no larger than six square feet; and

(h) Political signs.

(4) *Removal.* Signs on any building or zone lot that is vacant or abandoned as defined in this chapter shall be removed. The owner of the property on which such sign is located shall be responsible for the removal.

(E) *Specific standards.*

(1) Signs shall comply with the standards set forth on the following tables within this subchapter.

Signs by Type and Zoning District

P = Allowed without permit S = Allowed with permit N = Not allowed district

<i>Sign type</i>	<i>RS RS-1</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>C-1, C-2</i>	<i>C-3</i>	<i>C-4</i>	<i>C-5</i>	<i>I-1</i>	<i>I-2</i>	<i>I-3</i>	<i>Institutional park, open space</i>
<i>Sign type</i>	<i>RS RS-1</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>C-1, C-2</i>	<i>C-3</i>	<i>C-4</i>	<i>C-5</i>	<i>I-1</i>	<i>I-2</i>	<i>I-3</i>	<i>Institutional park, open space</i>
Freestanding													
Residential	S	S	S	S	S	N	N	N	N	N	N	N	N
Business	N	N	N	N	N	S	S	S	S	S	S	N	N
Incidental	N	N	N	N	N	N	N	N	N	N	N	N	N
Temporary	N	N	N	N	N	S	S	S	S	N	N	N	N
Building													
Banner	N	N	N	N	N	S ²	S ²	S ²	S ²	S ²	S ²	N	S ²
Building marker	P	P	P	P	P	P	P	P	P	P	P	N	P
Canopy	N	N	N	N	N	S	S	S	S	S	S	N	N
Identification	P	P	P	P	P	S	S	S	S	S	S	N	N
Incidental ¹	P	P	P	P	P	P	P	P	P	P	P	N	P
Marquee	N	N	N	N	N	N	N	N	N	N	N	N	N
Protection	N	N	N	N	N	S	S	S	S	S	S	N	S
Residential	N	N	N	N	N	N	N	N	N	N	N	N	N
Roof	N	N	N	N	N	N	N	N	N	N	N	N	N
Roof integral	N	N	N	N	N	S	S	S	S	S	S	N	N
Flush mount	N	N	N	N	N	S	S	S	S	S	S	N	S
Suspended	N	N	N	N	N	S	S	S	S	S	S	N	S
Temporary	N	N	N	N	N	N	N	N	N	N	N	N	N
Wall	N	N	N	N	N	S	S	S	S	S	S	N	S
Window	N	N	N	N	N	S	S	S	S	S	S	N	S
Miscellaneous													
Banner	N	N	N	N	N	S	S	S	S	S	S	N	S
Portable	N	N	N	N	N	N	N	N	N	N	N	N	N
Billboard	N	N	N	N	N	N	N	N	N	S ³	S ³	N	N
Electronic message center	N	N	N	N	N	S	S	S	S	S	S	S	N

1 Permanently mounted

2 Permit required if larger than two square feet

3 Permitted only along interstate highways, provided they are at least 1,500 feet apart

Maximum Sign Area Per Zone Lot (square feet)¹

	RS RS-1	R-1	R-2	R-3	R-4	C-1	C-2	C-3	C-4	C-5	I-1, I-3	I-2
Maximum each sign ²	NA	NA	100	100	100	100	100	100	See § 157.085	100	100	100
Maximum total area	NA	NA	50	50	50	200	200	200	100	200	200	200

1 Building markers incidental and identification signs and flags are not included in the total square footage.

2 Window signs may not exceed 25% of the window area.

3 The maximum area (each sign and total area) shall be increased to 280 square feet for a billboard.

Number, Height, and Setback of Signs by Zoning District

	Zoning districts											
	RS-1, RS-2	R-1	R-2	R-3	R-4	C-1	C-2	C-3	C-4	C-5	I-1, I-3	I-2
Maximum height (feet)	NA	8	8	8	8	35	35	35	35	35	35	35
Minimum setback ¹	NA	6	6	6	6	6	6	6	6	6	6	6
Maximum number per zone lot	0	1	1	1	NA	NA	NA	NA	NA	NA	NA	NA

1 Sign height shall not exceed the sign setback from any adjacent lot zoning and/or used for residential purposes. Signs shall not interfere with intersection visibility and shall comply with the standards of § 157.093. In the C-4 district, awning, projecting and suspended signs may be within the public right-of-way provided that they do not interfere with pedestrian or vehicular traffic.

Number and Dimension of Signs by Type

	Number allowed	Maximum sign area	Minimum vertical clearance	
			From sidewalk private drive parking	From public street
	Number allowed	Maximum sign area	Minimum vertical clearance	
			From sidewalk private drive parking	From public street
Freestanding				
Residential, other, incidental	See previous table		NA	NA
Building				
Banner	NA	NA	9 feet	12 feet
Building marker	1/building	4 square feet	NA	NA
Canopy	1/building	25% of vertical surface	9 feet	12 feet
Identification	1/building	NA	NA	NA

Incidental	NA	NA	NA	NA
Marquee	1/building	NA	9 feet	12 feet
Projecting	1/building	NA	9 feet	12 feet
Residential	1/Zone Lot	40 square feet	NA	NA
Roof	1/principal building	NA	NA	NA
Roof, integral	1/principal building	NA	NA	NA
Suspended	1/entrance	NA	9 feet	12 feet
Temporary	See § 157.056	NA	NA	NA
Wall	NA	NA	NA	NA
Window	NA	25% of window	NA	NA
Miscellaneous				
Banner	NA	NA	9 feet	12 feet
Flag		60 square feet	9 feet	12 feet
Portable	1 where allowed	20 square feet	NA	NA
Temporary	See § 157.056			

Permitted Sign Types by Zoning District

S = Allowed w/ permit N = Not allowed

	RS-1, RS-2	R-1	R-2	R-3	R-4	C-1	C-2	C-3	C-4	C-5	I-1, I-3	I-2
Animated	N	N	N	N	N	N	N	N	N	N	N	N
Changeable copy	N	N	N	N	N	S	S	S	S	S	S	S
Illumination, general	N	N	N	N	N	S ¹	S ¹	S ¹	S ¹	S ¹	S	S
Illumination external	N	S	S	S	S	S ¹	S ¹	S ¹	S ¹	S ¹	S	S
Illumination, exposed bulbs or neon	N	N	N	N	N	S	S	S	S	S	S	S
Electronic message center	N	N	N	N	N	S	S	S	S	S	S	S

1 No direct light or significant glare from the sign shall be cast onto any adjacent zone lot that is zoned or used for residential purposes.

(2) In the C-4 district, the following standards apply:

(a) The maximum area of all signs shall not exceed 75 square feet or one square feet of sign area for each two linear feet of building façade, whichever is smaller.

(b) No building sign shall exceed three feet in height.

(3) Location requirements for electronic message center signs:

(a) *Setback from residential.* The leading edge of an electronic message center sign shall be a minimum distance of 100 feet from an abutting residential use or residential zone boundary.

(b) *Setback from other electronic message center signs.* Electronic message center signs shall be separated from other electronic message center signs by a minimum of 100 feet.

(c) *Orientation.* When located within 500 feet of a residential use or a residentially-zoned parcel, the electronic message center sign shall be oriented so that no portion of the sign face is visible from an existing or permitted principal structure on that parcel.

(d) *Location.* The electronic message center sign shall be located on the parcel or lot of the use identified or advertised by the sign.

(e) No more than 50% of the facing surface of the sign may be comprised of a changeable electronic or digital display.

(4) Operational requirements for electronic message center signs:

(a) *Dimmer control.* All electronic message center signs shall be equipped with an automatic dimming photo-sensor control that automatically adjusts the sign's brightness in correlation with real-time ambient light conditions.

(b) No electronic message center sign shall exceed an illumination level of 0.3 foot candles above ambient light as measured using a foot candle meter at a distance of 100 feet from the sign. This provision shall apply to both new and existing electronic message center signs within the jurisdictional limits of the city. As a prerequisite to the issuance of a permit for a new or replacement electronic message center sign, the manufacturer of the new or replacement sign shall certify in writing to the Building Commissioner that said sign meets or exceeds the operational requirements of this section. If an existing electronic message center sign is not capable of meeting this requirement, such sign shall be turned off between the hours of 10:00 p.m. and 6:00 a.m. regardless of the parcel's zoning classification.

(c) *Audio and pyrotechnics.* Audio speakers or any form of pyrotechnics are prohibited in association with electronic message center signs.

(d) If an electronic message center sign is located within 100 feet of a residential use or zone, it shall be turned off between the hours of 10:00 p.m. and 6:00 a.m.

(e) *Timing of display changes.* Electronic message center signs shall be restricted to a maximum of 30 display changes per minute between the hours of 6:00 a.m. and 10:00 p.m. and restricted to a maximum of 15 display changes between the hours of 10:00 p.m. and 6:00 a.m.

(f) Electronic message center signs that were in place and operational prior to July 31, 2010 may continue in use provided that if the sign face is replaced or upgraded, the replacement or upgrade shall meet the operational standards of this section. Any change in use of the parcel on which an electronic message center sign existed prior to July 31, 2010 shall require that the sign shall meet the operational standards of this section.

(F) *Temporary signs.*

(1) Temporary sign permits shall allow the use of a temporary sign for a specified 30-day period.

(2) Permits for temporary private signs in the public right-of-way shall be for a maximum of ten days. No more than one permit for such temporary signs shall be issued to any applicant in any six-month period. Such permits are allowed only for signs containing no commercial message that are no larger than two square feet in area and are needed to indicate the time and/or location of an event of public interest.

(G) *Design, construction, and maintenance.*

(1) All signs shall comply with applicable provisions of the Indiana Building Code and the electrical code of the city at all times. Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this chapter, all signs 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.

(2) All signs shall be maintained in good structural condition, in compliance with all building and electrical codes and in conformance with this chapter at all times.

(H) *Prohibited signs.* In addition to signs shown on the tables as prohibited in certain districts, the following signs are prohibited within the jurisdiction of the Seymour Plan Commission:

(1) Signs that interfere with visibility for drivers or pedestrians or in any other way endanger public health or safety;

(2) Signs attached to public light poles, street signs, traffic control signs, or other public standards, utility poles, or trees, or other signs located in the public right-of-way, other than those specifically permitted by this chapter.

(I) *Nonconforming signs.* Signs that are nonconforming shall be subject to the provisions of § 157.134.

(J) *Violations.* Any of the following shall be considered violations of this chapter and shall be subject to all enforcement, remedies, and penalties contained in §§ 157.150, 157.151 and 157.999.

(1) Installing, creating, erecting, maintaining, or altering a sign without obtaining a required permit;

(2) Installing, creating, erecting, maintaining, or altering a sign in a way that is inconsistent with any plan or permit governing such sign; and

(3) Failing to remove any sign that is installed, created, erected, altered, or maintained in violation of this chapter.

(Ord. 17, 2006, passed 11-27-2006; Am. Ord. 20, 2010, passed 11-8-2010)

§ 157.096 HOME-BASED BUSINESSES.

(A) *Purpose and intent.* It is the intent of this section to allow businesses to be operated in residences, provided that where residences are the principal uses of land, the residential interests shall take precedence over business interests to ensure the continued residential character of the property. Home-based businesses are permitted only as accessory uses.

(B) *Businesses allowed without permits.* Home-based businesses meeting the criteria below are permitted in any residential dwelling and do not require a permit:

- (1) The primary use of the property is residential, and the operator of the home-based business resides in the dwelling unit.
- (2) The operator of the home-based business does not employ solely for the business anyone not residing on the premises.
- (3) There are no structural additions, enlargements or exterior alterations to accommodate the home-based business or which change the residential appearance to a business appearance.
- (4) The business is conducted entirely within the residence and not in any accessory building.
- (5) There is no additional and separate entrance incongruent with the residential structural design for the purpose of conducting the home-based business.
- (6) There is no display of goods, signs, or other external evidence of the home occupation.
- (7) There are no clients or customers who come to the premises for the purpose of patronizing the home-based business.

(C) *Businesses requiring a permit.* Home-based businesses meeting the criteria below are permitted but require an improvement location permit. Examples of such businesses include but are not limited to music instruction, tax preparation, financial planning, insurance sales, sewing and tailoring, and repairs of small items.

- (1) There shall be no more than one nonresident person engaged on the premises in the operation of the business at any one time.
- (2) There shall be no more than four clients, customers, or students at the premises at any one time for a purpose associated with the home-based business.
- (3) If the home-based business is located in an accessory building, such building shall be of a type and size consistent with other accessory buildings in the neighborhood. No accessory building shall be constructed for the purpose of housing a home-based business.
- (4) The business shall be conducted entirely within enclosed buildings, with the exception of seasonal outdoor instruction such as tennis or swimming lessons for no more than four students at any one time.
- (5) Any sign associated with the home-based business shall be consistent with other signs permitted in residential districts and shall be no larger than two square feet in area.

(D) *Prohibited businesses.* The following are not permitted as home-based businesses:

- (1) Any business utilizing hazardous or flammable materials;
- (2) Any business that produces noise levels beyond those normally present in residential areas;
- (3) Any business that produces odors, heat, glare vibration, or other similar effect at levels beyond those normally presents in residential areas; and
- (4) Any business that requires approval from the State Board of Health, including but not limited to food service, beauty salons, and barber shops.

(E) *Home-based businesses as conditional uses.* The Board of Zoning Appeals may grant a conditional use permit to operate any home-based business not specifically prohibited herein, provided the Board makes findings that such business meets all the criteria for a conditional use contained in § 157.094.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.097 STANDARDS APPLICABLE TO BURKART BOULEVARD.

Driveway separation distance on Burkart Boulevard from State Road 11 to Airport Road and US 50 on the West Side. From State Road 11 around to Airport Road and US 50 on the west side, all new driveways installed along Burkart Boulevard shall be a minimum of 900 feet apart from adjacent driveways or street intersections on the same side of the street. See other areas of the code for additional requirements.

(Ord. 2, 2021, passed 1-25-2021)

SPECIAL PROVISIONS

§ 157.115 WIRELESS COMMUNICATION FACILITIES.

(A) *Purpose and intent.* The purpose of this section is to establish reasonable standards for the installation of wireless communication facilities, balancing the need for the facilities with the protection of neighborhoods, and the appearance and safety of the community. These standards shall be interpreted and enforced in a manner consistent with the Telecommunications Act of 1996. Towers installed by a unit of government are exempt from the provisions of this section. Specifically, this section is intended to further the Comprehensive Plan by doing the following:

- (1) Permitting the location of towers in non-residential areas;
- (2) Avoiding damage to the adjacent properties from tower failure by requiring structural standards and setback distances;
- (3) Minimizing the adverse visual effects of towers through careful design and siting standards;
- (4) Maintaining and enhancing the aesthetic environment of the city and its jurisdiction;
- (5) Reducing the proliferation of towers through tower-share requirements for all new construction and those existing towers that are physically capable of sharing;
- (6) Encouraging the use of already existing structures, whether publicly or privately owned, such as water towers, silos, steeples and other tall structures as prime sites for new antenna sites;
- (7) Discouraging the siting of telecommunication facilities in residential and agricultural areas;
- (8) Providing for the siting of telecommunication facilities which may deviate from the regulations of this chapter upon approval of the Plan Commission or Board of Zoning Appeals, as appropriate.

(B) *Definitions.* For purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT. The Communications Act of 1934, as amended from time to time, including the Telecommunications Act of 1996, as amended from time to time.

ALTERNATIVE TOWER STRUCTURE. Man-made structures such as clock towers, steeples, light poles, roof tops, or antennas integrated into existing architecture or similar alternative designed mounting structures or methods that camouflage or conceal the presence of antennas or towers.

ANTENNA. Any exterior apparatus designed to send and/or receive electromagnetic waves for the purpose of telephonic, radio or television communications.

CELLULAR TELECOMMUNICATIONS. A commercial wireless radio service licensed by the Federal Communications Commissions which provides telecommunications service permitting customers to use wireless telephone technology such as, but not limited to, portable phones, pagers, faxes and computers.

CO-LOCATION. Locating telecommunication facilities from more than one provider on a single site or structure.

FCC. The Federal Communications Commission or any successor thereto.

LATTICE TOWER. A self supported three or four sided, open, steel frame structure, which is intended for receiving or transmitting any form of electronic communication.

MONOPOLE TOWER. A communication tower consisting of a single pole, constructed without guy wires and ground anchors, which is intended for receiving or transmitting any form of electronic communication.

STEALTH FACILITY. Any telecommunications facility which is designed to blend into the surrounding environment; including, but not limited to, architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure or integrated into existing architectural elements, towers designed to look like trees or designed to look like light poles, silos or other man made structure.

TELECOMMUNICATIONS FACILITY. A cellular **TELECOMMUNICATIONS FACILITY** consisting of the any of the equipment and structures involved in transmitting signals for cellular telecommunications.

TOWER HEIGHT. The vertical distance measured from grade level to the highest point of the structure.

(C) *Conditional use permit criteria.*

- (1) The Board shall not grant a conditional use unless it finds that the following criteria are met, as applicable:
 - (a) The telecommunications facility shall be designed, constructed and placed to minimize the visual impact by:
 1. Use of an alternative tower structure;
 2. Co-location;
 3. Use of a stealth facility;
 4. If new construction, structurally designed and capable of allowing other carriers to co-locate on the tower structure;
 5. The use of color or camouflaging architectural treatment, or

6. The telecommunications facility is located on public land or in the public right of way as set forth in § 57.115.

(b) If the property is being leased, the provider shall enter into a written easement agreement with the owner of the property, which shall include a platted area for the location of the telecommunications facility, which shall be duly recorded. If the property is owned or leased by the provider, unless the telecommunications facility is attached to an already existing structure, the platted area for the tower shall be the only use permitted on the platted easement or property.

(2) Alternative tower structures shall be designed and placed to minimize the visual impact of the structure, or if placed on existing structures do not exceed the height of the existing structure by more than 20 feet. In all cases, such structures shall meet all other zoning requirements.

(3) Telecommunication facilities shall be permitted in all districts if located on public land or in the public right of way as set forth provided the public entity having jurisdiction over the property gives written authorization for location of the tower.

(D) Design and location standards.

(1) The tower color shall be galvanized metal or similarly gray tone.

(2) Guyed and self supporting lattice towers shall not be permitted, unless the applicant provides a written report from a registered professional engineer, with a specialization in geotechnical engineering, that the cost of such a tower at such site is at least twice the normal cost of constructing a monopole tower due to specific conditions present at the site.

(3) Stealth technology shall be used wherever possible.

(4) Notwithstanding any other provision of this chapter, the tower height for a stand-alone tower shall not exceed 60 feet if it is designed to accommodate only one service provider; 100 feet if it is designed to accommodate only two service providers: and 300 feet if it is designed to accommodate more than two providers.

(5) Telecommunication facilities attached to other structures shall not exceed the greater of

(a) The height requirement in the zoning district which they are located by more than ten feet; or

(b) The height of the structure on which such facilities are attached by more than 20 feet, unless the Board of Zoning Appeals grants a conditional use permit for the tower.

(6) Self-supporting towers (without guy wires) more than 100 feet and less than 180 feet tall shall be situated on the site to self-contain all debris resulting from tower failure. In all cases, the tower shall be located no closer to the lot line than 25% of the tower height or the setback requirement in § 157.085, whichever is greater. In the event that the self-supporting tower is located contiguous to a residential parcel, the tower shall be set back from the lot line a distance equal to the height of the tower.

(7) All guy mast towers and self-supporting towers greater than 180 feet shall be situated on the site to self contain all debris resulting from tower failure. In all cases, the tower shall be located no closer to the lot line than 66% of the tower height plus 25 feet. Also, in all cases, the guy wire anchors shall be located a minimum of 25 feet from the lot line or the prevailing yard requirement, whichever is greater.

(8) To protect from falling ice or parts, guyed towers shall be located a minimum of 1.25 feet for every foot of height from any public road right-of-way, residentially used parcel or home, occupied building, recreational field or playground. The Plan Commission may apply the criteria in this subsection to other structures or land if determined necessary to safeguard human life.

(9) Towers greater than 180 feet in height shall be located a minimum distance of 1,500 feet from any residential subdivision.

(10) The height of tower apparatus shall not be utilized in determining the setbacks required by this section. All tower apparatus shall be securely fastened to minimize noise emissions or damages from falling. Towers of 180 feet or less shall not exceed a total height of 200 feet, including attached tower apparatus.

(E) Maintenance and removal.

(1) All towers and sites shall be properly maintained and shall be kept in a condition as not to become a public nuisance or eyesore. Proper maintenance shall include but not be limited to regular lawn and landscaping care, painting of an accessory building, fences, and tower. Additionally, the site shall be kept free of junk and trash.

(2) Any abandoned or unused telecommunications facility shall be removed (including the tower, support structure, and buildings) within 180 days of the cessation of use, and the site shall be restored to its original condition.

(3) Any tower declared to be a public nuisance due to abandonment, disuse, poor maintenance, noise emissions, or other situation shall be a violation of this chapter.

(F) Co-location, use, and documentation.

(1) An application for a permit to erect a tower must include documentation showing that there is a need for tower space in the area of the proposed tower. New towers shall not be constructed except upon a showing of significant need.

(2) The applicant shall have the burden of proving significant need by a preponderance of the evidence showing that the following criteria are met:

(a) The proposed tower will replace an existing similar (i.e., height and other characteristics) tower that has been or will be removed.

(b) The proposed additional antennas cannot be placed on existing towers.

(c) Existing towers cannot be re-engineered to accommodate additional antennas.

(d) Existing towers cannot be extended to accommodate additional antennas.

(e) Another communication technology in lieu of towers with antennas is not available.

(f) A site containing an existing tower cannot accommodate an additional tower.

(3) A new tower application shall demonstrate need for a minimum of two antenna arrays, which shall be included in the tower application.

(G) *Towers as conditional uses.* The Board of Zoning Appeals may grant a conditional use permit for a wireless communication tower only if the applicant provides a report from a registered professional engineer with a specialization in cellular telecommunications as to the minimum tower height needed by the applicant, evidence that there are no other suitable structures for co-location that meet the applicant's requirements. Each application for a conditional use shall include the following:

(1) Evidence demonstrating that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence shall consist of at least one of the following:

(2) Evidence that there are no existing towers or structures meeting the applicant's engineering requirements within the geographic area that the antenna is intended to serve;

(3) If there are towers or structures in the geographic area, evidence that such towers or structures do not have sufficient height or structural strength to meet the applicant's engineering requirements;

(4) Evidence that the applicant's proposed antenna would cause electromagnetic (EMF) interference with the antenna of existing towers or structures, or vice versa;

(5) A financial analysis that the fees, costs or contractual provisions required by the owner of the property in order to co-locate, or to adapt an existing tower or structure to make it suitable for co-location, exceeds the cost of new tower development. Such analysis shall include written lease/cost estimates from the owner of the tower or structure;

(6) Evidence as to the minimum height of tower needed by the applicant, taking into account the need for a higher tower for co-location purposes;

(7) Evidence that there are other factors that render existing towers unusable.

(8) In the case of a new tower development or the use of an existing structure as a telecommunications tower for the first time, a notarized letter of intent committing the owner and any lessee, on behalf of themselves and their successors in interest, that the tower structure shall be shared with additional users;

(9) Certification by a qualified and licensed professional engineer that the design of the antenna support tower conforms to the latest structural standards and wind loading requirements of the Uniform Building Code and the Electronics Industry Association, including, but not limited to, certification that such tower is designed and will be constructed in such a manner that in the case of tower failure, such tower will either fold upon itself or collapse upon itself. Such certification shall take into account the proposed users of, and possible future co-locators on, the antenna structure.

(10) Documentation that the proposed telecommunication facilities comply, or will on completion comply, with the latest applicable federal and state environmental, health and safety standards and regulations, including, but not limited to, those established by the Federal Communications Commission on Radio Frequency Emissions (REF).

(11) In the case of a new tower, or when an existing tower structure is being enlarged in size, a visual impact analysis shall be prepared and certified by a qualified licensed professional engineer or architect, which analysis shall include the following information:

(a) A site plan prepared by a registered land surveyor licensed in the State of Indiana;

(b) Identification of significant existing natural and manmade features adjacent to the proposed tower location, indicating those features that will buffer the proposed tower from adjacent property and rights of way;

(c) Identification of at least three specific points, which are reasonably equidistant, within a three-mile radius of the proposed tower from which the line of sight analysis is presented. The exact number and location of these line of sight points shall be determined after consultation with staff prior to the preparation and completion of the analysis. The applicant shall then prepare a graphic illustration of the visual impact of the proposed tower. Such graphic illustration shall be a computer enhanced photograph with the computer-generated image of the tower depicted to an accurate scale. Each photograph shall be accompanied by text describing the point where the photograph was taken and how many feet it is from the proposed tower;

(d) A description of the visual and aesthetic impact of the proposed tower on all adjacent properties and properties within a 2,000 foot radius of the tower. The applicant shall also provide a specific explanation of the feasibility of camouflage

given the needed height of the tower;

(e) A site plan showing all proposed landscaping and buffering. All such plans shall provide that the lowest six feet of the tower or facility be fenced by a chain link fence and screened with a landscaping or fencing. Any building that is not enclosed within such fenced area and;

(f) Any additional information requested by the Board in order to fully review and evaluate the impact.

(H) *Nonconforming towers.* Lawfully existing telecommunication facilities that do not conform to the requirements of this section shall be considered legal nonconforming uses, subject to § 157.132. However, placing additional antennas on a nonconforming structure in accordance with this chapter shall not be considered an expansion of the nonconforming use, nor shall it be considered to be an increase in the degree of nonconformity.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.116 SEXUALLY ORIENTED BUSINESSES.

(A) *Purpose and intent.* It is recognized that there are some sexually oriented business uses which by their very nature have serious objectionable operational characteristics, particularly when they are located in close proximity to residential neighborhoods, parks, religious facilities, and schools, and thereby have a deleterious impact upon property values and the quality of life in such surrounding areas. It has been acknowledged by communities across the nation that state and local governmental entities have a special concern in regulation the operation of such businesses under their jurisdiction to ensure that these adverse secondary effects will not contribute to the blighting or downgrading of adjacent neighborhoods nor endanger the well-being of the youth in their communities. The special regulations deemed necessary to control the undesirable externalities arising from these enterprises are set forth in this section. The primary purpose of these controls and regulations is to preserve the integrity and character of residential neighborhoods, to deter the spread of urban blight, and to protect minors from the objectionable operational characteristics of these sexually oriented businesses by restricting their close proximity to religious facilities, parks, schools and residential areas.

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

ADULT CABARET. Any business, building, or portion thereof that features dancing or other live entertainment that is distinguished or characterized by the exhibition of "specified sexual activities" or "specified anatomical areas" for observation by customers or patrons.

SEXUALLY ORIENTED BUSINESS. Any business establishment where all or part of the business is devoted to the offer for sale or view of material, sexually oriented toys or novelties, or performances that show "specified anatomical areas" or "specified sexual activities."

SPECIFIED ANATOMICAL AREAS. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Any of the following: human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts; flagellation or torture in the context of a sexual relationship; masochism, erotic or sexually oriented torture, beating or the infliction of pain; erotic touching, fondling or other such contact with an animal or latent object by a human being; or human excretion, urination, menstruation, vaginal or anal irrigation as part of or in connection with any of the activities set forth herein.

SEXUALLY ORIENTED TOYS or NOVELTIES. Any instruments, devices, or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs, or devices used to perform sadomasochistic acts.

VIDEO VIEWING BOOTH OR ARCADE BOOTH. Any business or building, or portion thereof that contains any booth, cubicle, stall, or compartment that is designed, constructed, or used to hold or seat patrons and is used for presenting motion pictures or viewing publication by any photographic, magnetic, digital or other medium including but not limited to film, video or magnetic tape, laser disc, CD ROM, magazines or periodicals) for observation by patrons therein of performances or images that show "Specified Anatomical Areas" or "Specified Sexual Activities." A video viewing booth or arcade booth shall not mean a movie theater or a room or enclosure that contains more than 600 square feet.

(C) *Specific standards.*

(1) The establishment, enlargement, reconstruction, resumption or structural alteration of any sexually oriented business shall be prohibited if such business is within 1000 feet of another such business or within 1000 feet of any existing religious facility, school, park, or residential district (RS, RS-1, R-1, R-2, R-3 or R-4) within the jurisdiction of the Seymour Plan Commission.

(2) No sexually oriented business shall be established, enlarged, reconstructed, resumed or structurally altered unless the site or proposed site is located in an industrial district (I-1, I-2, or I-3).

(3) Adult cabarets, video viewing booths or arcade booths, as defined herein, are prohibited in all sexually oriented businesses in all zoning districts within the jurisdiction of the Seymour Plan Commission.

(4) *Measurement.*

(a) The distance between one sexually oriented business and another shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior structural wall of each business.

(b) The distance between a sexually oriented business and any religious facility, school, park, or residential zoning district shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior structural wall of the sexually oriented business to the nearest property line of the religious facility, school, park, or residential zoning district.

(5) *Exterior display.*

(a) No sexually oriented business shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window, or other opening from public view.

(b) Sexually oriented businesses shall strictly comply with all regulations governing signs under §157.116.

(Ord. 17, 2006, passed 11-27-2006)

NONCONFORMITIES

§ 157.130 GENERAL.

(A) *Purpose and intent.* Nonconforming uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is the general policy of the city to allow legally existing uses and structures to continue in productive use, but also to bring these uses as nearly into compliance with existing regulations as is reasonably possible. In furtherance of that policy, these regulations are intended to do the following:

(1) Recognize the interests of property owners in continuing to use their property;

(2) Promote reuse and rehabilitation of existing buildings; and

(3) Place reasonable limits on the expansion and alteration of nonconformities that have the potential to adversely affect surrounding properties or the community as a whole.

(B) *Applicability.* This chapter applies to nonconformities created by initial adoption or amendments to this chapter. It also applies to nonconformities that were legal nonconformities under previously applicable ordinances, even if the type or extent of nonconformity is different.

(C) *Authority to continue.* Any nonconformity that legally exists on the effective date of this chapter or that becomes nonconforming upon the adoption of any amendment to this chapter may be continued in accordance with the provisions of this chapter.

(D) *Determination of nonconformity status.*

(1) The burden of establishing that any nonconformity is a legal nonconformity shall in all cases be solely upon the owner of such nonconformity.

(2) An illegal nonconforming use shall not be validated by the adoption of this chapter.

(3) The casual, intermittent, temporary or illegal use of land, buildings or premises shall not be sufficient to establish the existence of a nonconforming use and the existence of a nonconforming use on part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

(E) *Minor repairs and maintenance.* Incidental repairs and normal maintenance of nonconformities shall be permitted unless such repairs increase the extent of nonconformity or are otherwise expressly prohibited by this chapter. Nothing in this chapter shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an order of a public official.

(F) *Change of tenancy or ownership.* Change of tenancy or ownership shall not affect the nonconforming status of a property or use, provided that there is no change in or expansion of the use or nonconformity.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.131 NONCONFORMING USES.

(A) *Existing nonconforming use.* The lawful nonconforming use of a structure, land, or water existing at the time of the adoption or amendment of this chapter may be continued although the use does not conform to the provisions of this chapter. However, only the portion of the land or water in actual use may be so continued, and the structure or area within which the use is contained may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or official order, so as to comply with the provisions of this chapter.

(B) *Total lifetime structural repairs.* Total lifetime structural repairs or structural alterations to a structure with a nonconforming use shall not exceed 50% of the assessed value of the structure at the time it became a nonconforming

structure and use unless it is permanently changed to conform to the use provisions of this chapter.

(C) *Change of use.*

(1) *Change to conforming use.* A nonconforming use may be changed to any use that is allowed in the zoning district in which it is located, subject to all standards and requirements applicable to the new use. Once a nonconforming use is converted to a conforming use it may not be changed back to a nonconforming use.

(2) *Change to other nonconforming use.* The Board of Zoning Appeals may approve as a conditional use a change of use to a use not otherwise allowed in the underlying zoning districts if it finds that the new proposed use will be no more injurious than the previous use or will decrease the extent of the nonconformity. If the Board approves such a change of use, it shall be authorized to impose conditions it deems necessary to reduce or minimize any potentially adverse effect upon other property in the neighborhood, and to carry out the general purpose and intent of this chapter.

(3) *Substitution of new equipment.* The Board of Zoning Appeals may permit the substitution of new equipment (e.g., fencing, mechanical equipment) if such equipment will reduce the incompatibility of the nonconforming use with neighboring uses.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.132 NONCONFORMING STRUCTURES.

(A) *Continuance.* The conforming use of a nonconforming structure existing at the time of adoption or amendment of this chapter may be continued. Additions or enlargements of such structures are permitted provided that the structure with such addition or enlargement complies with the setback, height, parking and loading requirements of this chapter.

(B) *Damage or destruction*

(1) *Limitation on reconstruction.* Existing nonconforming structures with a conforming use that are damaged or destroyed by fire, explosion, flood, or other calamity, to the extent that the cost of repairs exceeds 50% of its equalized assessed value at the time it became nonconforming, may be reconstructed and shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this chapter

(2) *Residential use exception.* Notwithstanding division (B)(1) above, a single-family residential structure that is damaged or destroyed as specified above may be reconstruction using the same building footprint as the damaged or destroyed structure.

(C) *Abandonment or discontinuance.* If a nonconforming use other than a single-family residential use is discontinued or terminated for a period of 12 months, any future use of the structure, land, or water shall conform to the provisions of this chapter.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.133 NONCONFORMING LOTS.

(A) *Legal lots of record.*

(1) In any district in which a principal use is permitted, a principal use and customary accessory uses may be erected on any single lot of record at the effective date of adoption or amendment of this chapter, notwithstanding limitations imposed by other provisions of this chapter; provided, that such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.

(2) The provision of (A)(1) of this section shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that setback dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of setback requirements shall be obtained only through action of the Board of Zoning Appeals.

(3) No division of land shall be made after the effective date of this chapter which creates a lot with width or area below the requirements stated in this chapter.

(B) *Nonconforming sites.* The provisions of this section apply to properties containing permitted uses but which do not comply with development standards of this chapter, such as landscaping, parking, loading, or signs. Whenever a nonconforming use of a structure or a nonconforming structure is expanded or changed in such a manner as to require landscaping, such landscaping shall be installed before a certificate of occupancy is issued, unless a financial guarantee is posted under the terms of § 157.094.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.134 NONCONFORMING SIGNS.

(A) *Continuance.* Any legal nonconforming sign existing at the time of adoption or amendment of this chapter may be continued. Such sign shall not be relocated, moved, damaged and reconstructed, extended, enlarged, changed (including changing the sign face), altered, or modified unless it is brought into conformance with the provisions of § 157.095.

(B) *Signs in the right-of-way.* No sign located in a public right-of-way shall be considered to be a legal nonconforming sign.

(Ord. 17, 2006, passed 11-27-2006)

ENFORCEMENT AND REMEDIES

§ 157.150 AUTHORITY TO ENFORCE.

The staff shall have the authority to take those lawful actions necessary to enforce the terms of this chapter on behalf of the Plan Commission and Board of Zoning Appeals. The Building Commissioner of the city is hereby designated as the official responsible for administration of this chapter. The staff is hereby authorized to perform those duties specified by I.C. 36-7-4-800 et seq. and such other duties as may be assigned to it from time to time by the Commission, Board, or Council.

(A) *Inspections.* The authority to perform inspections, review applications and issue permits and citations is hereby delegated to the staff. The staff is authorized to make inspections of all lands located within the jurisdiction of the Commission in order to enforce this chapter. In order to execute inspections, the staff shall have the right to enter upon any premises at any reasonable time for the purpose of carrying out their duties in the enforcement of these regulations. If the owner or occupant of the premises refuses to permit entry, the staff may make application to any judge of the Circuit or Superior Courts of Jackson County, Indiana, for the issuance of an administrative search warrant. Such application shall identify the premises upon which entry is sought and the purpose for which entry is desired. The application shall state the facts giving rise to the belief that a violation of these regulations exists on such premises.

(B) *Stop-work orders.* The staff is hereby granted the authority to issue a stop work order for any activity that is commenced without a permit required by this chapter or for any activity that is being carried out in a manner that violates this chapter.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.151 VIOLATIONS.

(A) *Complaint.* Whenever a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the staff. The staff shall properly record such complaint and investigate in a timely manner. If acts elicited by such investigation are sufficient to establish a reasonable belief that a violation has occurred on the part of the party investigated, such official shall issue a citation in accordance with this section and/or file with the City Attorney a complaint against such person requesting action thereon as provided by this chapter and in accordance with law.

(B) *Nuisance declared.* Any buildings erected, raised or converted, or land or premises used in violation of any section of this chapter or regulation thereof is hereby declared to be a common nuisance and the owner thereof shall be liable for maintaining a common nuisance, which may be restrained or enjoined or abated in any appropriate action or proceeding.

(C) *Injunction.*

(1) The Commission, the Board or any designated administrative official may institute a suit or injunction in the Circuit or Superior Court of Jackson County to restrain any person from violating the sections of this chapter.

(2) The Commission or the Board may institute a suit for mandatory injunction directing a person to remove a structure erected in violation of the sections of this chapter or to make the same comply with its terms. If such Commission or Board is successful in its suit, the respondent shall bear the costs of the action including reasonable attorney's fees.

(D) *Other remedies.* Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 17, 2006, passed 11-27-2006)

§ 157.999 PENALTY.

(A) Any person who violates any section of this chapter or regulation thereof or fails to comply with any of its requirements, including violations of conditions and safeguards established in connection with this chapter, shall be guilty of an ordinance violation and upon conviction, shall be fined in a sum not less than \$25 nor more than \$500 for each day's violation.

(B) The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, realtor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offence and suffer the penalties herein provided.

(1) Penalty for violations of § 157.057.

(a) First offense: Written warning

(b) Second offense: \$100 fine

(c) Third offense: \$250 fine

(d) Fourth offense: \$500 fine

(2) All fines collected under § 157.057 shall accrue to the General Fund of the city. If not paid within 30 days, the offender is subject to court summons, with a maximum fine of up to \$2,500, attorney's fees, and court costs.

(Ord. 17, 2006, passed 11-27-2006; Am. Ord. 5, 2007, passed 3-26-2007)