

# **CITY OF HUNTINGTON, INDIANA**

## **ZONING CODE**

### **REFERENCE FORMAT**

The Huntington Countywide Department of Community Development has codified the zoning code and all amendments adopted prior to September 9, 1997 into this reference document. Every attempt has been made to ensure the accuracy and correctness of this document.

Wherever the requirements of this document are at variance with the officially published Code of Ordinances for the City of Huntington, Indiana, the provisions of the Code of Ordinances shall govern.

By publication of this document, the City of Huntington, Indiana, and the Huntington Countywide Department of Community Development does not assume any liability for any errors or omissions.

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## **GENERAL PROVISIONS**

### **SECTION 158.001 TITLE; GENERAL PROVISIONS**

- A. This Chapter shall be known and may be cited as the Zoning Ordinance of the City of Huntington, Indiana.
- B. This Chapter is adopted pursuant to IC 36-7-4, as amended.
- C. In their interpretation and application the provisions of this Chapter shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- D. The provisions of this Chapter are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of this Chapter imposes restrictions different from those imposed by any other provision of this Chapter or any other ordinance, rule or regulations, or other provision of those provisions which are more restrictive or impose higher standards shall control.
- E. The provisions of this Chapter are not intended to abrogate any easement, covenant or any other private agreement or restriction (hereinafter collectively referred to as private provisions), provided that where the provisions of this Chapter are more restrictive or impose higher standards or regulations than such private provisions, the requirements of this Chapter shall govern. Where the provisions of the private provisions impose duties and obligations more restrictive, or set forth higher standards than the requirements of this Chapter, or the determinations of the Plan Commission in enforcing the provisions of this Chapter, and such private provisions are not inconsistent with enforceable Chapter provisions or determinations thereunder, then such private provisions shall be operative and supplemental to the provisions of this Chapter and determinations made thereunder. Private provisions may not be enforced by the Plan Commission unless the Plan Commission, with its approval, has been made a party to such private provisions.

### **SECTION 158.002 PURPOSE AND INTENT**

The purposes of this Chapter are as provided in IC 36-7-4-201.

### **SECTION 158.003 COMPLIANCE REQUIRED**

No building or structure shall be constructed, erected, moved, converted, enlarged, or located; nor shall any building, structure, or land be used, except in full compliance with all the provisions of this chapter.

## **SECTION 158.004 JURISDICTIONAL AREA**

This chapter shall apply to all incorporated land within the City.

## **SECTION 158.005 DEFINITIONS**

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

**ACCESSORY STRUCTURE** - A detached building or structure incidental and accessory to the principal building or structure.

**ACCESSORY USE** - A use incidental to, and on the same lot as, a principal use.

**AGRICULTURAL BUILDING** - A structure principally utilized for the storage of machinery used for purposes of crop production or for the shelter and feeding of livestock.

**AGRICULTURE** - The use of land for crop production and/or raising of livestock.

**ALLEY** - A public or private street primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

**BOARD** - The City Board of Zoning Appeals

**BUFFER** - Land area used to visibly separate one (1) use from another or to shield or block noise, lights, or other potential nuisances.

**BUILDING** - A structure having a roof supported by columns or walls designed, built, or used for the enclosure, shelter, or protection of persons, animals, or property.

**BUILDING AREA** - The area within the outside perimeter of exterior walls of the ground floor of a building.

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

**BUILDING HEIGHT** - The vertical distance measured from the established grade to the highest finished roof structure, including any roof top superstructure or appurtenance.

**BUILDING LINE** - The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of a building or structure and the street right-of-way line.

**BUILDING PAD** - The area of land upon which a building is constructed, wherein ownership may or may not be separate from the ownership of common areas. Building pad(s) are typically found in a planned, unified development.

**BUSINESS OFFICE** - The office of a business designed and used primarily to conduct the administrative and clerical affairs of the business.

**BUSINESS PARK** - A development on a tract of land that contains a number of separate businesses, offices, light manufacturing facilities, accessory and supporting uses, and common open space designed, planned and constructed on an integrated and coordinated basis.

**CEMETERY** - Land used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of the cemetery.

**CERTIFICATE OF OCCUPANCY** - A certificate issued by the Building Commissioner stating that the occupancy and use of the land or a building or structure referred to therein complies with the provisions of this chapter.

**CLINIC** - An establishment where patients are admitted for special study and treatment by two or more licensed physicians and their professional associates, practicing medicine together.

**COMMISSION** - The City Plan Commission. This Commission is established under the authority provided in Chapter 174 of the Acts of 1947 of the Indiana General Assembly.

**COMMON AREA** - The total area available for common use by all owners, tenants, occupants and their invitees, including but not limited to parking lots and their appurtenances, lobbies, malls, sidewalks, landscaped areas, public restroom facilities, and loading and service facilities.

**DEPARTMENT** - The Huntington City/County Planning Department.

**DEVELOPMENT** - The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any buildings; use or change in use of any buildings or land; or any extension of any use of land or any clearing, grading or other movement of land under the jurisdiction of any local land use authority.

**DEVELOPMENT PLAN** - A specified plan, as required by this Zoning Code, for the development of real property.

**DEVELOPMENT REQUIREMENT** - A requirement for development of real property in a zoning district for which a development plan is required.

**DIRECTOR** - The Executive Director of the Huntington City/County Planning Department.

**DISTRICT** - A section of the territorial jurisdictional area of the City Plan Commission for which uniform regulations governing the use, height, area, size, and intensity of the building and land, and open space about buildings, are established by this chapter.

**DWELLING** - A building or portion thereof, used primarily as a place to live for one or more people, but not including hotels, lodging or boarding houses, or tourist homes.

**DWELLING, MULTIPLE FAMILY** - A building or portion thereof used for occupancy by three or more families living independently of each other.

**DWELLING, ONE FAMILY** - A building used for occupancy by one family.

**DWELLING, TWO FAMILY** - A building used by two families living independently of each other.

**DWELLING UNIT** - A building or portion of a building used by one family for cooking, sleeping, and living purposes.

**EASEMENT, PRIVATE** - A strip or parcel of land dedicated for private access to land or structures.

**EASEMENT, PUBLIC** - A strip or parcel of land dedicated for public utilities or other necessary purposes.

**EFFICIENCY DWELLING UNIT** - A dwelling unit containing a living room of not less than 220 square feet of superficial floor area. An additional 100 square feet of superficial floor area shall be provided for each occupant of the unit in excess of two.

**ESSENTIAL SERVICES** - The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, steam or water transmission, or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including buildings reasonably necessary for the furnishing of adequate service by the public utilities or municipal departments or commissions or for the public health or safety or general welfare.

**FAMILY** - One or more persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity or sorority house.

**FARM** - A lot utilized for agricultural purposes.

**FENCE** - Any artificially constructed barrier of any material or combination of materials constructed or erected to enclose or screen areas of land.

**FENCE, PRIVACY** - Any fence constructed of materials which creates an opaque wall or screen.

**FILLING STATION** - Premises used for the purpose of retailing lubricating oil, greases, gasoline, fuel oil, and the servicing other than repairing, of motor vehicles. This definition does not include the storing of inoperative motor vehicles or their parts.

**FLOOR AREA, GROSS** - The sum of the horizontal areas of the floors of a building measured from the exterior face of exterior walls, but not including any space where the floor-to-ceiling height is less than six (6) feet.

**FLOOR AREA, GROUND** - The sum of the horizontal areas of the ground floor of a building measured from the exterior face of exterior walls, but not including open porches, decks, terraces, garages or exterior stairways.

**FOUNDATION** - The supporting member of a wall or structure.

**FRONT YARD** - A yard as defined herein, encompassing the horizontal space between the nearest foundation of a building to the right-of-way line and that right-of-way line, extending to the side of the lot, and measured as the shortest distance from that foundation to the right-of-way line. A lot which is located on a corner shall be considered as having two front yards.

**GARAGE** - (1) PRIVATE - A private garage is a building or part thereof accessory to a primary structure and providing for the storage of automobiles and which no occupation or business is carried on. (2) PUBLIC OR STORAGE - A building or part thereof other than a private garage for the inside storage of motor vehicles and in which service station activities may be carried on.

**HEDGE** - A solid and unbroken visual screen of self-supporting living plant material.

**HOME OCCUPATION** - An occupation, profession, activity, or use carried out by a resident with the intention for economic gain, and which is conducted as an accessory use in the resident's dwelling unit or accessory structure on the premises.

**HOTEL** - A building containing rooms intended or designed to be used or which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building or in an accessory building.

**IMPERVIOUS SURFACE** - A surface that has been compacted or covered with any material that substantially reduces or prevents the infiltration of stormwater into previously undeveloped land. Impervious surface shall include, but is not limited to, buildings, driveways, parking areas, roads, sidewalk, areas of compacted gravel, and any areas of concrete or asphalt.



**IMPROVEMENT LOCATION PERMIT** - A permit issued by the Executive Director of the Huntington City/County Planning Department stating that the proposed erection, construction, enlargement, moving, or locating of the building or structure referred to on the permit application is in compliance with the development and use standards and regulations of the Zoning Code.

**JUNK** - Old, cast off, or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some use. Any article or material which is composed of, but not limited to, copper, brass, rags, batteries, paper, trash, rubber, stone, wrecked, or dismantled automobiles or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

**JUNKYARD** - An establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling of junk. Any type of business allowing inoperative vehicles or their parts to collect in an area not properly screened from public view.

**KENNEL** - A place where any combination of three (3) or more domestic animals, as defined in Chapter 91.01 of the Code of Ordinances, are kept. For this purpose, animals shall not be counted until they reach the age of six months. The only exception shall be that which allows for two (2) additional cats (*Felis Cattus* or *Felis Domesticus*) for a total of five animals in the household, if all of the cats are indoor cats, are spayed or neutered, and are current on all annual shots recommended by the Indiana Veterinary Medical Association. The maximum combinations are 5 cats, or 4 cats and 1 dog, or 3 cats and 2 dogs, 2 cats and 3 dogs. No more than 3 dogs will be allowed.

**LODGING HOUSE** - A building with more than two, but not more than ten guest rooms where lodging with or without meals are provided.

**LOT** - A parcel, tract or area of land established by plat, subdivision, or otherwise permitted by law, to be used, developed, or built upon.

**LOT, CORNER** - A lot abutting upon two (2) or more streets, at their intersection; or, upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees.

**NON-CONFORMING USE** - A building, structure, or use of land existing at the time of the enactment of this chapter, and which does not conform to the regulations of the district in which it is located.

**OFFICE** - A room, suite of rooms, or building in which a person transacts the affairs of a business, profession, service, industry, or government.

**OWNER** - Any person, group of persons, firms, corporations, or any other legal entity having legal title to or sufficient property interest in a parcel of property.

**PERIMETER LANDSCAPE STRIP** - A continuous strip of land along the perimeter of the site containing trees, living barriers, hedges, ground cover and/or other living plant material.

**PERSON** - Any individual, corporation, firm, partnership, association, organization, or group acting as a unit.

**PERVIOUS SURFACE** - Any material that permits full or partial absorption of storm water into previously unimproved land.

**PLAN COMMISSION** - The City Planning Commission. This Commission is established under the authority provided in Chapter 174 of the Acts of 1947 of the Indiana General Assembly.

**PLANNED DEVELOPMENT** - An area of a minimum contiguous size, as specified by this Chapter, to be planned, developed, operated, and maintained by a single entity, containing one (1) or more building pads with appurtenant common areas.

**PLANNED UNIT DEVELOPMENT** - A means of land regulation which permits large scale, unified land development in a configuration and possibly a mix of uses not otherwise permitted "as of right" under the zone districts, but requiring under this chapter a review by the Board of Zoning Appeals.

**PLANTING AREA** - An unrestricted area which provides a pervious surface for plants to grow.

**PRINCIPAL STRUCTURE** - A building or structure in which the principal use of the lot on which the building or structure is located is conducted.

**PRINCIPAL USE** - The primary or predominant use of any lot, building or structure.

**PROFESSIONAL OFFICE** - The office of a member of a recognized profession maintained for the conduct of business in any of the following related categories; architectural, engineering, planning, law, interior design, accounting, insurance, real estate, medical, dental, optical, or any similar type profession.

**PROPERTY OWNER** - An individual, firm association, organization, partnership, trust, company, corporation, or any other legal entity who owns or holds title to real property. For the purposes of this code, an entity which has the power of eminent domain shall be considered a property owner and have the authority to act as a property owner.

**REAR YARD** - A yard as defined herein, encompassing the horizontal space between the nearest foundation of a building or structure to a rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from the foundation to the rear lot line.

**RESIDENT** - An individual whose principal place of living and sleeping is in a particular location is a resident of that location.

**RIGHT-OF-WAY** - A strip of land occupied or intended to be occupied by a street, pedestrian-way, crosswalk, railroad, electrical transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, special landscaping, or for another special use.

**ROOMING HOUSE** - Any dwelling in which more than five persons either individually or as a family are housed or lodged for hire, with or without meals. A boarding house or furnished room house shall be deemed a ROOMING HOUSE.

**SCREENING** - Either a strip of at least ten feet wide, densely planted (or having equivalent natural growth) with shrubs or trees at least eight feet high at the time of planting, of a type that will form a year-round dense screening; or an opaque wall or barrier or uniformly painted fence at least eight feet in height. Screenings shall be maintained in good condition at all times and may have no signs affixed to or hung in relation to the outside thereof except as permitted or required under this chapter. Where required by this chapter a screen shall be installed along or within the lines of a plot as a protection for adjoining or nearby properties.

**SETBACK LINE** - A line parallel to and equidistant from the relevant lot line (front, back, and side) between which no buildings or structures may be erected as prescribed in these regulations.

**SIDE LOT LINES** - Any lines separating two lots other than front or rear lot lines.

**SIDE YARD** - A yard between the main building and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard.

**STREET** - A right-of-way, other than an alley, dedicated or otherwise legally established to the public use, usually affording the principal means of access to abutting property. A "street" includes road, thoroughfare, parkway, avenue, boulevard, lane, drive, or other appropriate name.

**STRUCTURAL ALTERATION** - Any change in the supporting members of a building such as bearing walls, beams, columns, posts, or girders.

**STRUCTURE** - Anything constructed or erected which requires location on the ground or attached to something located on the ground.

**SUPPLY YARD** - A commercial establishment storing or offering for sale building supplies, steel supplies, coal, heavy equipment, feed, grain or similar goods. Supply yards do not include the wrecking, salvaging, dismantling, or storage of automobiles and similar vehicles.

**SWIMMING POOL** - Any artificial basin of water constructed or erected for wading or swimming.

**SWIMMING POOL, IN-GROUND** - Any pool whose sides rest in partial or full contact with the earth.

**SWIMMING POOL, ON-GROUND** - Any pool whose sides rest fully above the surrounding earth.

**SWIMMING POOL, PERMANENT** - Any in-ground pool and any on-ground pool which is greater than thirteen (13) feet in diameter for a round pool, or eight (8) feet by sixteen (16) feet for an oval pool, and more than twenty-four (24) inches in wall height.

**TRAILER PARK** - Any tract of ground designed for use or used by one or more trailers of the independent mobile home type defined in this chapter and which is used for dwelling or sleeping purposes regardless of whether a charge is made for the accommodation.

**USE** - The purpose for which land or a building is arranged, designed, or intended, or from which either land or a building is or may be occupied or maintained.

**YARD** - An open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

## **ZONING DISTRICTS**

### **SECTION 158.015 DIVISION OF CITY INTO DISTRICTS: ZONING MAP:**

**DISTRICT BOUNDARIES**

- a. Zoning Districts - The City is divided into the districts stated in this chapter as shown by the district boundaries on the zone map. The zone map is on file in the office of the Plan Director and Clerk-Treasurer, which map, with all explanatory matter thereon, is hereby made part of this chapter. The district boundaries are:

<b>DISTRICT DESIGNATION</b>	<b>PRIMARILY FOR:</b>
A	Agricultural
FHA	Flood Hazard Control
C-1	Conservation
R-1	Residential
R-1A	Residential
R-2	Residential
R-3	Residential
B-1	Business
B-2	Business
I-1	Industrial
I-2	Industrial
I-3	Industrial
I-4	Industrial
AHR	Airport Height Restriction
POD	Professional Offices
MXD	Mixed Use
BP	Business Park

- b. District Boundaries - Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the zoning map, the following rules shall apply:
  - 1. Where boundaries parallel street lines, alley lines, or highway right-of-way lines. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, the center lines or alley lines of alleys, or the center lines or right-of-way lines of highways, the district boundaries shall be construed as being parallel thereto and at a distance therefrom as indicated on the zone map. If no distance is given, the dimension shall be determined by the use of the scale shown on the zoning map.

2. Where boundaries approximately follow lot lines. Where district boundaries are indicated as approximately following lot lines, the lot lines shall be construed to be the boundaries.
3. Where the boundary follows a railroad line. Where the boundary of a district follows a railroad line, the boundary shall be deemed to be located midway between the main tracks of the railroad line, unless otherwise indicated.
4. Where the boundary follows a body of water. Where the boundary of a district follows a stream, lake, or other body of water, the boundary line shall be construed to be the limit of the jurisdiction of the City, unless otherwise indicated.
5. Vacation of public ways. Whenever any street, alley, or other public right-of-way is vacated in the manner authorized by law, the zoning district adjoining each side of the street, alley, or public right-of-way shall be automatically extended to the center of the vacation and all area included in the vacation shall then and henceforth be subject to all regulations of the district.

#### **SECTION 158.016 FLOOD HAZARD AREA OVERLAY DISTRICT**

- A. The purpose of the Flood Hazard Area Overlay District (FHA) is to restrict development in the flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards, and to reduce the potential for extraordinary public expenditures for flood protection and relief.
- B. The Flood Insurance Rate Maps, effective date July 18, 1983, and Flood Hazard Boundary Maps, effective date July 18, 1983, shall be utilized as overlay maps to the official Zoning Map for the purpose of determining compliance with Section 158.049.

#### **SECTION 158.017 CONSERVATION DISTRICT**

The district designated for Conservation, C-1, is limited to agricultural, recreational, and certain other open land uses. Residential and related uses are permitted if approved by the Board of Zoning Appeals. The purpose of this district is to prevent intensive development of land that is unsuitable for development because of topography, soil conditions, or periodic flooding.

#### **SECTION 158.018 RESIDENTIAL DISTRICTS**

Districts designated for residential use, R-1, R-1A, R-2, and R-3 are limited to dwellings and public or semi-public uses which are normally associated with residential neighborhoods. The only uses permitted in the residential districts are those which do not detract from the residential character of the neighborhood. The purpose of the four districts is to create an attractive, stable and orderly residential environment. However, the families per dwelling and the lot and yard requirements are different in the four districts to provide for the various housing needs and desires of the citizens.

### **SECTION 158.019 BUSINESS DISTRICTS**

The districts designated for business, B-1 and B-2, are limited to business, public and certain residential uses. By establishing compact districts for those uses, more efficient traffic movement, parking facilities, fire and police protection may be provided. Industrial uses are excluded in order to reduce the hazards caused by extensive truck and rail movements normally associated with those uses. The purpose of these districts is to provide unified shopping districts conveniently located.

### **SECTION 158.020 INDUSTRIAL DISTRICTS**

The districts designated for industry, I-1, I-2, I-3, and I-4, provide suitable space for existing industries and their expansion as well as for future industrial development. The districts are established based upon intensity of permitted uses and developmental standards. Each district and the applicable standards are designed to insure safe industrial development that is compatible with surrounding uses.

### **SECTION 158.021 MIXED USE DISTRICT**

The district designated for mixed use development, MXD, is limited to residential, business, and institutional uses. The purpose of the district is to accommodate residential, retail, service specialty shops and institutional uses which are characteristic along Primary Arterial streets within the City. The district promotes the continued development of residential units while permitting certain commercial and institutional uses to service the needs of the residents of the neighborhood and community. The standards and requirements of this chapter regarding off-street parking, landscaping, and signage shall apply to all development within the district.

### **SECTION 158.022 AIRPORT HEIGHT RESTRICTIONS OVERLAY DISTRICT**

The purpose of the AHR district is to regulate the height of a structure erected or constructed which could create an obstruction and endanger the lives and property of users of the Huntington Municipal Airport. This district would allow the erection or construction of a structure permitted in accordance with the underlying zoning district provided the height of the structure does not exceed the maximum established for the district.

### **SECTION 158.023 PROFESSIONAL OFFICE DISTRICT**

The district designated for professional offices, POD, is intended to accommodate low-intensity uses such as professional offices and business offices within a planned environment. This district is not commercial in character, however, certain limited commercial uses are permissible by special exception in demonstrated support of permitted uses in the specific POD. As the POD is designed to be compatible with residential uses, it is partially intended as a buffer or transitional area between residential and more intense business developments.

**SECTION 158.024 AGRICULTURAL DISTRICT**

The district designated for agricultural use, A, is intended to protect and maintain the agricultural lands utilized for farming and livestock purposes. It is the intent of this Section to preserve agricultural lands and to discourage reclassification of zoning to non-agricultural use without a clear showing of proven need in the public interest and a clear showing of conformity with the Comprehensive Plan. Indiana Code 34-1-52-4 (State Right to Farm Law) is hereby incorporated by reference.

**SECTION 158.025 BUSINESS PARK DISTRICT**

The district designated for the development of business parks, BP, is intended to accommodate a mixture of offices, business, and industries in a planned environment. This district is intended for a large parcel of land that is easily accessible, and in an area conducive to both commercial and industrial development.

**USAGE REGULATIONS**

**SECTION 158.035 SCHEDULE OF PERMITTED USES; SPECIAL EXCEPTIONS**

- A. The Permitted Uses and Special Exceptions for each zoning district are delineated in sub-section (C) of this Section. The uses that are listed shall be according to the common meaning of the term or according to definitions given in Section 158.005.
- B. The Director shall be responsible for all interpretations of uses not specifically listed or defined. Any interpretation made by the Director may be appealed in accordance with the Rules of Procedure of the Board of Zoning Appeals and Section 158.089.
- C. Schedule:

<b>A Agricultural District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Dwelling, Single-family	House of Worship
Livestock Operation, minor or intensive	Nursing Home
Farm	Cemetery
Commercial forestry production	Funeral Home
Fish hatchery	Utility service structure, station, or yard
<b>A Agricultural District (cont'd)</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Manufactured Home Type I	Communication tower
Home Occupation Type I	Group Home
Park	Commercial Recreation Area



Plant nursery	School
Kennel	Manufactured Home Type II
Child care home	Home Occupation Type II
Day care home	Public safety facilities
	Planned Unit Development
	Child caring institution

**(FHA) Flood Hazard Area Overlay District**

All uses listed as either permitted uses or special exception are permitted in accordance with the underlying zoning district. The Flood Hazard Area Overlay District only regulates development within the flood hazard areas. This district is not intended to regulate land use. The underlying zoning district regulates land use.

**C-1 Conservation District**

<u>Permitted Uses</u>	<u>Special Exceptions</u>
Accessory uses	Camp grounds
Agricultural uses	Cemeteries
Essential services	Churches
Game preserves	Golf courses
Public parks and playgrounds	Gun clubs
	Public utility buildings
	Riding stables
	Roadside stands offering items only for sale that are produced on the premises
	Single-family dwellings
	Swimming pools
	Transient amusement enterprises and circus shows
	Water and sewage treatment plants

**R-1 and R-1A Residential Districts**

<u>Permitted Uses</u>	<u>Special Exceptions</u>
Accessory structures	Agricultural uses

Churches	Cemeteries
Essential services	Fire stations
Public and parochial schools	Home occupations Type II
Public parks and playgrounds	Hospitals and clinics
Single-family dwellings	Municipal buildings and libraries
Home Occupation Type I	Nursery schools
	Parking lots
	Planned unit residential projects
	Private clubs
	Public utility buildings
	Rest homes
	Sanitary landfills
	Sports fields
	Swimming pools
	Water and sewage treatment plants

<b>R-2 Residential District</b>	
<u>Permitted Uses</u>	<u>Special Exceptions</u>
Accessory uses	Fire stations
Boarding houses	Funeral homes
Churches	Home Occupations Type II
College buildings and grounds	Hospitals and clinics
Essential services	Kennels
Public and parochial schools	Multiple-family dwellings
Public parks and playgrounds	Municipal buildings and libraries
Single-family dwellings	Nursery schools
Home occupation type I	Parking lots
Two-family dwellings	Planned unit residential projects
	Private clubs
	Public utility buildings
	Rest homes
	Sports fields
	Swimming pools

<b>R-3 Residential District</b>
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<u>Permitted Uses</u>	<u>Special Exceptions</u>
Accessory uses	Fire Stations
Boarding houses	Funeral homes
Churches	Home occupations Type II
College buildings and grounds	Hospitals and clinics
Essential services	Kennels
Libraries	Mobile home parks
Multiple-family dwellings	Municipal buildings and libraries
Public and parochial schools	Nursery schools
Public parks and playgrounds	Parking lots
Single-family dwellings	Planned unit residential projects
Two-family dwellings	Private clubs
Home occupation Type I	Public utility buildings
	Rest homes
	Sports fields
	Swimming pools

<b>B-1 Business District</b>	
<u>Permitted Uses</u>	<u>Special Exceptions</u>
Eating and drinking establishment	Automobile sales, service, and repair
Essential services	Churches
Fire stations and municipal buildings	Cleaning and laundry operations
Commercial recreation	Commercial schools
Offices and banks, municipal buildings	Hotels and Motels
Parking lots	Multiple-family dwellings
Personal and professional services	Planned unit residential projects
Public parks and playgrounds	Printing shops
Public utility buildings	Private clubs
Retail businesses	Public & parochial schools
Travel bureaus	Public transportation terminals
Newspapers: Publishing, Printing, and Associated Offices	Public utility buildings
Home Occupation Type I	Home Occupation Type II
	Research laboratories
	Single family dwellings
	Theaters
	Wholesale businesses

<b>B-2 Business District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Accessory uses	Animal hospitals
Automobile sales, service, and repair (outside storage areas for vehicles are permitted to store one vehicle for every 100 square feet of lot area, excluding the dimensions of the primary structure. This provision does not apply to any vehicles enclosed within the primary business structure)	Bowling alleys
Beauty and barber shops	Churches
Cleaning and laundry operations	Civic centers
Eating and drinking establishments	Commercial recreation
Essential services	Commercial schools
Fire stations and municipal buildings	Dairies
Hotels and motels	Farm implement sales service
Mobile home sales	Funeral homes
Offices and banks	Gasoline service stations
Parking lots	Hospitals and clinics
Personal and professional services	Miniature golf courses
Private clubs and lodges	Mobile home parks
Public parks and playgrounds	Multiple-family dwellings
Public utility buildings	Planned unit residential projects
Retail businesses	Printing shops
Home Occupation Type I	Public and parochial schools
	Single-family dwellings
	Supply yard
	Theaters
	Warehouses
	Home Occupation Type II

<b>I-1 Industrial District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Accessory uses	Agricultural uses
Essential services	Drive-in theaters
Light manufacturing	Fire stations and municipal buildings
Offices	Motels and hotels
Parking lots	Planned unit residential projects
Public utility buildings	Restaurants
Research and testing labs	Supply yards
Wholesale businesses	Truck and railroad terminals
Home Occupation Type I	Water and sewage treatment plants
	Home Occupation Type II
<b>I-2 Industrial District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Accessory uses	Airports
Agricultural uses	Bulk fuel storage
Essential services	Concrete mixing
General manufacturing	Fire stations and municipal buildings
Grain elevators	Junkyards
Offices	Manufacturing and processing of explosive materials
Parking lots	Mineral Excavation
Public utility buildings	Planned unit industrial projects
Research and testing	Restaurants
Supply yards	Water and sewage treatment plants
Truck and railroad terminals	Home occupation type II
Warehouses	
Wholesale businesses	
Home Occupation Type I	

<b>I-3 Industrial District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Petroleum and chemical products terminal, including offices, storage tanks, and warehouses	Junkyard
Truck terminal	
Public utility buildings and service yard	

Electrical receiving or transforming station	
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<b>I-4 Industrial District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Mining or quarrying operations, including on-site sale of products	
Concrete or asphalt plant	
Mineral processing operations, including storage, distribution, and on-site sale of products	

<b>MXD Mixed Use District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Single Family Dwellings	Two Family Dwellings
Public Parks and Playgrounds	Multiple Family Dwellings
Service Establishments including: barber shops, beauty shops, shoe repair, dry cleaning stations, laundromats, and similar establishments	Churches or House of Worship
Retail outlets including bookstores, card and gift shops, arts and craft stores, clothing stores, shoe stores, toy stores, jewelry stores, antique stores, and similar establishments	Private clubs and lodges
Professional offices and services	Child care center/preschool facilities
Business offices and services	Hospitals
Medical and dental offices and clinics	Retail package liquors
Travel agencies	Nursing and convalescent facilities
Banks and financial institutions	Funeral Homes
Retail video store, excluding a video arcade	Public utility buildings
Financial, insurance, and real estate offices	Eating and Drinking establishments
Veterinary offices and clinics	Retail outlets including hardware stores, sporting goods stores, home furnishing stores, and similar establishments
Appliance sales, service, and repairs	Retail food markets
Home Occupation Type I	Shelters, including homeless shelter, mission home, home for unwed mothers, and similar facilities
	Home Occupation Type II

<b>POD Professional Office District</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Professional Offices	Retail Businesses
Business Offices	Banks and Financial institutions without drive-in facilities
Medical, Dental, and Optical offices and clinics	

<b>AHR Airport Height Restriction Overlay District</b>
<p>All uses listed as either permitted uses or special exceptions are permitted in accordance with the underlying zoning district. The Airport Height Restriction Overlay District only regulates the height of structures which exist or are proposed on lands within the overlay district. This district is not intended to regulate land use. The underlying zoning district regulates land use.</p>

<b>BP Business Park</b>	
<b><u>Permitted Uses</u></b>	<b><u>Special Exceptions</u></b>
Eating and Drinking Establishments	Hospitals
Hotels	Churches
Business and Professional Offices	Commercial Recreation
Theaters	Schools
Personal and Professional Services	Funeral Homes
Private Clubs and Lodges	Gasoline Service Stations
Fire Stations and Municipal Buildings	Automobile Sales, Service and Repair
Business	
Banks	
Medical and Dental Offices and Clinics	
Reception Hall/Meeting Facilities	
Travel Bureau	
Public Parks and Playgrounds	

Printing Shops	
Essential Services	
Light Manufacturing	
Warehouses	
Public Utility Buildings	

### **SECTION 158.036 NONCONFORMING STRUCTURES AND USES**

- A. A nonconforming use which occupies a portion of a structure or premises may be extended within that structure or premises as they existed when the prohibitory provisions took effect, but not in violation of the area and yard requirements of the district in which the structure or premises are located. No change of a nonconforming use shall entail structural alterations or any additions other than those required by law for the purpose of safety and health.
- B. The Board of Zoning Appeals may impose any conditions as it deems necessary for the protection of adjacent property and the public interest.
- C. No nonconforming structure or use shall be changed to another nonconforming use without approval from the Board of Zoning Appeals.
- D. In the event that any nonconforming use, conducted in a structure or otherwise, ceases, for whatever reason, for a period of one year, that nonconforming use shall not be resumed.
- E. Any nonconforming structure damaged by fire, flood, or other casualty may be reconstructed and used as before if the reconstruction is performed within 12 months of the casualty, and if the restored structure has no greater coverage and contains no greater cubic content than before the casualty.
- F. Nothing in this chapter shall prevent the reconstruction, repair, or rebuilding of a nonconforming structure or part thereof existing at the effective date of this chapter, rendered necessary by wear and tear, deterioration, or depreciation provided the cost of such work shall not exceed 50% of the assessed value of the structure at the time work is done, nor prevent compliance with the provisions of the One and Two Family Dwelling Code relative to the maintenance of buildings or structures.
- G. 1. Within one year of the effective date of this chapter, all existing junkyards must be screened and surrounded by a solid, continuous fence or wall of at least eight feet in height to screen enclosed contents from public view.
2. In the event that a site cannot obtain screening due to conflict with the fencing



regulations in Chapter 152, that site shall then be deemed a public nuisance and will be subject to any provisions requested by the Plan Director for the removal of all junk from the site.

3. The Plan Director shall have the authority to promulgate rules and regulations governing the location, planting, construction, and maintenance of all materials used for the required screening of those junkyards.
  4. No junkyard shall be established within 75 feet from any residential zone.
- H. A non-conforming structure may be enlarged or expanded if all of the following requirements are adhered to:
1. The addition shall not extend into any required front yard beyond the existing structure.
  2. The addition shall not extend into any required side yard beyond the existing structure.
  3. The addition shall not extend into any required rear yard beyond the existing structure.
  4. The addition shall not extend any closer to an intersection of streets or other rights-of-way than the existing structure.
  5. The addition may extend beyond the existing structure only when said addition meets all required setbacks and regulations of this chapter.

#### **SECTION 158.037 ACCESSORY STRUCTURES AND USES**

- A. Accessory structures are permitted in all zoning districts.
- B. Accessory structures shall adhere to the minimum front yard setback required for principal structures within the applicable zoning district.
- C. Accessory structures shall maintain a minimum side yard and rear yard setback of five (5) feet. An accessory structure that is one-hundred twenty (120) square feet or less in size, and is not installed or constructed on a permanent foundation, may be installed or constructed within (2) feet of the side or rear property line.
- D. Accessory structures shall not be located within seven (7) feet from the intersection of any rights-of-way.
- E. Any accessory structure in excess of one-hundred twenty (120) square feet which is constructed or located within six (6) feet of the principal structure shall be constructed in accordance with the CABO One and Two Family Dwelling Code.

- F. The total gross floor area of all accessory structures on a lot shall not exceed the total gross floor area of the principal structure on the lot. If no principal structure exists on the lot, the total gross floor area of all accessory structures on a lot shall be one-thousand fivehundred (1,500) square feet.
- G. Any accessory structure which is attached to the principal structure shall maintain the minimum side and rear yard setback required of a principal structure.
- H. No accessory structure shall be constructed or erected within a recorded easement without written approval from the easement holder(s).
- I. All fences shall adhere to the following additional requirements:
1. All fences and parts thereof shall be constructed or erected within the property lines.
  2. Privacy fences in excess of three (3) feet in height shall adhere to the minimum front yard setback required for principal structures within the applicable zoning district.
  3. Privacy fences shall not be located within seven (7) feet from the intersection of any rights-of-way.
  4. All fences shall maintain a minimum two (2) foot setback from any alley, and shall be located within the property line .
  5. No fences shall be constructed of or be equipped with spikes, electrically charged material, or any similar device.
  6. Fences equipped with barbed wire shall be prohibited in all zoning districts except the I-1, I-2, I-3, or I-4 zoning district.
  7. No fence shall exceed eight (8) feet in height.
  8. No picket fence shall be constructed of boards or similar material greater than six (6) inches in width, nor shall the spacing between boards be less than two (2) inches.
- J. All swimming pools shall adhere to the following additional requirements:
1. Access to in-ground swimming pools shall be restricted by a wall or fence not less than five (5) feet in height and be equipped with a gate or door capable of being locked.

2. Access to permanent on-ground swimming pools shall be restricted by a wall or fence not less than five (5) feet in height and be equipped with a gate or door capable of being locked; or, the steps leading up to the pool and/or deck of the pool shall be self-closing or be capable of being locked.
- K. A deck which is detached from the primary structure may extend or project into a minimum side or rear yard if the following requirements are adhered to:
1. Maximum floor clearance above grade of thirty (30) inches.
  2. No roof, structure, awning, or similar cover is constructed or erected over the deck.
  3. No walls, sides, or opaque material is used for sides on the deck.
  4. No portion of the deck extends beyond the property lines.
  5. No deck shall be located within seven (7) feet from the intersection of any rights-of-way.

#### **SECTION 158.038 LOTS**

- A. Corner lots shall provide the required front yard setback along both streets, and provide the required side yard setback along the remaining property lines.
- B. No portion of a primary structure shall extend or project into any minimum front, side or rear yard, with the following exceptions:
1. Roof overhang not exceeding twenty-four (24) inches.
  2. Window awning.
  3. Air conditioner/heat pump.
  4. Decks which adhere to the following:
    - a. Maximum floor clearance above grade of thirty (30) inches.
    - b. No roof, structure, awning, or similar cover is constructed or erected over the deck.
    - c. No walls, sides, or opaque material is used for sides on the deck.
    - d. No portion of the deck extends beyond the property lines .

- e. No deck shall extend or project into the minimum front yard setback.
- f. No deck shall be located within seven (7) feet from the intersection of any rights-of-way.
- C. In any zoning district, the minimum depth of a front yard setback may be the average of the front yard setback of existing conforming and non-conforming structures. The existing conforming and non-conforming structures shall be located on the same side of the street and between the two (2) closest intersecting streets.
- D. The placement of a mobile or modular home on a single platted or unplatted lot shall be a minimum of 3,600 square feet.
- E. Any lot of record existing at the effective date of this chapter and then held in separate ownership different from the ownership of adjoining lots may be used for the erection of a structure conforming to the use regulations of the district in which it is located, even though its area and width are less than the minimum requirements of this chapter.
- F. The minimum lot area, minimum width of lot, minimum depth of front yard, minimum width of each side yard, and minimum depth of rear yard for each district are shown below:

DISTRICT	MINIMUM LOT AREA (Sq. Ft.)	MINIMUM LOT AREA PER FAMILY (Sq. Ft.)	MINIMUM LOT WIDTH (Feet)	MINIMUM DEPTH FRONT YARD (Feet)	MINIMUM WIDTH SIDE YARD (Feet)	MINIMUM DEPTH REAR YARD (Feet)
A	1 Acre (43,560)	1 Acre (43,560)	150	75	10	15
C-1	80,000	80,000	200	40	20	20
R-1	10,000	10,000	70	35	10	20
R-1A	6,500	6,500	60	25	6	20
R-2	6,500	3,500	60	25	6	20
R-3	6,500	2,000	60	25	6	20
B-1	3,000	4,000	30	0	0	0
B-2	10,000	10,000	70	30	10	10
I-1	20,000	N/A	100	30	20	20
I-2	80,000	N/A	200	40	20	20
I-3	43,560	N/A	100	40	10	20
I-4	87,120	N/A	100	40	10	20
MXD	6,500	6,500	60	30	6	20
Accessory Structures	6,500	6,500	60	30	6	20
BP	See specific district regulations in Code					

### **SECTION 158.039 HEIGHT AND FLOOR AREA**

- A. No principal structure shall exceed a height of thirty-five (35) feet. No accessory structure shall exceed a height of twenty (20) feet.
- B. The maximum height limitation shall not apply to church spires; flag poles; antennas; chimneys; and water tanks. However, such features shall not exceed a height of one hundred fifty (150) feet and shall comply with Section 158.053.

### **SECTION 158.040 OFF-STREET PARKING**

Off-street parking spaces shall be provided in accordance with the specifications of this section in all districts, whenever any new use is established or existing use is enlarged.

- A. Number of spaces required:

<b><u>USE DESCRIPTION</u></b>	<b><u>NUMBER OF SPACES REQUIRED</u></b>
Agricultural uses	There shall be no requirement except with respect to roadside stands and similar uses when an adequate number of spaces is required to serve the public
Residential uses	One per dwelling plus one for every two bedrooms
Institutional uses, including nursing homes, hospitals, and similar institutions	One space for each three patients' bed, plus one space for each two employees per largest working shift
Children's homes, day nurseries, kindergartens, child caring, and similar institutions	One parking space for each six children's beds, plus one space for each two employees per largest working shift
Clubs, lodges, community centers	One parking space for each 200 square feet of gross floor area
Public buildings, utilities and public service used including libraries, museums, and similar places of assembly	One parking space for each 200 square feet of gross floor area, or one space for each two employees per largest working shift, whichever is greater
Schools, public and private	
a. Elementary or junior high	At least three parking spaces shall be provided for each classroom
b. High school	At least six parking spaces shall be provided for each classroom

c. Sports arena	At least one parking space shall be provided for each five seats when the facility is of an independent nature. When such facility is utilized in conjunction with a school, either the parking requirement based on seating capacity of the largest single facility contained herein or the above requirement based on classroom number shall be applicable, whichever results in the greater number of spaces.
Churches, theaters, auditoriums, assembly halls, undertaking establishments, and similar places of congregation	One parking space for each five seats in the main sanctuary or room, plus one space for each employee per largest working shift
Boarding schools, vocational and trade schools, colleges, and similar educational institutions	One parking space for each six students based on the maximum number of the students attending classes on the premises at any one time during a 24-hour period

<b>USE DESCRIPTION</b>	<b>NUMBER OF SPACES REQUIRED</b>
Group housing, including rooming and boarding houses, dormitories, elderly housing, fraternities, and sororities	One parking space for each two beds, or each two sleeping units, rooming units, or dwelling units in the case of elderly housing, plus one space for each employee per largest working shift
Hotels, motels, apartment hotels, and similar lodging and accommodation facilities for the transient public (exclusive of retail sales uses)	One parking space for each lodging room or dwelling unit, plus one space for each five employees per largest working shift
Professional and Business Offices	One parking space for each 250 square feet of gross floor area
Medical, Dental, and Optical offices and clinics	One parking space for each 200 square feet of gross floor area, plus a minimum of three parking spaces for staff or employees
Furniture store, household appliance, mechanical trades display stores, or other similar use	At least one parking space for each 1,000 square feet of gross floor area thereof plus one space for each 1,500 square feet of the gross area of floors other than the ground floor used for sales, displays or show purposes
Food market or other similar use with a gross floor area of less than 2,500 square feet	At least one parking space for each 100 square feet of gross floor area thereof
Retail store or service except those specified above	At least one parking space for each 400 square feet of gross floor area
Eating & drinking establishments, including restaurants, lunch counters, taverns, and night clubs, except drive-in establishments	One parking space for each four customer seats
Drive-in establishments	Two parking spaces for each 100 square feet of gross floor area, plus one space for each employee per largest working shift.
Open-air type businesses including auto and boat sales, kennels, plant nurseries, and commercial amusement establishments	One parking space for each employee per largest working shift
Automobile service station	One parking space for each use employee per largest working shift, plus two spaces for each service stall
Commercial, manufacturing, and industrial establishments not catering to retail trade	One parking space for each two employees per largest working shift plus an adequate number of spaces for visitors and company vehicles operating from the premises

- B. For uses not specified in this section or in that instance when the requirement for an adequate number of spaces is unclear, the number of parking spaces shall be determined by the administrative official, on the basis of similar requirements, the number of persons served or employed, and the capability of adequately serving the visiting public. The determination may be reviewed by the Commission or appealed to the Board of Zoning Appeals.
- C. All land in or adjoining a residential or business district which is hereafter placed in use for off-street parking, except for any dwelling unit, shall be landscaped to aid in controlling the circulation of cars and pedestrians, to identify entrances and exits, and to improve the appearance of the use to maintain property values in the area and the following specific landscaping requirements must be satisfied.
1. All open, off-street parking areas shall be provided and maintain shade trees of a variety to this region and totaling not less than 1% of the surfaced parking area. The minimum size tree island shall not be less than 70 square feet.
  2. Screening, consisting of a hedge, wall, or uniformly painted fence to provide a visual separator and physical barrier with minimum height of three feet shall be provided between the off-street parking and all residential and business areas. Those lots adjacent to a residential district shall provide screening between that land and the residential district not less than eight feet in height.
  3. The total landscaped (green) area for any parking lot shall not be less than 10% of the gross area developed. The owner shall be responsible for the perpetual maintenance of the green space.
- D. Setbacks - All land used for off-street parking in districts for which front yards are required by this section, shall be located not less than five feet from any property line abutting on a street; provided that nothing in this division shall be deemed to apply to any off-street parking space or driveway thereto for any single-family dwelling unit. All parking lots shall have curbing around perimeters at a sufficient location to keep vehicles from overhanging or encroaching upon abutting properties, streets, alleys, or sidewalks. Curbing is also to be used to facilitate drainage and insure discharge of water onto abutting properties.
- E. Lighting - Any light used to illuminate land used for offstreet parking or driveways thereto, shall be installed on private property and maintained so as to reflect the light away from any adjoining residential district. It shall also be designed to avoid glare into street rights-of-way.
- F. Minimum design standards for parking lots - All parking spaces must meet the following minimum design standards:



1.

<u>SURFACES</u>	<u>DRIVES &amp; SERVICE AREAS</u> (Inches)	<u>PARKING ONLY</u> (Inches)
Rigid type pavement (plain cement concrete) Uniform design thickness	6	5
Flexible type pavement		
Asphalt surface	1	1
Asphalt binder	3	2
Aggregate base	10	8
	TOTAL = 14	TOTAL = 11
Deep strength asphalt Depth	8	6

2. Landscaping - 1% of surfaced parking area shall be in shade trees; 70 square feet minimum for tree island. 10% of gross area shall be (green) landscaped.
3. Barriers - Minimum four-foot visual separator and physical barrier between off-street parking and all residential and business areas; lots adjacent to a residential district shall provide screening of not less than six feet in height.
4. Front pavement setbacks - Minimum of five feet from any property line abutting on a street.
5. Curbings - At sufficient location to keep vehicles from overhanging or encroaching upon abutting properties, streets, alleys, or sidewalks; also used to facilitate drainage and insure no discharge of water onto abutting properties.
6. Drainage - Proposed elevations are to be provided on the site plan; an adequate sewer is required for runoff removal.
7. Lighting - Must reflect the light away from any adjoining residential and street rights-of-way.

### **SECTION 158.041 MOBILE HOME PARKS**

Mobile home parks, where permitted, shall be in accordance with the Mobile Home Park Act of 1955, as amended; the Indiana State Board of Health Regulations, as amended; and the requirements of this section.

- A. The minimum area of a mobile home park shall be five acres.
- B. Each mobile home site within the mobile home park shall have a minimum lot area of 3,600 square feet.
- C. Each mobile home site shall have a minimum lot width of 40 feet.
- D. Not less than 10% of the gross area of the mobile home park shall be improved for recreational activities for the residents of the park.
- E. The mobile home park shall be appropriately landscaped and screened from adjacent properties.
- F. The mobile home park shall meet all applicable requirements of Chapter 156.
- G. Coin-operated laundries, laundry and dry-cleaning pick-up stations, and other commercial convenience establishments may be permitted in mobile home parks provided:
  - 1. They are subordinate to the residential character of the park;
  - 2. They are located, designed, and intended to serve only the needs of persons living in the park;
  - 3. The establishments and the parking areas related to their use shall not occupy more than 10% of the total area of the park; and
  - 4. The establishment shall present no visible evidence of their commercial nature to areas outside the park.
- H. Each mobile home site shall be provided with a stand consisting of either a solid concrete slab or two concrete ribbons of a thickness and size adequate to support the maximum anticipated loads during all seasons. When concrete ribbons are used, the area between the ribbons shall be filled with a layer of crushed rock.

**SECTION 158.042 MOBILE HOMES, MODULAR HOMES: EXCEPTIONS**

Upon petition, notice hearing, and conditions set forth in this section, the City Board of Zoning Appeals shall have the authority to authorize the placement of a mobile or modular home on an individual lot or tract of real estate. Minimum conditions are hereinafter set forth.

- A. Minimum lot size - One mobile or modular home per existing platted or unplatted area which lot or unplatted area shall have a minimum area of 3,600 square feet.
- B. Districts permitted - A single mobile or modular home shall be permitted in all districts except R-1 and R-1A. A mobile or modular home shall comply with front, side, and rear yard requirements of the district in which it is proposed to be placed, and in compliance with the covenants of the platting of that lot.
- C. Age - No mobile or modular home may be placed upon a lot or tract of real estate, either initially or as a replacement, if the age of the proposed home is greater than five years after the date of manufacture of that home.
- D. Minimum living space - No mobile or modular home shall be placed, erected, or altered so that its ground floor area is less than 500 square feet exclusive of porches, terraces, garages, and exterior stairs.
- E. Parking - Not less than two off-street parking spaces shall be provided for each single or modular home site.
- F. Accessory buildings - Accessory buildings and structures such as private garages and tool sheds may be permitted to be placed on a mobile or modular home site if the accessory structure meets all the general requirements of the district in which the mobile or modular home is being placed or erected.
- G. Owner occupied - No mobile or modular home, either initially or as a replacement, whose status arises out of an exception granted pursuant to this section may be occupied by anyone as primary occupant unless the occupant is the legal owner of the land and real estate on which it is situated. Proof of ownership shall be made in writing at the time of the review for the special exception.
- H. Notice - Notice by certified mail shall be given by petitioner to all property owners within a 200 foot radius of the proposed site of a single mobile or modular home. Return receipts of certified mail to the property owners shall be filed by petitioner within 15 days after filing of the petition and no public hearing shall be advertised for or held until the proof is filed with the Secretary of the Board of Zoning Appeals. If the proof of mailing of notice is not received within 60 days after the filing of petition by the secretary, then the petition shall be automatically rejected and re-filing shall be required, without action of the Board of Zoning Appeals.

- I. Compliance - Within 30 days after location, the wheels of the mobile home shall be removed and a skirting of wood or metal shall be affixed. Each mobile or modular home shall contain a flush toilet, sleeping accommodations, a tub or shower, kitchen facilities, and plumbing and electrical connections designed for and attached to appropriate external systems. Each mobile or modular home shall be connected to city water and sewer facilities. The Board of Zoning Appeals shall also have the power to impose further conditions within the general framework of a special exception.
- J. Abandonment - If a single mobile or modular home has been granted permission by the Board of Zoning Appeals to be placed or erected, and is thereafter destroyed by fire or other casualty or act of God, the destruction shall not constitute an abandonment and the present owner shall have the right to replace the destroyed mobile or modular home with another which meets the general zoning requirements of the district for the existing use in reference to the back, side, and rear yard setbacks. An existing mobile or modular home may be replaced with a newer or larger model provided the replacement model meets all of the requirements herein specified for the district or the covenants of the lot or the existing use in the area. In the event a legally permitted site for a single mobile or modular home shall be vacant and without a permitted structure for a continuous period of one year, then the site shall be deemed abandoned and a new petition to the Board of Zoning Appeals must be made prior to the placing of a single mobile or modular home on the site.

#### **SECTION 158.043 MOBILE DWELLING UNITS**

- A. For the purpose of this section, a "MOBILE DWELLING UNIT" shall mean living quarters such as house trailers, truck bodies, tents, bus bodies, railroad cars while off tracks, shacks, and improvised shelters which may be moved by tractor, truck, automobile, or horses or can be carried, transported, or towed from one place to another without the use of regular house-moving equipment.
- B. Use for those living quarters shall include the acts of sleeping, preparation of meals, or any sanitary measure such as bathing, dishwashing, or laundering clothing or any natural or performing operation which provides waste material objectionable from a nuisance standpoint.
- C. This type of mobile dwelling unit shall be permitted only in a mobile home court or trailer or public camp approved by the Indiana State Board of Health.

#### **SECTION 158.044 PLANNED UNIT PROJECTS**

The district regulations of this chapter may be modified by the Board of Zoning Appeals in the case of a plan utilizing an unusual concept of development which meets the requirements of this section. The planned unit projects provision is intended to encourage original and imaginative development and subdivision design which preserves the natural amenities of the site and provides for the general welfare of the city. After the unit plan is approved, all development, construction, and all use shall be in

accordance with that plan unless a new planned unit project plan is submitted to and approved by the Board of Zoning Appeals as required by this chapter. Any development contrary to the approved unit plan shall constitute a violation of this chapter.

- A. The area of land to be developed shall not be less than five acres.
- B. Properties adjacent to the unit plan shall not be adversely affected.
- C. In planned unit residential projects, the minimum lot yard requirements may be reduced; however, the average density of dwelling units in the total unit plan shall not be higher than that permitted in the district in which the plan is located.
- D. In planned unit business and industrial projects, the minimum lot and yard requirements may be reduced; however, the total land area of the unit plan shall equal the accumulative lot area requirements of each use or structure contained within the unit plan.
- E. The unit plan shall permanently reserve land suitable for the common use of the public or the owners in a particular development. This may be accomplished by dedication, covenant, or easement. This land may be for future public facilities, for recreational or scenic open space, or for a landscaped buffer zone as approved by the Plan Commission. Provisions for permanent control and maintenance of this land shall be outlined in a form acceptable to the Plan Commission and the Board of Zoning Appeals.
- F. The use of the land shall not differ substantially from the uses permitted in the district in which the plan is located, except that limited business facilities, intended to serve only the planned unit residential project area and fully integrated into the design of the project, may be considered and multiple-family dwellings may be considered in singlefamily residential districts if they are so designed and sited that they do not detract from the character of the neighborhood in which they occur.
- G. The unit plan shall be consistent with the purpose of this chapter.
- H. The unit plan shall be reviewed, and recommendations made, by the City Plan Commission to determine if the proposed project is consistent with the City Comprehensive Plan and in the best interest of the city.

#### **SECTION 158.045 TEMPORARY STRUCTURES**

Temporary structures used in conjunction with construction work, seasonal sales, or emergencies may be permitted by the Board of Zoning Appeals if the proposed site is acceptable and neighboring uses are not adversely affected. They shall be removed promptly when their function has been fulfilled. Permits for temporary structures may be issued for a period not to exceed six months. Residing in basement or foundation structures shall not be permitted.

## **SECTION 158.046 HOME OCCUPATION**

- A. Purpose and Intent - It is the purpose and intent of this Section to provide for certain types of home occupations to be conducted within a dwelling unit or accessory structure on the resident's premises. Two classes of home occupations are established based upon the type and intensity of the home occupation. Accordingly, minimum standards have been established for each class of home occupation in order to assure the compatibility of home occupations with other uses permitted in the applicable district and to preserve the character of residential neighborhoods.
- B. Home Occupations - Home Occupations shall not be permitted except in compliance with Chapter 158 and other applicable law.
- C. Application for Home Occupation - An application for an Administrative Permit for a Type I Home Occupation or Special Exception Permit for a Type II Home Occupation shall be signed by all owners and adult residents of the property in question and filed with the Department on forms provided by the Department. The Director shall review the application and classify the proposed home occupation as a Type I or Type II based upon:
1. The established standards for Type I and Type II home occupations described in Section 158.046 (D) and 158.046 (E); and
  2. General planning and zoning standards established by the Zoning Code.
- D. Type I Home Occupation
1. The following standards are applicable to all Type I Home Occupations:
    - a. No person other than residents of the dwelling unit on the subject premises named in the application shall be engaged in such home occupation.
    - b. No more than twenty (20) percent of the total gross floor area of the said dwelling unit shall be used for such home occupation. The home occupation may not utilize more than fifty (50) percent of any one floor of the dwelling unit.
    - c. No outdoor storage or display of products, equipment, or merchandise is permitted.
    - d. No retail sales shall be conducted on the premises.
    - e. No publication or advertising shall use the residential address of the home occupation.
    - f. Exterior evidence of the conduct of a home occupation is not permitted.

- g. The home occupation shall be conducted exclusively within the dwelling unit or accessory structure.
  - h. No equipment, process, or activity shall be used in a home occupation which creates noise, vibration, glare, fumes, odors, or electrical or television interference which is detectable to the normal senses outside the dwelling unit or accessory structure.
  - i. No traffic shall be anticipated by a home occupation in substantially greater volumes than would normally be expected by one (1) dwelling unit in a residential neighborhood. No vehicle or delivery truck shall block or interfere with normal traffic circulation.
  - j. No specific outside entrance or exit for the home occupation shall be permitted.
  - k. No sign shall be permitted.
  - 1. No use, storage, or parking of tractor trailers, semi-trucks, or heavy equipment (e.g. construction equipment) shall be permitted on or about the premises .
2. The following uses are examples of home occupations which may be classified as a Type I:
- a. Telephone answering and solicitation
  - b. Home crafts
  - c. Computer programming, desktop publishing
  - d. Typing or secretarial service
  - e. Painting, sculpturing or writing
  - f. Dressmaking, sewing, or tailoring
  - g. Drafting, surveying service
  - h. Consulting services
  - i. Mail order business, not including retail sales from site
  - j. Sales representative, office only

E. Type II Home Occupation

1. The following standards are applicable to all Type II Home Occupations:
  - a. One (1) person other than the residents of the dwelling unit on the subject premises named in the application may be engaged in such home occupation.
  - b. No more than twenty-five (25) percent of the total gross floor area of the said dwelling unit shall be used for such home occupation. The home occupation may not utilize more than fifty (50) percent of any one floor of the dwelling unit.
  - c. No outdoor storage or display of products, equipment or merchandise is permitted.
  - d. Retail sales are permitted only as an accessory use to the primary home occupation (e.g. beauty salon can sell shampoo and beauty products).
  - e. Exterior evidence of the conduct of a home occupation is not permitted except one (1) non-illuminated sign not to exceed eight (8) square feet, which must be mounted flat against the exterior wall of the dwelling unit.
  - f. The home occupation shall be conducted exclusively within the dwelling unit or accessory structure.
  - g. No equipment, process or activity shall be used in a home occupation which creates noise, vibration, glare, fumes, odors, or electrical or television interference which is detectable to the normal senses outside the dwelling unit or accessory structure.
  - h. No traffic shall be anticipated by a home occupation in substantially greater volumes than would normally be expected in a residential neighborhood. No vehicle or delivery truck shall block or interfere with normal traffic circulation.
  - i. A minimum of two (2) off-street parking spaces, in addition to those required for the dwelling unit, shall be provided for use by patrons of the home occupation. The Board of Zoning Appeals may require additional off-street parking based upon the use and location of the property.
  - j. No use, storage, or parking of tractor trailers, semi-trucks, or heavy equipment (e.g. construction equipment) shall be permitted on or about the premises.
2. The following uses are examples of home occupations which may be classified as a Type II:
  - a. Attorney office
  - b. Insurance sales or broker



- c. Real estate sales or broker
  - d. Jewelry repair
  - e. Shoe repair
  - f. Carpentry, cabinet makers
  - g. Ceramics which involve the use of a kiln
  - h. Medical or dental office
  - i. Catering or food preparation
  - j. Pet grooming service
  - k. Barber or beauty shop
  - l. Photo developing, photo studio
  - m. Appliance repair
- F. General Provisions - All home occupations shall conform to the following standards:
1. Approval of a home occupation is not transferable to a location other than that which was approved.
  2. In no case shall a home occupation be open to the public at times earlier than 7:00 a.m. nor later than 9:00 p.m.
  3. All home occupations shall be subject to periodic inspections. Reasonable notice shall be provided to the permittee prior to the time requested for an inspection.
  4. The Director, in the case of an Administrative Permit for a Type I Home Occupation, or the Board of Zoning Appeals in the case of a Special Exception Permit for a Type II Home Occupation, may impose reasonable conditions necessary to protect the public health, safety, and welfare, or to protect against a possible nuisance condition.
  5. Administrative Permits issued by the Director, or Special Exception Permits issued by the Board of Zoning Appeals may be revoked by the issuing authority for cause after reasonable notice to the permittee and an opportunity for hearing on the matter.

6. Home occupations shall commence only after the receipt of an Administrative Permit if classified as a Type I, or Special Exception Permit if classified as a Type II.

G. Permit Review Process - Applications for a home occupation shall be reviewed as follows:

1. Application filed, with authorization from property owner.
2. Review of application by Director to determine classification as a Type I or Type II.
3. If classified as a Type I:
  - a. Director can approve or deny the application.
  - b. If approved, an Administrative Permit for the home occupation shall be issued.
  - c. Director may impose reasonable conditions as part of the approval.
  - d. Applicant may appeal to the Board of Zoning Appeals if application is denied or if conditions are unacceptable. On appeal of a condition(s), appeal must be filed within fourteen (14) days of the date of the Directors' approval of the Administrative Permit.
4. If classified as a Type II, the application shall be reviewed and treated as a Special Exception request.
5. The standards set forth in Section 158.046(D), 158.046(E), and 158.046(F) shall be incorporated as minimum conditions of approval.

H. Enforcement - In the event the Director determines that the operation of any home occupation is in violation of Chapter 158 or any permit condition, notice shall be provided to the permittee setting forth a description of the violation, corrective action required, and a date by which such corrective action must be accomplished. The permit may be revoked if not corrected in the manner and by the date specified in the notice in accordance with revocation procedures applicable to Special Exceptions. In addition, violations of this Section are subject to the penalties provided for in Section 158.999.

**SECTION 158.047 CHILD CARE FACILITIES**

- A. Day care centers are any buildings used for day care purposes for more than six children.
- B. Every day care center facility shall be constructed and conform to all rules and regulations of the Uniform Building Code.

- C. All persons wishing to operate a day care facility for more than six children must make application to the Board of Zoning Appeals for their approval.

**SECTION 158.048 AWNINGS**

- A. Fixed awnings conforming to the provisions of this chapter shall be permitted on all buildings.
- B. Every fixed awning shall be located as not to interfere with the operation of any exterior standpipe, stairway, or exit from any building.
- C. No fixed awning shall be used as a landing for any fire escape or exterior stair.
- D. Fixed awnings, including supporting frames, arms, brackets, and other devices shall be constructed throughout of incombustible material, except that glass or fragile material shall not be used in any part of the awning.
- E. No part of a fixed awning projecting over a public way shall be less than seven feet above the existing or finished grade under that awning where pedestrian traffic is a consideration.
- F. No part of a fixed awning projecting over a public way shall be less than 14 feet above the existing or finished grade where vehicular traffic is a consideration.
- G. The Plan Director shall have the right to compel the removal of any awning erected, altered, or repaired in violation with this section.

**SECTION 158.049 FLOOD HAZARD AREA OVERLAY DISTRICT**

- A. Purpose and Intent - These regulations are hereby adopted in order to accomplish the following:
1. to prevent unwise developments from increasing flood or drainage hazards to others;
  2. to protect new buildings and major improvements to buildings from flood damage;
  3. to protect human life and health from the hazards of flooding;
  4. to lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;
  5. to maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and

6. to make federally subsidized flood insurance available for property in Huntington County by fulfilling the requirements of the National Flood Insurance Program.

B. Definitions - For the purpose of this Section only, the following definitions apply. These definitions shall not be construed or interpreted for use in any other Section of the Zoning Ordinance.

1. BUILDING - see "structure".
2. DEVELOPMENT - any man-made change to improved or unimproved real estate including but not limited to:
  - a. construction, reconstruction, or placement of a building or any addition to a building;
  - b. installing a manufactured home on a site, preparing a site for a manufactured home or installing a travel trailer on a site for more than 180 days;
  - c. installing utilities, erection of walls and fences, construction of roads, or similar projects;
  - d. construction of flood control structures such as levees, dikes, channel improvements, etc.;
  - e. mining, dredging, filling, grading, excavation, or drilling operations;
  - f. construction and/or reconstruction of bridges or culverts;
  - g. storage of materials; or
  - h. any other activity that might change the direction, height, or velocity of flood or surface waters.

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

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

4. EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
5. FBFM - means Flood Boundary and Floodway Map.
6. FEMA - means Federal Emergency Management Agency.
7. FHBM - means Flood Hazard Boundary Map.
8. FIRM - means Flood Insurance Rate Map.
9. FLOOD - a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.
10. FLOODPLAIN - the channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the floodway fringe districts.
11. FLOOD PROTECTION GRADE OR THE "FPG" - means the elevation of the regulatory flood plus two feet at any given location in the SFHA.
12. FLOODWAY - means the channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.
13. FLOODWAY FRINGE - means those portions of the flood hazard areas lying outside the floodway.
14. LETTER OF MAP AMENDMENT (LOMA) - means an amendment to the currently effective FEMA Map that establishes that a property is not located in a Special Flood Hazard Area (SFHA). A LOMA is only issued by FEMA.
15. LETTER OF MAP REVISION (LOMR) - means an official revision to the currently effective FEMA Map. It is issued by FEMA and changes flood zones, delineations, and elevations.
16. LOWEST FLOOR - means the lowest of the following:
  - a. the top of the basement floor;

- b. the top of the garage floor, if the garage is the lowest level of the building;
  - c. the top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or
  - d. the top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless:
    - 1. the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed floor area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade.
    - 2. such enclosed space shall be usable for nonresidential purposes and building access.
17. **MANUFACTURED HOME** - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
18. **NEW MANUFACTURED HOME PARK OR SUBDIVISION** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
19. **RECREATION VEHICLE** - means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.
20. **REGULATORY FLOOD** - means the flood having a one percent probability of being equalled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission. The regulatory flood elevation at any location is as defined in Section 158.049(D). The "Regulatory Flood" is also known by the term "Base Flood."

21. **SFHA OR SPECIAL FLOOD HAZARD AREA** - means those lands within the jurisdiction of the City that are subject to inundation by the regulatory flood. The SFHAs of the City are generally identified as such on the Flood Insurance Rate Maps of the City prepared by the Federal Emergency Management Agency and dated July 18, 1983. The SFHAs of those parts of unincorporated Huntington County that are within the extraterritorial jurisdiction of the City or that may be annexed into the City are generally identified as such on the Flood Insurance Rate Map prepared for Huntington County by the Federal Emergency Management Agency and dated July 18, 1983.
22. **STRUCTURE** - means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles and travel trailers to be installed on a site for more than 180 days.
23. **SUBSTANTIAL IMPROVEMENT** - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".
- C. Duties Of The Administrator - The Director of the Huntington City/County Planning Department is authorized to review all development and subdivision proposals to insure compliance with this section, including but not limited to the following duties:
1. Ensure that all development activities within the SFHAs of the City meet the requirements of this section.
  2. Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques.
  3. Ensure that construction authorization has been granted by the Indiana Natural Resources Commission for all development projects subject to Section 158.049, and maintain a record of such authorization (either copy of actual permit or letter of recommendation).
  4. Maintain a record of the "as-built" elevation of the lowest floor (including basement) of all new and/or substantially improved buildings constructed in the SFHA.

5. Maintain a record of the engineer's certificate and the "as built" floodproofed elevation of all buildings subject to Section 158.049.
6. Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this Section. Submit reports as required for the National Flood Insurance Program.
7. Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, copies of DNR permits and letters of recommendation, federal permit documents, and "as built" elevation and floodproofing data for all buildings constructed subject to this ordinance.

D. Regulatory Flood Elevation - This Section's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Department of Natural Resources for review and approval.

1. The regulatory flood elevation for the SFHAs of the Wabash River, the Little River, and any other streams shall be as delineated on the 100 year flood profiles in the Flood Insurance Study of the City prepared by the Federal Emergency Management Agency and dated January 18, 1983.
2. The regulatory flood elevation for each SFHA delineated as an "AH Zone" or "AO Zone" shall be that elevation (or depth) delineated on the Flood Insurance Rate Map of the City.
3. The regulatory Flood Elevation for each of the remaining SFHAs delineated as an "A Zone" on the Flood Insurance Rate Map of the City shall be according to the best data available as provided by the Department of Natural Resources.
4. The regulatory flood elevation for the SFHAs of those parts of unincorporated Huntington County that are within the extraterritorial jurisdiction of the City or that may be annexed into the City shall be as delineated on the 100 year flood profiles in the Flood Insurance Study of Huntington County prepared by the Federal Emergency Management Agency and dated January 18, 1983.

If the SFHA is delineated as "AH Zone or AO Zone," the elevation (or depth) will be delineated as "Zone A" on the City Flood Insurance Rate Map, the regulatory flood elevation shall be according to the best data available as provided by the Department of Natural Resources.

E. Improvement Location Permit - No person, firm, corporation, or governmental body not exempted by state law shall commence any "development" in the SFHA without first obtaining an Improvement Location Permit from the Department. The Department shall not issue an Improvement Location Permit if the proposed "development" does not meet the requirements of this Section.



1. The application for an Improvement Location Permit shall be accompanied by the following:
  - a. A description of the proposed development.
  - b. Location of the proposed development - sufficient to accurately locate property and structure in relation to existing roads and streams.
  - c. A legal description of the property.
  - d. A site development plan showing existing and proposed structure locations and existing and proposed land grades.
  - e. Elevation of lowest floor (including basement) of all proposed structures. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD).
2. Upon receipt of an application for an Improvement Location Permit, the Director shall determine if the site is located within an identified floodway or within the floodplain where the limits of the floodway have not yet been determined.
  - a. If the site is in an identified floodway, the Director shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway.

Under the provisions of IC 13-2-22 a permit from the Natural Resources Commission is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving, etc. undertaken before the actual start of construction of the building.

No action shall be taken by the Director until a permit has been issued by the Natural Resources Commission granting approval for construction in the floodway. Once a permit has been issued by the Natural Resources Commission, the Director may issue the local Improvement Location Permit, provided the provisions contained in Sections 158.049 (F) and (G) have been met. The Improvement Location Permit cannot be less restrictive than the permit issued by the Natural Resources Commission.

- b. If the site is located in an identified floodway fringe, then the Director may issue the local Improvement Location Permit provided the provisions contained in Section 158.049 (F) and (G) have been met. The key provision is that the lowest floor of any new or substantially improved structure shall be at or above the Flood Protection Grade.

- c. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined (shown as Zone A on the Flood Insurance Rate Map), and the drainage area upstream of the site is greater than one square mile, the Director shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources for review and comment.

No action shall be taken by the Director until either a permit for construction in the floodway or a letter of recommendation citing the 100 year flood elevation and the recommended Flood Protection Grade has been received from the Department of Natural Resources.

Once the Director has received the proper permit or letter of recommendation approving the proposed development, an Improvement Location Permit may be issued provided the conditions of the Improvement Location Permit are not less restrictive than the conditions received from the Department of Natural Resources and the provisions contained in Section 158.049 (F) and (G) have been met.

- d. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Director shall require the applicant to provide an engineering analysis showing the limits of the floodway, floodway fringe and 100 year elevation for the site.

- F. Preventing Increased Damages - No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.
  - 1. Within the floodway identified on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map, the following standards shall apply:
    - a. No development shall be allowed which acting alone or in combination with existing or future similar works, will cause any increase in the elevation of the regulatory flood; and
    - b. For all projects involving channel modifications or fill (including levees) the City shall submit a request to the Federal Emergency Management Agency to revise the regulatory flood data
  - 2. Within all SFHAs identified as A Zones (no 100 year flood elevation and/or floodway/floodway fringe delineation has been provided) the following standard shall apply:
    - a. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation

more than one-tenth (0.1) of one foot and will not increase flood damages or potential flood damages.

3. Public Health Standards in all SFHAs:
  - a. No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the Flood Protection Grade, unless such materials are stored in a storage tank or floodproofed building constructed according to the requirements of Section 158.049 (G).
  - b. New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings located below the FPG are watertight.

G. Protecting Buildings - In addition to the damage prevention requirements of Section 158.049 (F), all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

1. This building protection requirement applies to the following situations:
  - a. construction or placement of any new building having a floor area greater than 400 square feet;
  - b. structural alterations made to an existing building that increase the market value of the building by more than 50% (excluding the value of the land) or any structural alteration made previously (one time only alteration);
  - c. reconstruction or repairs made to a damaged building that are valued at or more than 50% of the market value of the building (excluding the value of the land) before damage occurred;
  - d. installing a manufactured home on a new site or a new manufactured home on an existing site. This section does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and
  - e. installing a travel trailer on a site for more than 180 days.
2. This building protection requirement may be met by one of the following methods. The Director shall maintain a record of compliance with these building protection standards as required in Section 158.049 (C).

- a. A residential or nonresidential building may be constructed on a permanent land fill in accordance with the following:
  1. The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method.
  2. The fill should extend at least ten feet beyond the foundation of the building before sloping below the FPG.
  3. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
  4. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties .
  5. The lowest floor (see definition of lowest floor in Section 158.049 (B) Definitions) shall be at or above the FPG.
- b. A residential or nonresidential building may be elevated in accordance with the following:
  1. The building or improvements shall be elevated on posts, piers, columns, extended walls, or other types of similar foundation provided:
    - a. Walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed floor area subject to flooding. The bottom of all such opening shall be no higher than one (1) foot above the enclosed area's floor.
    - b. Any enclosure below the elevated floor is used for non-residential purposes and building access.
  2. The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as current, waves, ice, and floating debris.
  3. All areas below the FPG shall be constructed of materials resistant to flood damage. The lowest floor (including basement) and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or

above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

- c. Manufactured homes and travel trailers (also called recreational vehicles) to be installed or substantially improved on a site for more than 180 days must meet one of the following anchoring requirements:

1. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;
  - a. outside a manufactured home park or subdivision;
  - b. in a new manufactured home park or subdivision;
  - c. in an expansion to an existing manufactured home park or subdivision;  
or
  - d. in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.
2. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

- d. Recreation vehicles placed on a site shall either:
1. be on the site for less than 180 consecutive days;
  2. be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
  3. meet the requirements for "manufactured homes" in paragraph (3) of this sub-section.

- e. A non-residential building may be floodproofed to the FPG (in lieu of elevating) if done in accordance with the following:
  1. A Registered Professional Engineer shall certify that the building has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The Building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice.
  2. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

#### H. Other Development Requirements

1. The Director shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere by ordinance. If the Director finds the subdivision to be so located, the Director shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. The Director shall require appropriate changes and modifications in order to assure that:
  - a. it is consistent with the need to minimize flood damages;
  - b. all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
  - c. adequate drainage is provided so as to reduce exposure to flood hazards; and
  - d. on-site waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.
2. Developers shall record the 100 year flood elevation on all subdivision plats containing lands identified elsewhere by ordinance as within a flood hazard area prior to submitting the plats for approval by the Plan Commission.
3. All owners of manufactured home parks or subdivisions located within the SFHA identified as Zone A on the community's FHMB or FIRM shall develop an evacuation plan for those lots located in Zone A and file it with the local Plan Commission and have it filed and approved by the appropriate community emergency management authorities.

#### I. VariANCES

1. The Huntington City Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this section provided the applicant demonstrates that:
    - a. There exists a good and sufficient cause for the requested variance;
    - b. The strict application of the terms of this section will constitute an exceptional hardship to the applicant, and
    - c. The granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
  2. The Board of Zoning Appeals may issue a variance to the terms and provisions of this section subject to the following standards and conditions:
    - a. No variance or exception for a residential use within a floodway subject to Section 158.049 (F)(a) or (b) may be granted.
    - b. Any variance or exception granted in a floodway subject to Section 158.049 (F)(a) or (b) will require a permit from Natural Resources.
    - c. Variances or exceptions to the Building Protection Standards of Section 158.049 (G) may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
    - d. Variances or exceptions may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects.
    - e. All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and
    - f. The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of excessive flood insurance premiums.
- J. Disclaimer Of Liability - The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions.

Therefore, this section does not create any liability on the part of the City, Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this section or any administrative decision made lawfully thereunder.

- K. Violations - Failure to obtain an Improvement Location Permit in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of the Zoning Ordinance.
- L. Abrogation And Greater Restrictions - This ordinance repeals and replaces other ordinances adopted by the City Common Council to fulfill the requirements of the National Flood Insurance Program. However, this ordinance does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this ordinance repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this ordinance and other ordinance easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more restrictive restrictions shall take precedence. In addition, the City Common Council shall assure that all National Flood Insurance regulations (Contained in 44 CFR 60.3) and State Floodplain Management regulations and laws (310 IAC 6-1-1, IC 13-2-22 and IC 13-2-22.5) are met.
- M. Separability - The provisions and sections of this ordinance shall be deemed separable and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

### **SECTION 158.050 AIRPORT HEIGHT RESTRICTION OVERLAY DISTRICT**

It is the intent of this subchapter to regulate the height of a structure erected or constructed which could create an obstruction and endanger the lives and property of users of the Huntington Municipal Airport. This district would allow the erection or construction of a structure permitted in accordance with the underlying zoning district provided the height of the structure does not exceed the maximum established for the district.

### **SECTION 158.051 DEFINITIONS**

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

**AIRPORT** - Means Huntington Municipal Airport.

**AIRPORT ELEVATION** - 806 feet above mean sea level.

**APPROACH SURFACE** - A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 158.052 of this Ordinance. The perimeter of the approach surface coincides with the perimeter of the approach zone.



**APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES** - These zones are set forth in Section 158.052 of this Ordinance.

**BOARD OF AVIATION COMMISSIONERS** - A board appointed by the City of Huntington as required by I.C. 8-22-2-1 et. seq.

**CITY/COUNTY PLANNING DEPARTMENT** - The joint City of Huntington and Huntington County Planning Department.

**CONCIAL SURFACE** - A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

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

**HEIGHT** - For the purpose of determining height limits within the Airport Height Restrictions Overlay District, the datum shall be mean sea level elevation unless otherwise specified.

**HEIGHT PERMIT** - A permit issued by the City/County Planning Department and required by Section 158.056 for lands located in the Airport Height Restriction Overlay District, and in addition to any other applicable building permit requirements found elsewhere in this Code.

**HEIGHT VARIANCE** - A variance granted by the Board of Zoning Appeals after a public hearing and required by Section 158.056 for structures to be built in excess of the applicable height limitations on land located within the Airport Height Restriction Overlay District.

**HORIZONTAL SURFACE** - A horizontal plane which is 956 feet above mean sea level (150 feet above the established airport elevation of 806 feet above mean sea level) the perimeter of which coincides with the perimeter of the horizontal zone.

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

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

**OBSTRUCTION** - Any structure or other object, including a mobile object, which exceeds a limiting height set forth in Section 158.053 of this Ordinance.

**PERSON** - An individual, firm, partnership, corporation, company, association, ~olnt stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

**PRIMARY SURFACE** - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in Section 158.052 of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

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

**STRUCTURE** - Anything constructed or erected, the use of which required permanent location on the ground or attached to something having a permanent location on the ground.

**TRANSITIONAL SURFACES** - These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

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

**VISUAL RUNWAY** - A runway intended solely for the operation of aircraft using visual approach procedures.

## **SECTION 158.052 ZONES**

In order to carry out the provisions of this Subchapter, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces shown on that certain Huntington Municipal Airport Height Restriction Overlay District Zoning Map which is made a part hereof. An area located in more than one of these zones is considered to be only in the zone with the more restrictive height limitation. These zones are hereby established and defined as follows:

- A. Utility Runway Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. It's centerline is the continuation of the centerline of the runway. (At the adoption of this Ordinance, this is the current classification of a proposed runway running generally in a north northwest to south southeastern direction.)
- B. Utility Runway Nonprecision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone

expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

- C. Runway Larger Than Utility Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- D. Runway Larger Than Utility With a Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (At the adoption of this Ordinance, this is the current classification of Runway 9 running in a generally east to west direction.)
- E. Runway Larger Than Utility With A Visibility Minimum As Low As 3/4 Mile Nonprecision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- F. Transitional Zones - The transitional zones are the areas beneath the transitional surfaces.
- G. Horizontal Zone - The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- H. Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

### **SECTION 158.053 HEIGHT LIMITATIONS**

Except as otherwise provided in this section, no structure shall be erected, altered, or maintained in any zone created by this subchapter to a height in excess of the applicable height limitation herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

- A. Utility Runway Visual Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

- B. Utility Runway Nonprecision Instrument Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- C. Runway Larger Than Utility Visual Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- D. Runway Larger Than Utility With A Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- E. Runway Larger Than Utility With A Visibility Minimum As Low As 3/4 Mile Nonprecision Instrument Approach Zone - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- F. Transitional Zones - Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above airport elevation which is 806 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the conical surface.
- G. Horizontal Zone - Established at 150 feet above the airport elevation or at a height of 956 feet above mean sea level.
- H. Conical Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
- I. Excepted Height Limitation - Nothing in this Section shall be construed as prohibiting the construction or maintenance of any structure to a height up to 50 feet above the surface of the land, and where land is located below the approach or transitional surfaces.

#### **SECTION 158.054 USE RESTRICTION**

Notwithstanding any other provisions of this Code, no one may within any zone established by this chapter create electrical interference with navigational signals or radio communication between the Airport aircraft, make it difficult for pilots to distinguish between airport lights and other lights, cause glare in the eyes of pilots using the Airport, impair visibility in the vicinity of the Airport, create bird

strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use or using the Airport.

### **SECTION 158.055 NONCONFORMING STRUCTURES**

- A. Regulations Not Retroactive - The regulations prescribed in this Subchapter shall not be construed to require the removal, lowering, or other change or alteration of any structure not conforming to the regulations as the effective date of this Ordinance, or otherwise interfere with the continuance of a nonconforming structure. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was granted all necessary and appropriate permits from regulatory authorities and was begun prior to the effective date of this Ordinance, and is diligently pursued.
- B. Marking and Lighting - Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by The Board of Aviation Commissioners to indicate its presence, at the expense of the City of Huntington.

### **SECTION 158.056 PERMITS**

- A. Future Uses - No structure shall be erected, enlarged or established in excess of the applicable height limitation set forth in Section 158.053(I) in any zone created under this Subchapter unless a Height Permit has been applied for and granted by the City/County Planning Department. Each application for a Height Permit shall indicate the purpose for which the Height Permit is desired, with sufficient particularity to allow the Planning Department to determine whether the resulting structure conforms to the regulations herein prescribed. If such determination is in the affirmative, the Height Permit shall be granted. No Height Permit shall be granted if the structure's proposed height is inconsistent with the provisions of this Subchapter, unless a height Variance has been approved in accordance with Section 158.056(E).
- B. Height Permits - Applications for Height Permits required by this Section shall be submitted to the City/County Planning Department on forms published for that purpose. The City/County Planning Department shall promptly notify the Board of Aviation Commissioners or its designee of any and all applications for Height Permits filed under this Section for the purpose of obtaining technical advice concerning the aeronautical effects that the proposed structure will have on air traffic and safety. The Board shall have ten (10) days after notification in which to review and comment on the height permit application.
- C. Existing Uses - No Height Permit shall be granted that would allow the establishment or creation of an obstruction or allow a nonconforming use or structure to become a greater hazard to air navigation, than it was on the effective date of this Ordinance or any amendments thereto or than it was when the application for a Height Permit is made.

- D. Nonconforming Uses Abandoned or Destroyed - Whenever a nonconforming structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no Height Permit shall be granted that would allow such structure to be repaired, rebuilt, or reconstructed in a manner which exceeds the applicable height limit, without first obtaining a Height Variance.
- E. Height Variances - Any person desiring to erect or increase the height of any structure' or use property not in accordance with the regulations prescribed in this Subchapter, may apply to the Board of Zoning Appeals for a Height Variance from such regulations. This application is to be made at the City/County Planning Department Office. The City/County Planning Department shall promptly notify the Board of Aviation Commissioners or its designee of any and all Height Variances filed under this Section for the purpose of obtaining technical advice concerning the aeronautical effects that the proposed structure will have on air traffic and safety. This notification shall be at least ten (10) days prior to any hearing by the Board of Zoning Appeals. The application for Height Variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such Height Variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Section. If the Board of Aviation Commissioners, or its designee, does not respond within a reasonable amount of time prior to the hearing by the Board of Zoning Appeals, the Board of Zoning Appeals may act on its own to grant or deny said height Variance application.
- F. Obstruction Marking and Lighting - Any Height Permit or Height Variance granted may, if such action is deemed advisable to effectuate the purpose of this Subchapter and be reasonable in the circumstances, be so conditioned as to require the owner of the structure in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Zoning Appeals, this condition may be modified to require the owner to allow the City of Huntington, at its own expense, to install, operate, and maintain the necessary markings and lights.

#### **SECTION 158.057 ENFORCEMENT**

It shall be the duty of the City/County Planning Department to administer and enforce the regulations prescribed herein. Applications for height permits and height variances required by this Subchapter shall be submitted to the City/County Planning Department on forms published for that purpose. The Board of Aviation Commissioners, or their appointed designee, shall act as a technical advisor to the Board on any request for a height permit or height variance regarding this Section.

#### **SECTION 158.058 CONFLICTING REGULATIONS**

Where there exists a conflict between any of the regulations or limitations prescribed in this Subchapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures and the use of land, or any other matter, the more stringent limitation or regulation shall govern and prevail.

### **SECTION 158.059 INDIANA HIGH STRUCTURE SAFETY ACT: FEDERAL AND STATE LAWS**

- A. If any provision of this Subchapter conflicts with the Indiana High Structure Safety Act (I.C. 8-21-10-1 et. seq.), as it is now enacted or hereafter amended, the more restrictive provision controls.
- B. Compliance with this Subchapter does not relieve any person or entity from its obligation to comply with federal or state laws which may or may not be more restrictive; nor relieve any person or entity from its obligation to obtain any studies or permits required by federal or state law.

## **MANUFACTURED HOUSING IN RESIDENTIAL DISTRICTS**

### **SECTION 158.060 INTENTION OF SUBCHAPTER**

It is the intent of this subchapter to encourage provision of alternative modest income housing in general residential areas by permitting the use of certain manufactured homes, as defined in 158.061, in all districts in which dwellings constructed on-site are subject to the requirements set forth herein to assure acceptable similarity in exterior appearance between the manufactured homes and dwellings that have been or might be constructed under these and other lawful regulations on adjacent or nearby lots in the same district.

### **SECTION 158.061 DEFINITIONS**

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

**EXPANDO ROOM** - An expandable manufactured housing unit.

**MANUFACTURED HOME** - A dwelling unit constructed after January 1, 1981, in a factory and bearing a seal of compliance with Federal Manufactured Housing Construction and Safety Standards (42 U.S.C. 5401 et seq.) of Indiana Public Law 360, Acts of 1971, which is of at least 950 square feet of occupied space and is installed on a permanent foundation and perimeter wall. Its pitched roof and siding are of materials customarily used for site-constructed dwellings.

**MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS CODE** Title IV of the 1974 Housing and Community Development Act (42 U.S.C. 5401 et seq.), as amended (previously known as the Federal Mobile Home Construction and Safety Act), rules and regulations adopted thereunder, which include H.U.D. approved information supplied by the home manufacturer, and regulations and interpretations of the code by the Indiana Fire Prevention and Building Safety Council.

**MOBILE HOME** - A transportable structure built prior to June 15, 1976, the effective date for the federal Mobile Home Construction and Safety Act of 1974, larger than 500 square feet and designed to be used as a year-round residential dwelling.

**OCCUPIED SPACE** - The total area of earth horizontally covered by the structure, excluding accessory structures such as, but not limited to garages, patios, and porches. (from Public Law 312).

**ONE- AND TWO-FAMILY DWELLING CODE, INDIANA** - The mandatory statewide building code adopted by the Fire Prevention and Building Safety Council for one- and two-family residential dwellings.

**PERMANENT FOUNDATIONS** - Any structural system transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil. (from IC 22-12-1-1 et seq. Fire Prevention and Building Safety Council provisions).

**PERMANENT PERIMETER WALL** - An approved non-load bearing perimeter structural system composed of continuous solid or mortared masonry wall having the appearance of a permanent load bearing foundation characteristic of site-constructed homes. It shall be designed to support the loads imposed and shall extend below the established frost line.

**PUBLIC LAW 360, ACTS OF 1971** - Enabling legislation requiring the Fire Prevention and Building Safety Council to adopt rules and regulations for the construction, repair, or maintenance of factory-constructed one- or two-family residential dwellings.

**RESIDENTIAL DESIGN MANUFACTURED DWELLING** - A dwelling unit, built in a factory and bearing a seal of compliance with Federal Manufactured Housing Construction and Safety Standards or Indiana Public Law 360, Acts of 1971, which is of at least 400 square feet of occupied space. It may or may not be installed on a permanent foundation or perimeter wall. Its pitched roof and siding are of materials customarily used for site-constructed homes.

**STANDARD DESIGN MANUFACTURED DWELLING** - A dwelling unit, built in a factory and bearing a seal of compliance with Federal Manufactured Housing Construction and Safety Standards or Indiana Public Law 360, Acts of 1971, which is at least 400 square feet of occupied space. It may or may not be installed on a permanent foundation or perimeter wall. Its roofing or siding are not of materials customarily used for site-constructed homes.



**SECTION 158.062 PERMITTED PLACEMENT: SPECIAL EXCEPTION**

- A. The establishment, location, and use of manufactured homes as scattered-site residences shall be permitted in any zone permitting installation of a dwelling unit subject to requirements and limitations applying generally to the residential use in the district and provided those homes shall meet the following requirements and limitations:
1. The home shall meet all requirements applicable to single-family dwellings and possess all necessary improvement location, building, and occupancy permits and other certifications required by the code;
  2. The home shall be larger than 950 square feet of occupied space, or meet the minimum square footage requirements for the appropriate zone. No home shall be less than 23 feet in width, not including expando room;
  3. The home shall be attached and anchored to a permanent foundation in conformance with the regulations in the Indiana One- and Two-Family Dwelling Code, Indiana Standards for the Installation of Manufactured Homes, and with the manufacturer's installation specifications;
  4. The home shall be covered with an approved exterior material, customarily used on site-built residential dwellings. The material shall extend over the top of the permanent perimeter wall. The following siding materials are approved for usage on manufactured homes:
    - a. Residential horizontal aluminum lap siding
    - b. Residential horizontal vinyl lap siding
    - c. Residential horizontal wood lap siding
    - d. Stucco siding
    - e. Brick or stone
  5. The home shall have a roof composed of a material customarily used on site-built residential dwellings. The roof shall have a minimum pitch of two in 12 or greater. The following roofing materials are approved for usage on manufactured homes:
    - a. Asbestos shingles
    - b. Fiberglass shingles
    - c. Wood shake shingles
    - d. Asphalt shingles

- e. Tile materials
  - 6. Exterior steps shall be permanent in nature, as is customarily used with site-built residential dwellings; and
  - 7. To ensure with proper drainage of storm water, the home shall be equipped with adequate gutters and downspouts, capable of carrying off normal rainfall.
- B. Manufactured homes not meeting the terms of division (A) above, and mobile homes, shall be permitted within the city only after being granted a special exception from the City Board of Zoning Appeals.

### **SECTION 158.063 STRUCTURAL ALTERATION**

Due to its integral design, any structural alteration or modification of a manufactured or mobile home after it is placed on the site must be approved by the Plan Director of the City.

### **SECTION 158.064 REMOVAL OF HOME UPON VIOLATION; METHOD OF REMOVAL**

- A. Subject to removal - A home, sited upon property in violation of this subchapter, shall be subject to removal from that property. However, the home owner must be given a reasonable opportunity to bring the property into compliance before action for removal may be taken. If action finally is taken by the City Plan Commission or the City Plan Director to bring compliance, the expenses involved may be made a lien against the property.
- B. Removal method - The City Plan Commission or the City Plan Director may institute a suit in the court having jurisdiction for injunction relief to cause the violation to be prevented, abated, or removed.

### **SECTION 158.065 APPEALS**

Any action to review any order, requirement, decision, or determination made by the City Plan Commission, Board of Zoning Appeals, or City Plan Director, shall be filed with the City Board of Zoning Appeals. The appeal must specify the grounds of the appeal and must be filed within a time and in a form as is prescribed by the Board of Zoning Appeals rules of procedure.

## **PROFESSIONAL OFFICE DISTRICT**

### **SECTION 158.066 PROFESSIONAL OFFICE DISTRICT; INTENT OF SUBCHAPTER**

The following sections of this subchapter are the standards and requirements to be utilized when reviewing a request for a rezoning to POD and for site plan approval of a proposed development in a POD.

### **SECTION 158.067 MINIMUM STANDARDS AND REQUIREMENTS**

The following minimum standards and requirements shall apply to all proposed developments in the POD:

- A. Minimum Lot Size
1. If the proposed development is subdivided into lots, each lot shall be a minimum of ten thousand (10,000) square feet.
  2. If the development is a planned development, there are no minimum lot size requirements for building pads; however, planned developments shall be a minimum of twenty thousand square feet (20,000 sq. ft.).
- B. Maximum Lot Coverage - Buildings and accessory structures shall occupy no more than forty percent (40%) of any lot or planned development.
- C. Building Setbacks
1. From any federal highway right-of-way line, ten (10) feet
  2. From any other right-of-way line, thirty (30) feet
  3. From any R-1, R-1A, or R-2 zoning district boundary line, thirty (30) feet
  4. From any R-3 zoning district boundary line, twenty (20) feet
  5. From all other zoning district boundary lines and property lines, fifteen (15) feet
  6. Minimum separation between detached buildings, ten (10) feet
- D. Maximum Building Height - The maximum height of any building or structure shall be thirty-five (35) feet.
- E. Open Space

1. Each lot or planned development shall provide a minimum of twenty percent (20%) of planting area.
2. The required twenty percent (20%) planting area includes the required perimeter and interior landscaping areas.

F. Perimeter Landscaping

1. When a lot or planned development has frontage on a federal highway, a perimeter landscape strip with a minimum width of five (5) feet shall be provided parallel to the highway.
2. When a lot or planned development has frontage on any other right-of-way line, a perimeter landscape strip with a minimum width of ten (10) feet shall be provided parallel to the right-of-way line.
3. When a lot or planned development is adjacent to any R-1, R-1A, or R-2 zoned property, a perimeter landscape strip with a minimum width of twenty-five ( 25) feet shall be provided parallel to the property line.
4. When a lot or planned development is adjacent to any R-3 zoned property, a perimeter landscape strip with a minimum width of ten (10) feet shall be provided parallel to the property line.
5. A lot or planned development adjacent to any other zoning district shall provide a perimeter landscape strip with a minimum width of five ( 5) feet.
6. One (1) tree for each thirty-five ( 35) lineal feet of property or fraction thereof, shall be planted in the required perimeter landscape strip.
  - a. The maximum separation between required trees shall be one-hundred (100) feet.
  - b. Each tree shall be planted in a planting area of at least fifty (50) square feet.
  - c. Trees shall be a minimum of ten (10) feet in height, with a minimum diameter of one and one-half (1 1/2) inches at a point which is at least four ( 4) feet above finished grade, immediately after planting.
  - d. Subject to the approval of the Plan Commission, up to fifty (50) percent of the required perimeter trees may be located within the interior areas of the development if such relocation would improve the aesthetics and compatibility of the development.

- e. To encourage plant preservation where living plant material exists on a site before development, and provisions are made to preserve it permanently, credit may be given for such natural growth areas against the requirements of this Section. Said credit is to be determined by the City/County Planning Director based on size, location, and type of plant material to be preserved.
7. Within a required perimeter landscape strip which is adjacent to any R-1, R-1A, or R-2 zoned property, a hedge with a minimum height of thirty-six ( 36) inches, measured from finished grade immediately upon planting, and spaced a maximum of twenty-four ( 24) inches on center, shall be planted.
  8. The perimeter landscape strip shall remain in pervious surface, covered with grass, mulch, or ground cover plantings.
  9. Necessary accessways for the street right-of-way through all such landscaping shall be permitted to service the off-street parking area, or other vehicular use area, and such accessways may, as determined by the City/County Planning Director, be subtracted from the linear dimensions used to determine the number of trees required.
  10. The use of earth berms, with a maximum 3:1 slope, is encouraged within a perimeter landscape strip to increase the effectiveness of the buffer.
  11. Perimeter landscape areas shall not be used for the following purposes:
    - a. location of any buildings or structures
    - b. sale of any products or services
    - c. storage or parking of any vehicles
  12. The required perimeter landscaping strip shall be completed prior to the occupancy of any building in the POD. The City/County Planning Director may allow the developer to phase the perimeter landscaping strip in accordance with the phasing of the building(s) or planned development. Any phasing of required landscaping shall not include landscaping intended to buffer buildings from existing residences.

G. Interior Landscaping

1. At least five (5) percent of the area devoted to parking or other vehicular use, which includes all impervious surfaces except the building pad and any sidewalk areas, shall be landscaped. This landscaping shall be located within the general parking and vehicular use areas to improve the aesthetics of the parking area and to promote safe, efficient, and orderly traffic movement.

2. Each interior landscape area shall contain a minimum of fifty (50) square feet of planting area, with a minimum width of seven (7) feet.
3. Each planting area shall be landscaped with grass, mulch, or ground cover plantings, and may include required perimeter trees as provided in Section 158.067(F)(6)(d).
4. Landscaping around the foundation area of buildings is encouraged to accent the buildings and provide a visual buffer to diffuse the sharp contrast between the parking area and the building. Subject to the approval of the Plan Commission, up to fifty (50) percent of the required interior landscaping may be located around building foundations.

#### H. Parking Areas

1. Off-street parking spaces shall be provided in accordance with Section 158.040.
2. The following requirements and standards shall be adhered to for all parking spaces designed and constructed within the POD.
  - a. Except for handicapped and parallel parking spaces, the minimum size of any parking space shall be onehundred eighty (180) square feet, either as a space ten (10) feet in width by eighteen (18) feet in depth or as a space nine (9) feet in width by twenty (20) feet in depth.
  - b. The minimum size of any handicapped parking space shall be twelve (12) feet in width by eighteen (18) feet in depth.
  - c. The minimum size of any parallel parking space shall be ten (10) feet in width by twenty-four (24) feet in depth.
3.
  - a. If the proposed development is to be subdivided into lots, the required number of off-street parking spaces shall be provided on the same lot.
  - b. A common parking area for all required off-street parking spaces may be permitted upon binding assurances for the continual availability and maintenance of parking spaces.
4. If the development is a planned development, required off-street parking spaces shall be located within the same development as the building(s) requiring the spaces.
5. The maximum separation between a building and its required parking area shall be five hundred (500) feet.

6. Required parking areas shall not be used in the following manner:
  - a. storage, for more than forty-eight (48) hours, of operative or inoperative vehicles
  - b. to store any goods, materials or inventory used in conjunction with any business or use on or off the premises
  - c. for the sale, repair or servicing of vehicles
7. All required parking spaces, aisles and accessways shall be constructed with a hard surface using concrete, asphalt, or other paving material approved for use within the City.
8. Landscaping and landscaping areas within or adjacent to a parking area shall be protected from the encroachment of vehicles by a continuous raised curb or properly secured wheel stops.

I. Lighting

1. All parking spaces, aisles, driveways, and accessways, intended to be utilized between dusk and dawn, shall be provided with site lighting.
2. Lighting shall be arranged so that no source of lighting is directed toward any adjoining or nearby property used or zoned for residential purposes.
3. Lighting shall be designed to shield public streets and all other adjacent properties from direct glare.
4. All parking luminaries, except those used for security of the building and lot, shall be extinguished within one (1) hour after the end of business hours.
5. No luminaire shall be located within perimeter landscape strips, except along pedestrian walkways.

J. Outdoor Furniture/Dumpster Location

1. The exterior placement of outdoor furniture, including benches, tables, kiosks, and similar features, is permitted to enhance the outdoor environment of the planned development.
2. Outdoor furniture should be designed to be part of the architectural concept of design and landscaping for the planned development.
3. Dumpster areas shall be screened by landscaping, or decorative fencing on three (3) sides, with the open side facing the pavement area where access to the dumpster is gained.

4. Access to dumpster areas shall not be through parking spaces.
5. Dumpster areas should be located so as not to impede vehicular movement.

K. Signage - The provisions of Chapter 155 of the Huntington Code of Ordinances shall apply with the exception of those regulations regarding the number and type of signs permitted. The following regulations identify the number and type of signs permitted in the POD:

1. a. One (1) pedestal sign, which may identify only the name and address of the planned development is permitted.
  - b. The pedestal sign shall be supported and affixed to a base so that there is no clearance between the bottom edge of the sign and top of the base, with such base to be comprised of materials of a permanent nature which is set firmly in or below the ground surface.
  - c. The maximum height of the sign, as measured from finished grade, shall be six (6) feet.
  - d. The maximum copy area of the sign shall be forty (40) square feet.
2. a. One (1) pedestal sign, which may identify those tenants or occupants within the planned development, shall be permitted per street frontage.
  - b. The pedestal sign shall be supported and affixed to a base so that there is no clearance between the bottom edge of the sign and top of the base, with such base to be comprised of materials of a permanent nature which is set firmly in or below the ground surface.
  - c. The maximum height of the sign, as measured from finished grade, shall be six (6) feet.
  - d. The maximum copy area of the sign shall be forty (40) square feet.
3. a. One (1) wall sign, which identifies the name of the tenant(s) or occupant(s) of the building, shall be permitted per tenant or occupant within the building.
  - b. The maximum copy area of the sign shall be nine (9) square feet.
  - c. The wall sign shall be affixed directly to and flat against the wall of the building and shall not extend beyond the wall(s) of the building.
  - d. The wall sign shall be located on the same side of the building as the main entrance.



- e. The wall sign(s) shall be compatible with the architectural design of the building.
4. No pedestal sign permitted by this Section shall be:
    - a. located within five (5) feet of any right-of-way line
    - b. located within thirty (30) feet of any residentially zoned property
    - c. located within a sight visibility triangle, being the area of property located at a corner formed by the intersection of two (2) public right-of-way lines, or by the intersection of a right-of-way line and an accessway, with two (2) sides of a triangle being a minimum of twenty (20) feet in length, measured from the point of intersection, and the third side being a line connecting the ends of the other two (2) sides.
  5. No temporary signs, banners, or similar advertising mechanism shall be permitted.

L. Drainage

1. Connection to a City Storm sewer shall be provided when required by City Code. The provision of on-site retention or detention ponds may be required by the department to address existing or potential drainage problems.
2. A drainage control plan shall be submitted at the time a preliminary development plan is required to be submitted.

M. Underground Utilities - Within a planned development, all utilities including sewer, water, telephone, television, cable, and electrical systems shall be installed underground. Appurtenances to these systems which require above ground installation must be effectively screened.

**SECTION 158.068 PROCEDURE FOR REZONING TO POD**

An application for rezoning to POD shall include all information necessary to meet the requirements listed below and any additional information that will demonstrate the rezoning approval is proper.

- A. A petitioner seeking rezoning approval shall submit a preliminary development plan on one or more sheets of paper measuring not more than twenty-four (24) inches by thirty-six (36) inches and drawn to a scale not smaller than one hundred (100) feet to the inch. The following information shall be provided on the preliminary development plan:
  1. Scale, date, north arrow, vicinity map, title of the project and total gross acreage
  2. The boundaries and dimensions of the property and its relationship to the surrounding road system including the width of adjacent travelways

3. The location and dimension of existing manmade features such as existing roads and structures with indication as to which are to be removed, renovated, or altered
4. The location of existing easements, watercourses, water and sewer lines, well and septic tank location, and other existing important physical features in and adjoining the project
5. The location and delineation of existing trees and information as to which trees will be removed
6. Identification of surrounding land use and zoning as well as the zoning of the petitioned site
7. A layout of the proposed lots and/or building sites including the following site data:
  - a. Finished floor elevation
  - b. Common open areas
  - c. Generalized landscaping and buffer areas
  - d. Internal circulation patterns including off-street parking and loading facilities
  - e. Total project density
  - f. Percentage of building coverage
  - g. Percentage of impervious surface coverage
  - h. Percentage of open space areas
  - i. The shape, size, location and height of all structures
8. A traffic impact analysis, if required by the City Engineer, including the following:
  - a. Future right-of-way dedications
  - b. Intersection improvements
  - c. Traffic-control devices
  - d. Traffic generation analysis
  - e. Distribution and assignment of traffic
  - f. Additional roadway needs
9. The proposed phasing of construction for the project if applicable
10. A drainage statement or drainage plan as required by the City Engineer
11. Size, location and orientation of signs
12. Proposed lighting of the premises
13. One (1) aerial map showing the site in question with paved boundaries superimposed

14. A legal description of the land proposed for development
- B. The rezoning petition and preliminary development plan shall be reviewed by a technical review committee, comprised of the City/County Planning Director, City Engineer, Fire Chief, and other appropriate individuals. The technical review committee may make recommendation(s) to the Plan Commission.
- C. The rezoning petition shall be considered as any other proposal to amend the zone map.

**SECTION 158.069 SITE AND DEVELOPMENT PLAN REQUIREMENTS**

- A. A lot with a POD zoning designation shall have a Site and Development Plan approved by the Plan Commission prior to the issuance of a building permit. The Site and Development Plan shall include the elements from Section 158.068 (A) 1, 2, 3, 4, 5, 7, 9, 10, 11, 12, and 13. If no changes to the preliminary development plan submitted under Section 158.068 are required by the Plan Commission prior to final approval, the preliminary development plan shall be considered to be the approved Site and Development Plan.
- B. A building permit may be issued under an approved Site and Development Plan after an ordinance to amend the zone map to establish the POD is approved by the Common Council, and after compliance with applicable law.
- C. Modifications to an approved Site and Development Plan may be made only by written application to the City/County Planning Department

A building permit may be issued under a modified Site and Development Plan so long as the proposed modification is consistent with all applicable standards and requirements of the POD and so long as the proposed modification does not constitute a substantial deviation from the existing Site and Development Plan.

The City/County Planning Director shall review modifications to the Site and Development Plan and certify compliance with all standards and requirements of the POD and certify that no substantial deviation from the approved Site and Development Plan has occurred.

1. A substantial deviation shall include, but is not limited to:
  - a. Modification of building location which would affect setback distances or buffering from adjacent residential property;
  - b. Relocation of an access point to the site;
  - c. Major redesign of the parking and vehicular use area;

- d. Fundamental change in the overall concept of the planned development.
2. If the City/County Planning Director determines that the proposed modification is inconsistent with POD standards and requirements or that a substantial deviation exists, the proposed modification must be resubmitted for approval to the Plan Commission and Common Council, with notice to interested parties, prior to the issuance of a building permit.

#### **SECTION 158.070 DURATION OF APPROVAL**

- A. A building permit must be issued within one (1) year from the date of approval of the rezoning to POD and subsequent approval of the Site and Development Plan.
- B. Upon request, and after good cause is shown, the time period within which a building permit must be issued may be extended by the City Plan Commission.

If the time period has expired without extension and without the issuance of such permit, the City/County Planning Director shall file with the records of the Common Council a certificate of non-compliance with a condition of the POD rezoning. Effective with the filing of the certificate, the zoning classification of the site shall revert to the zoning classification of the site prior to the POD rezoning.

If there is a desire to re-establish the site as a POD following the filing of the certificate of non-compliance, a petitioner must follow the procedures set forth in Sections 158.069, and applicable law.

#### **SECTION 158.071 LIMITATION OF AUTHORITY**

- A. A Site and Development Plan authorizes only the use, arrangement and construction set forth in such approved plans and applications. Use, arrangement, and construction different from the approved Site and Development Plan, including any amendments thereto, shall constitute a violation of this Chapter.
- B. Approval of the Site and Development Plan shall in no way exempt the applicant from strict observation of applicable provisions of this Chapter and all other applicable law.

#### **SECTION 158.072 APPEALS**

Any and all determinations by the City/County Planning Director may be appealed to the City Board of Zoning Appeals in accordance with Section 158.065 and Section 158.089.

**SECTION 158.073 BUSINESS PARK (BP) DISTRICT; DEVELOPMENT STANDARDS AND REQUIREMENTS**

A. **MINIMUM PARCEL SIZE**

1. A parcel of land shall be a minimum of twenty (20) acres in size in order to request a BP zoning designation.

B. **MINIMUM LOT SIZE**

1. If the proposed development is subdivided into lots, each lot shall be a minimum of ten thousand (10,000) square feet.

C. **BUILDING SETBACKS**

1. From any street right-of-way line, thirty (30) feet
2. From any A, R-2, R-2A, or R-2 zoning district boundary line, twenty (20) feet
3. From all other zoning district boundary lines and property lines, ten (10) feet

D. **OTHER DEVELOPMENT STANDARDS**

1. Any development in the BP zoning district shall comply with the development standards specified in this section, and with non-conflicting standards contained in other sections of this code, such as for off street parking, signage, building height, landscaping and drainage.

**ADVISORY BOARD OF ZONING APPEALS**

**SECTION 158.075 RULES OF PROCEDURE**

All actions of the Plan Commission and Board of Zoning Appeals are governed by their respective Rules of Procedure of the Commission and Board adopted pursuant to IC 36-7-4-401 and IC 36-7-4-916, and Indiana Law.

**SECTION 158.076 EXCEPTIONS AND USES**

- A. The Board of Zoning Appeals may only consider those applications for Special Exception, Special Use, Contingent Use, or Conditional Use (hereinafter collectively referred to as

exceptions and uses) listed in the Schedule of Uses for the applicable zoning district for the lot upon which the exception or use is proposed.

- B. A proposed exception or use can only be granted by the Board of Zoning Appeals upon an affirmative finding on the following criteria:
1. The proposed exception or use will not be injurious to or alter the normal and orderly development of, permitted uses of property within the general vicinity;
  2. The proposed exception or use is serviced by adequate access roads, ingress and egress points, and traffic flow and control mechanisms.
  3. The establishment, maintenance, or operation of the proposed exception or use will not be injurious to the public health, safety, or general welfare; and
  4. The proposed exception or use is not inconsistent with the Comprehensive Plan.
- C. The Board of Zoning Appeals may impose reasonable conditions as a part of its approval.
- D. The Board of Zoning Appeals, when reviewing a request for a Special Exception or Variance, may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of the parcel. Written commitments shall be prepared and executed in accordance with the Rules of Procedure of the Board.
- E. The Board of Zoning Appeals may amend or remove a condition of approval only upon an affirmative finding on the following criteria:
1. There has been a change in circumstances regarding the subject property, and/or property within the general vicinity, since the date condition was placed, that makes the condition no longer appropriate or necessary.
  2. There has been a change in circumstances, since the date the condition was placed, regarding the ordinances, rules, or regulations, as they now apply to the subject property.

#### **SECTION 158.077 ZONING ANNEXED LAND**

Unless the zoning classification is specifically described in the ordinance annexing lands into the City, the zoning classification of land upon annexation shall be R-1 (Residential).

### **ADMINISTRATION AND ENFORCEMENT**

#### **SECTION 158.080 LIVESTOCK OPERATIONS**

A. PURPOSE AND INTENT

It is the purpose and intent of this Section to provide for livestock operations within the jurisdiction of the Huntington City Plan Commission. Two classes of livestock operations have been established based upon the intensity of use. Accordingly, minimum standards have been established for each class of livestock operation in order to assure the compatibility of livestock operations with other uses permitted in the applicable district. These minimum standards are intended to provide protection for existing residential, commercial, industrial, and public buildings from being encroached upon by new livestock operations, as well as protecting approved livestock operations from being encroached upon by new residential, commercial, industrial, and public buildings.

B. APPLICATION FOR LIVESTOCK OPERATION

1. An application for livestock operation approval shall be submitted on a form provided by the Department.
2. The application form shall be submitted to the Department along with the following information:
  - a. A site plan of the property:
    1. The boundaries, dimensions, and total gross acreage of the property;
    2. The location and setback from property lines of all existing and proposed buildings, confinement areas, pits, ponds, lagoons, holding tanks, and wells;
    3. The location of existing easements, watercourses, county drains, well and septic tank locations; and other important physical features on the property;
    4. The location of the property in relation to the surrounding road system;
  - b. A site plan showing the boundaries of the property and all existing dwelling units, commercial buildings, and subdivision lots within one thousand (1,000) feet of the property.
  - c. A site plan showing the boundaries of the property and the land application areas for waste, including dimensions and total acreage.
  - d. A waste management plan, which shall include a proposal for the storage and disposal of waste.

- e. Any additional information requested by the Department which relates to compliance review.

C. APPLICATION REVIEW

Application for a livestock operation shall be reviewed by the Executive Director as follows:

1. Classification as a minor livestock operation or intensive livestock operation shall be made based upon the definitions described in Section 158.080 (D) and (E).
2. Compliance with the provisions of Section 158.080 (F).
3. If the provisions of Section 158.080 are adhered to, and if all required and requested information is submitted, the Executive Director can issue a minor livestock operation permit for those operations classified as minor, or intensive livestock operation permit for those operations classified as intensive.
4. The standards set forth in Section 158.080 (F) shall be incorporated as minimum conditions of approval.

D. MINOR LIVESTOCK OPERATIONS

Minor livestock operations shall be defined as a tract of land or tracts of adjacent lands with no more than the following numbers of livestock per acre based on the tracts(s) of land upon which the livestock and livestock buildings are located:

1. 10 finishing hogs; or
2. 4 sows; or
3. 1 cow; or
4. 25 nursery pigs (under 40 lbs.); or
5. 2 feeder cattle; or
6. 2 heifers (replacement); or
7. 100 turkeys; or
8. 150 laying hens; or
9. 150 pullets; or
10. 150 broilers; or
11. 5 veal calves; or
12. 5 sheep; or
13. 5 goats; or
14. 4 horses; or
15. Limits for other livestock not enumerated herein shall be determined by the Executive Director based upon type or size of livestock.



E. INTENSIVE LIVESTOCK OPERATION

1. Intensive livestock operations shall be defined as any proposed livestock operation or an expansion of an existing livestock operation exceeding the per acre limits set forth in Section 158.080 (D) above or any one operation regardless of acreage which has livestock numbers exceeding the following:
  - a. 400 sows; or
  - b. 1,000 finishing hogs; or
  - c. 1,000 nursery pigs; or
  - d. 300 cattle; or
  - e. 30,000 poultry; or
  - f. 500 veal calves
2. Where a livestock operation involves less than 400 sows, 1,000 finishing hogs, 1,000 nursery pigs, 300 cattle, 30,000 poultry, 500 veal calves, but there are more than one kind of species of animals, the number of animals in the operation shall be divided by 400 in the case of sows, 1,000 in the case of finishing hogs or nursery pigs, 500 in the case of veal calves, 300 in the case of cattle and 30,000 in the case of poultry and the resulting percentages shall be added together. If the total of such percentages equals or exceeds one hundred, then the operation is an intensive livestock operation as defined herein. If the total of such percentages is less than one hundred and complies with the acreage restrictions of Section 158.080 (D) above, then the operation is a minor livestock operation.

F. GENERAL PROVISIONS

1. The following setbacks shall be maintained for a minor livestock operation building, pen, or confined feeding area:
  - a. Seventy-five (75) feet from the centerline of all two (2) lane county roads;
  - b. Seventy-five (75) feet from the right-of-way line of all state and federal roadways if two (2) lanes wide, and sixty (60) feet from the right-of-way line of county, state, or federal roadways if four (4) lanes wide;
  - c. Fifty (50) feet from any side or rear property line; and
  - d. One hundred (100) feet from any water well which services a dwelling unit.
2. The following setbacks shall be maintained for an intensive livestock operation building, pen, or confined feeding area:
  - a. Seventy-five (75) feet from the centerline of all two (2) lane county roads;

- b. Seventy-five (75) feet from the right-of-way line of all state and federal roadways if two (2) lanes wide, and sixty (60) feet from the right-of-way line of county, state, or federal roadways, if four (4) lanes wide;
    - c. Fifty (50) feet from any side or rear property line;
    - d. One hundred (100) feet from any water well which services a dwelling unit;
    - e. Five hundred (500) feet from any dwelling unit other than the dwelling unit(s) on the property;
    - f. One thousand (1,000) feet from any commercial, industrial, or public building; and
  3. The following setbacks shall be maintained for any pit, pond, lagoon, or structure open to the sky or not completely contained in a holding tank with cover, and utilized for storage of livestock waste:
    - a. Seventy-five (75) feet from the centerline of all two (2) lane county roads;
    - b. Seventy-five (75) feet from the right-of-way line of all state and federal roadways if two (2) lanes wide, and sixty (60) feet from the right-of-way line of county, state, or federal roadways if four (4) lanes wide;
    - c. Fifty (50) feet from any side or rear property line;
    - d. One hundred (100) feet from any water well which services a dwelling unit;
    - e. One thousand (1,000) feet from any dwelling unit other than the dwelling unit(s) on the property;
    - f. One thousand (1,000) feet from any commercial, industrial, or public building;
  4. The following setbacks shall be maintained for any holding tank with cover which is separate from a livestock building and which is utilized for the storage of livestock waste:
    - a. Seventy-five (75) feet from the centerline of all two (2) lane county roads;
    - b. Seventy-five (75) feet from the right-of-way line of all state and federal roadways if two (2) lanes wide, and sixty (60) feet from the right-of-way line of county, state, or federal roadways if four (4) lanes wide;
    - c. Fifty (50) feet from any side or rear property line; and

- d. One hundred (100) feet from any water well which services a dwelling unit.
5. The following setbacks shall be maintained for the land application of waste:
    - a. One hundred (100) feet from any water well which services a dwelling unit;
    - b. One hundred (100) feet from any dwelling unit other than the dwelling unit(s) on the property;
    - c. One hundred (100) feet from any commercial, industrial, or public building; and
  6. All new dwelling units, commercial buildings, industrial buildings, and public buildings shall adhere to the separation distances listed in Section 1020(F)(2), (3) and (5) above.
  7. A dwelling unit, commercial building, industrial building, or public building is considered existing on a site under the following circumstances:
    - a. If the building exists on the property; or
    - b. If a building permit, which remains valid, is issued; or
    - c. If the lot upon which the building is to be constructed is in a recorded subdivision or part of an approved and valid preliminary plat.
  8. A pit, pond, or lagoon is considered existing on a site if an Improvement Location Permit, which remains valid, has been issued; or, the pit, pond, or lagoon exists on the property.
  9. a. Sufficient land shall be available for disposing of the waste from the operation. The following minimum land area shall be available for disposal of waste:
    1. One acre for each 45 nursery pigs;
    2. One acre for each 11 sows;
    3. One acre for each 20 finishing hogs;
    4. One acre for each 5 feeder cattle;
    5. One acre for each 6 heifers (replacement);
    6. One acre for each 300 turkeys, ducks, geese
    7. One acre for each 15 veal calves;
    8. One acre for each 3 cows;
    9. One acre for each 450 laying hens;
    10. One acre for each 590 pullets;
    11. One acre for each 690 broilers;
    12. One acre for each 10 horses;

13. One acre for each 20 sheep or goats.
  14. Limits for other livestock not enumerated herein shall be determined by the Executive Director by comparing body weight and animal wastes with those which are enumerated.
- b. Fifty (50) percent of the application land must be within two (2) miles of the livestock operation building and must either be owned by the owner of the livestock operation or if not, the owner of the livestock operation must present and submit to the Executive Director an agreement granting permission to apply wastes on the area. This agreement shall be signed by the livestock operator and the owner of the property which is available for waste application, and must be duly notarized to be acceptable.
  - c. A current, valid agreement must be on file at all times with the Department. If an agreement is not on file, the livestock operator is limited to the maximum number of livestock per acre based upon land owned by the owner of the livestock operation.

G. REQUIREMENTS FOR EXISTING LIVESTOCK OPERATIONS

1. An approval of a minor or intensive livestock operation which was granted in accordance with Ordinance 1980-2, which became effective June 1, 1980, Huntington County, and was in compliance with the requirements of Huntington County Ordinance 1980-2 upon the adoption of this Ordinance shall remain valid. Any increase in the number of livestock which would change the status of the operation from minor to intensive; or any new construction of buildings, confined feeding areas, pits, ponds, lagoons, or holding tanks; or, any existing application lands or application lands established after the effective date of this Ordinance, shall require compliance with the regulations of this Ordinance.
2. It is the responsibility of the livestock operator to assure all information on file with the Department regarding their operation is accurate.

H. ACCESS TO PROPERTY/INSPECTIONS

1. The Executive Director may inspect any building, structure, or property at any reasonable time for the purpose of administering and enforcing the provisions of this Section. Inspection of the building(s), structure(s), or property shall be for the purpose of verifying number of livestock; setback distances; location of building(s), structure(s), and waste storage facilities; and location of waste application lands.

I. APPEALS

Any livestock operation determination made by the Director may be appealed to the City Board of Zoning Appeals in accordance with applicable law.

### **SECTION 158.106 IMPROVEMENT LOCATION PERMIT**

- A. Authority - The Director is hereby authorized to issue Improvement Location Permits within the jurisdiction of the Huntington City Plan Commission.
- B. Improvement Location Permit Required - No building or other structure shall be erected, constructed, enlarged, moved, or located on property without an improvement location permit (hereinafter referred to as permit) issued by the Director. Permits shall be issued only in conformity with the provisions of the Zoning Code.
- C. Contents Of Application For Improvement Location Permit - The following information shall be filed with the Department as a prerequisite for obtaining a permit:
1. A completed application form provided by the Department and signed by the owner or applicant attesting to the truth and exactness of all information referenced thereon, and all other required information.
  2. A site plan of the property upon which, or to which, the building or structure shall be constructed, reconstructed, erected, moved, or altered showing all property line dimensions; streets, alleys, and other [rights-of-way; recorded easements; utility and telephone lines (both overhead or underground); legal drains or open ditches; existing and proposed buildings and structures; all setback lines; and height, width, and depth of the proposed building or structure.
  3. Legal description of the property.
  4. If applicable, a copy of the approved septic permit or authorization by the Huntington County Health Department to utilize an existing septic system.
  5. If applicable, a copy of the approved driveway approach permit from the City Engineer.
  6. If applicable, authorization by the Huntington County Surveyors Office that the building or structure is to be located outside an established easement for a county drain or ditch.
  7. Any additional information requested by the Department which relates to compliance review.
- D. Approval Of Improvement Location Permit

1. The Department shall endeavor to review, and make a determination on, all permit applications within twentyfour (24) hours of filing. The review period may extend beyond twenty-four (24) hours where circumstances require additional review.
  2. Upon receipt of the completed permit application, payment of required permit fees, and if the proposed project otherwise conforms to applicable law, an improvement location permit shall be issued in the name of the applicant. The applicant shall then be provided a permit card authorizing the work to commence. The permit card shall be prominently posted on the property at all times and protected from the elements. A fee of \$5.00 shall be assessed to the applicant for each replacement card issued by the Department.
  3. A permit, when issued, shall be for the activity described in the application and no deviation shall be made from the activity so described without the approval of the Director.
- E. Expiration Of The Improvement Location Permit - If the work described in the permit has not been substantially completed within two (2) years from the date of issuance, the permit shall expire. Further work shall not proceed unless a new permit is obtained.
- F. Failure To Obtain An Improvement Location Permit - Failure to obtain a permit shall be a violation of this Ordinance, and the City may impose penalties as set forth in Section 158.999.

**SECTION 158.107 SCHEDULE OF FEES, CHARGES, AND EXPENSES**

- A. The fee for an Improvement Location Permit is included in the fee for a Building Permit.
- B. An applicant filing a petition required to be reviewed by the Huntington City Plan Commission or Huntington City Board of Zoning Appeals shall, prior to the filing deadline established for the subsequent meeting, pay fees to the Department in such amounts as are specified below:

Variance of Use	\$100.00
Variance from Development Standard	\$60.00
Special Exception	\$75.00
1. If requesting a planned unit development or private club	\$200.00
2. All other Special Exception requests	\$75.00
Appeal	\$15.00
Appeal from decision of Hearing Officer	\$0.00
Amendment to Official Zone Map	
1. If requesting an A, C-1, R-1, R-1A, or R-2 zoning classification	\$75.00
2. If requesting an R-3 zoning classification	\$100.00
3. If requesting a B-1, B-2, I-1, I-2, I-3, I-4,	\$150.00

POD, MXD or BP zoning classification	
Subdivision Plat (fee includes preliminary Plat and Final Plat)	
Lots 1 – 10	\$60.00
Lots 11 – 20	\$75.00
Lots 21 – 40	\$100.00
Lots 41 – 60	\$125.00
Lots 61 – 80	\$150.00
Lots 81 – 100	\$175.00
Lots 101 – 125	\$200.00
Lots 126 and over	\$200.00 plus \$1.00 for each lot over 125

For improvements to real property for which a Development Plan is required:

1. Construction of a multi-family dwelling	\$10.00 per unit minimum of \$100.00
2. Any other improvements:	
a. 0 – 5,000 square feet	\$100.00
b. 5,001 – 20,000 square feet	\$200.00
c. 20,001 – 50,000 square feet	\$500.00
d. 50,001+ square feet	\$800.00
3. Any other project requiring development plan review	\$75.00

If more than one (1) petition is filed by the applicant for the same property, and if each petition is to be reviewed by the Board of Zoning Appeals on the same hearing date, the filing fee for the second and each additional petition shall be ten dollars (\$10.00).

C. No part of any filing fee paid pursuant to this section shall be refunded to the applicant.

### **SECTION 158.108 COMPLETION OF EXISTING BUILDINGS**

A. Nothing in this section shall require any changes in the plans, construction, or intended use of any building or structure, the construction of which was legally authorized upon the effective date of this chapter and which construction is being diligently continued pursuant to the authority provided, however, that authorized construction shall be completed within two years from the effective date of this chapter.

- B. Nothing herein shall prevent the Plan Director from declaring any wall or other structural part of a building unsafe and requiring its reconstruction.

### **SECTION 158.109 WRITTEN COMMITMENT**

- A. The Commission or Common Council may require or permit the owner of real property to make a written commitment concerning the use or development of a property when reviewing a proposal to amend the zone maps.
1. If the commitment is required by the Commission, or if the owner of the real property permits the written commitment to be made prior to a recommendation being made by the Commission, the commitment shall be included in the certified recommendation to the Common Council. The Common Council may approve, amend and then approve, or disapprove the recommendation of the Commission. If the recommendation is disapproved, the commitment shall be void.
  2. The written commitment shall be:
    - a. prepared by the Commission or Common Council;
    - b. signed by the property owner(s) in the manner provided on the approved form of commitment;
    - c. signed by the President Pro Tempore of the Common Council; and
    - d. recorded in the Huntington County Recorder's Office. The commitment shall be recorded prior to the final approval of the Common Council.
  3. A written commitment regarding a proposal to amend the zone maps takes effect upon the final approval of the proposal by the Common Council.
- B. The terms of a commitment made as a part of a proposal to amend the zone maps can only be modified as follows:
1. An application for modification of a commitment may be filed by the owner of the property which is subject to the commitment.
  2. The Commission shall hold a public hearing on the request after notice is provided in the same manner as in the initial request to those interested parties who were notified of the initial proposal. At the conclusion of the hearing, the Commission shall make a recommendation on the modified commitment to the Common Council. The Common Council may approve, amend and then approve, or disapprove the recommendation. If the modified commitment is disapproved, the modified commitment shall be void.
  3. A written modification is effective upon final approval of all necessary administrative or legislative bodies.



- C. The Commission may require or permit the owner of real property to make a written commitment concerning the use or development of a property when reviewing a proposal for Development Plan approval.
1. The commitment shall be:
    - a. prepared by the Commission;
    - b. signed by the property owner(s) in the manner provided on the approved form of commitment;
    - c. signed by the President of the Commission; and
    - d. recorded in the Huntington County Recorder's Office. The commitment shall be recorded prior to the final approval of the Commission.
  2. A written commitment made regarding a Development Plan takes effect upon final approval of the Development Plan.
- D. The terms of a commitment made as a part of a proposal for Development Plan approval can only be modified as follows:
1. An application for modification of a commitment may be filed by the owner of the property which is subject to the commitment.
  2. The Commission shall hold a public hearing on the request after notice is provided in the same manner as in the initial request to those interested parties who were notified of the initial proposal. At the conclusion of the hearing, the Commission shall approve, amend and then approve, or disapprove the modified commitment. If the modified commitment is disapproved, the modified commitment shall be void.
  3. A written modification is effective upon final approval of the Commission.
- E. A commitment made under this Section automatically terminates if:
1. the proposal to amend the zone map is not approved by the Common Council;
  2. the Development Plan is not approved;
  3. the zone map applicable to the parcel upon which the commitment is made is changed; or
  4. the parcel upon which the commitment is made is designated as a planned unit development district.

- F. A commitment may be enforced by the Director, Commission, or Common Council in any manner provided by law or equity.

### **SECTION 158.110 DEVELOPMENT PLAN REQUIRED**

A. Development Plan Required

1. Except as otherwise specifically stated in this section, a Development Plan is required for all development in the following zoning districts: R-3, B-2, I-1, I-2, MXD, and POD, and the Commission has exclusive authority to approve or disapprove development plans in these districts. A Development Plan is not required for the following land uses:
  - a. Accessory uses
  - b. Boarding houses
  - c. Essential services
  - d. Public parks and playgrounds
  - e. Single family dwellings
  - f. Two-family dwellings
  - g. Home Occupation Type I or II
  - h. Kennels
  - i. Planned unit residential developments
  - j. Public utility buildings
  - k. Rest homes
  - l. Agricultural uses
  - m. Grain elevator
  - n. Mineral excavation
  - o. Shelters
  - p. Change in use of any building or land if:
    1. there is no expansion or enlargement of the building; or
    2. there is no grading or other movement of land on the lot
2. No Improvement Location Permit or Building Permit shall be issued until a required Development Plan is approved.

### **SECTION 158.111 APPLICATION FOR DEVELOPMENT PLAN**

- A. The following items shall be submitted or paid to the Department to initiate review of a Development Plan:
1. Completed application form signed by the property owner.

2. Payment of filing fees as required by Section 158.106(B)(3)
3. Site plan, drawn on one or more sheets of paper measuring not more than twenty-four (24) inches by thirty-six (36) inches, drawn to a scale as large as practical, and including the following information:
  - a. Scale, date, north arrow, vicinity map, and title of the project;
  - b. The boundaries, dimensions, and total gross acreage of the property;
  - c. The relationship of the development to the surrounding road system, including the width of the adjacent roadways;
  - d. The location and dimensions of existing manmade features such as roads, utilities, and structures, with indication as to which are to be removed, relocated, or altered.
  - e. The location and dimensions of existing easements, watercourses, county drains, water and sewer lines, well and septic tank locations, and other existing important physical features in and adjoining the development;
  - f. The location and delineation of existing trees (12" in diameter or larger), with indication as to which trees will be removed. Wooded areas shall be indicated as such on the plan;
  - g. Identification of existing land use and zoning of the development site and adjacent properties;
  - h. A layout of the proposed building site including the following site data:
    1. Finished floor elevations
    2. Common open areas
    3. Landscaping and buffer areas
    4. Internal circulation patterns including offstreet parking and loading facilities
    5. Total project density (residential)
    6. Building area
    7. Percentage of impervious and near impervious surface coverage
    8. Percentage of open space areas
    9. The shape, size, location, and height of all structures
  - i. Size, location, and orientation of proposed signs;
  - j. Proposed lighting of the premises;

- k. Name and address of developers/property owners; and
  - 1. Size and location of site utilities, including: sanitary sewer or septic, storm sewer, water, gas, and electricity.
- 4. Stormwater Management Plan, which shall include the following information:
  - a. Contours of the site with elevations of the pre-developed site and proposed finished grade
  - b. Size of the watershed
  - c. Method of calculation of stormwater run-off
  - d. Location, size, and capacity of drainage facilities serving the development
  - e. Proposal for the management of stormwater
- 5. Traffic Management Plan, which shall include the following information:
  - a. Traffic generation analysis for proposed use
  - b. Distribution and assignment of traffic
  - c. Adjacent roadway/intersection improvements
  - d. Future right-of-way dedications
  - e. Additional roadway needs
- 6. A description of the nature and intensity of proposed uses in the development.
- 7. Statement of capacity of sanitary sewer system to service the development.
- 8. Legal description of the property proposed for development.
- B. Upon written request from the applicant, the Commission may waive the requirement to submit one or more of the items listed in Section 158.111(A)(3)(4) or (5). In order for the Commission to waive a requirement, the Commission shall determine that:
  - 1. the item is not necessary for the Commission to adequately review the Development Plan; and
  - 2. the item is not necessary for the Commission to determine if the development requirements in Section 158.112 are satisfied.
- C. One copy of the application form and five (5) copies of the site plan, stormwater management plan, and traffic impact analysis shall be submitted at the time the application is filed.

**SECTION 158.112 DEVELOPMENT REQUIREMENTS**

- A. The following development requirements shall be satisfied before approval of a Development Plan:
1. Compatibility of development with surrounding land uses.
  2. Availability of potable water, sanitary sewer or septic system, and other utilities necessary to operate and maintain the development in a manner that protects the health, safety, and welfare of the general public.
  3. Availability of adequate stormwater detention facilities.
  4. Compliance with the following development standards, as required in the applicable zoning district:
    - a. lot size
    - b. lot frontage
    - c. building setbacks
    - d. building coverage
    - e. building separation
    - f. parking
    - g. landscaping
    - h. signs
    - i. building height
    - j. building width
    - k. any other development standard in the applicable zoning district
  5. Management of traffic in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community by ensuring that:
    - a. the design and location of proposed street and highway access points minimize safety hazards and congestion;
    - b. 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. the entrances, streets, and internal traffic circulation facilities in the Development Plan are compatible with existing and planned streets and adjacent developments.

### **SECTION 158.113 DEVELOPMENT PLAN REVIEW**

- A. Development Plans shall be reviewed by the Development Plan Committee in accordance with the Plan Commission Rules of Procedure.

- B. The Department shall establish a meeting date, time, and place for the Development Plan Committee to review the Development Plan.
- C. The Department may prepare a staff report, and may make a recommendation to the Committee.
- D. Notice to interested parties shall be completed in accordance with the Plan Commission Rules of Procedure.
- E. The Development Plan Committee may receive evidence from any person regarding the Development Plan.
- F. The Development Plan Committee shall review a Development Plan to determine if the Development Plan:
  - 1. satisfies the development requirements specified in Section 158.112; and
  - 2. is consistent with the Comprehensive Plan.
- G. The Development Plan Committee shall make written findings concerning each decision to approve or disapprove a Development Plan. The chairperson of the Development Plan Committee, or the presiding officer in the absence of the chairperson, shall sign the written findings of the Committee.

#### **SECTION 158.114 WAIVER OF DEVELOPMENT REQUIREMENTS**

- A. The Development Plan Committee may waive the following development requirements under the specific conditions listed:
  - 1. Section 158.112(A)(3) - Availability of stormwater detention facilities, if the development will have a negligible effect on increasing stormwater run-off or altering the flow of stormwater run-off
  - 2. Section 158.112(A)(5) - Traffic Management Plan, if the development will have a negligible effect on traffic generation, traffic congestion, or traffic safety.

#### **SECTION 158.115 CONDITIONS OF APPROVAL**

- A. Prior to approval of a Development Plan, or amendment to an approved Development Plan, the Development Plan Committee, or Director in the case of an amended Development Plan that does not require Development Plan Committee approval, may:

1. Impose conditions on the approval of a Development Plan if the conditions are reasonably necessary to satisfy the development requirements specified in Section 158.112;
2. Require the submittal of a bond or written assurance that guarantees the timely completion of a proposed public improvement in the proposed development and is in a form reasonably satisfactory to the Committee; and
3. Permit or require the owner of real property to make a written commitment concerning the use or development of the property. Such commitment shall be completed in accordance with Section 158.109, the Plan Commission Rules of Procedure, and applicable law.

**SECTION 158.116 AMENDMENT TO AN APPROVED DEVELOPMENT PLAN**

- A. A property owner may file a written application with the Director to amend an approved Development Plan on property they own.
- B. The Director shall review modifications to the Development Plan and determine compliance with applicable land use and development standards and requirements and also determine whether a substantial deviation from the approved Development Plan has occurred.
  1. A substantial deviation shall include, but is not limited to, a:
    - a. Modification of building location which would affect setback distances or buffering from adjacent residential property;
    - b. Relocation of an access point to the site;
    - c. Major redesign of the parking and vehicular use area; or
    - d. ..Fundamental change in the overall concept of the development.
- C. If the Director determines that the proposed modification is inconsistent with applicable land use or development standards and requirements, or that a substantial deviation exists, the modified Development Plan must be resubmitted and approved by the Development Plan Committee in the same manner as an original Development Plan and prior to the issuance of an Improvement Location Permit.
- D. If the modified plan is consistent with applicable land use and development standards and requirements, and if no substantial deviation exists, the Director may approve the amended Development Plan. Interested parties who were notified of the initial Development Plan application, and those who presented evidence to, or appeared at the meeting of, the Plan Commission at the time of the original Development Plan approval, shall be provided notice of the decision to approve the amended Development Plan. The notice shall be mailed no later

than two (2) working days after the date of approval of the amended Development Plan, and shall allow fifteen (15) calendar days from the date of approval to file an appeal of the decision. If an appeal is filed, it shall be reviewed in accordance with Section 158.119 and applicable law.

- E. The Director shall make written findings concerning each decision to approve or disapprove an amendment to a Development Plan. The Director shall sign the written findings.

#### **SECTION 158.117 DURATION OF APPROVAL OF DEVELOPMENT PLAN**

- A. Development Plan approval expires if an Improvement Location Permit is not issued for the approved development within two (2) years from the date of approval.
- B. Upon request, and after good cause is shown, the time period within which an Improvement Location Permit must be issued may be extended by the Development Plan Committee for a time period not to exceed one (1) year.
- C. If the time period has expired without extension and without the issuance of such permit, the Director shall file with the records of the Plan Commission a certificate of noncompliance and no Improvement Location Permit shall be issued until a new application for Development Plan is approved.

#### **SECTION 158.118 LIMITATION OF AUTHORITY**

- A. A Development Plan authorizes only the development set forth in such approved plans and applications. Development different from the approved Development Plan, including any approved modifications thereto, shall constitute a violation of the Zoning Code.
- B. Approval of the Development Plan shall in no way exempt the applicant from strict observation of applicable provisions of the Zoning Code and all other applicable law.

#### **SECTION 158.119 APPEALS**

- A. Any decision or determination of the Development Plan Committee or of the Director may be appealed to the Plan Commission. The following procedures shall apply:
  1. Appeal shall be filed with the Department on a form provided by the Department within fourteen (14) days of the date of issuance of the written findings and decision.
  2. Notice shall be provided to interested parties in accordance with the City Plan Commission Rules of Procedure.



- 3. The Commission shall review the appeal request at its next regular meeting, provided the appeal is filed at least ten (10) days prior to the meeting. If this requirement cannot be met, the appeal shall be scheduled for the next following Commission meeting.
  - 4. The Commission may affirm, rescind, or modify the decision of the Director or Development Plan Committee. Only those items designated in the appeal request shall be heard and decided by the Commission.
  - 5. No filing fee is required for an appeal.
- B. The decision by the Commission on an appeal request is a final decision of the Commission that may be reviewed as provided in IC 36-7-4-1016.

**SECTION 158.201 VIOLATIONS**

- A. No person, firm, or corporation, whether as owner, lessee, sub-lessee or occupant shall erect, construct, reconstruct, enlarge, expand, alter, move, convert, use, occupy, or maintain any building or structure in the City, or cause or permit the same to exist or to be done, contrary to or in violation of any condition imposed by the Department, Hearing Officer, Plan Commission, or Board of Zoning Appeals, any provision of this Chapter, or any other applicable law.
- B. A structure erected, raised or converted, or land or premises used in violation of this chapter, is a common nuisance, and the owner of the structure, land, or premises is liable for maintaining a common nuisance.

**SECTION 158.202 PENALTY**

- A. The following fines shall be imposed for each violation:

Code Reference	All Chapter 158
Civil Violation	Zoning Code Violations
Second Penalty	\$50.00
Subsequent Violation	\$100.00
Violation	\$250.00

- B. The fines and penalties provided for in this section shall be in addition to all other remedies and penalties provided herein and by law, and except where otherwise provided, every day any violation continues shall constitute a separate violation.

**SECTION 158.203 ENFORCEMENT OFFICIAL**

The Director is herein authorized as duly designated enforcement official.