Title XV
LAND USAGE CODES

Chapter

150. SUBDIVISION CODE

151. ZONING CODE

152. ECONOMIC REVITALIZATION AREAS CODE

153. BUILDING CODE

154. FLOODPLAIN MANAGEMENT CODE

155. UNSAFE BUILDING LAW

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CHAPTER 150 - SUBDIVISION CODE

GENERAL PROVISIONS

§150.01 AREA AFFECTED AND EXCLUDED CONVEYANCES

A. Area affected. Except as provided in division (B) of this section, no root parcel of land which is located within the territorial jurisdictional area of the City Plan Commission shall be subdivided, unless the subdividing is in conformity with the provisions of this chapter.

B. Excluded conveyances. The following conveyances of lots or parcels from a root parcel of land by the titleholder of record thereof, are excluded from the necessity of conforming with the provisions of this chapter.

1. The conveyance of not more than two lots or parcels from a root parcel of land within any successive 12-month period of time; and

2. Any number of lots or parcels conveyed from a root parcel of land, provided the lots or parcels so conveyed do not involve any new street or easement access, and provided further that the lots or parcels so created by conveyance are either:

   Ten acres or more and used for agricultural purposes; or

   Twenty acres and used for any purpose; provided, however, that there shall be no further division of, or conveyances from, the lots or parcels so created during the 12 months succeeding the creation by conveyance of said lots or parcels.

(Ord. G-84-9, passed 3-13-84)

§150.02 RULES OF CONSTRUCTION

In this chapter words used in the present tense shall include the future, and the singular includes the plural and the singular. Unless otherwise specified, all distances shall be measured horizontally, in any direction.

(Ord. G-84-9, passed 3-13-84)

§150.03 DEFINITIONS

As used in this chapter, the following terms shall have the meanings given below unless the context clearly indicates otherwise.

ALLEY. A right-of-way other than a street, road, crosswalk or easement, designed for the special accommodation of the property it reaches.

ARTERIAL STREET. An arterial street interconnects with expressways and freeways providing a continuous high mobility network which primarily services regional and intra-city traffic.

BLOCK. Property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, or the nearest intersecting or intercepting street and railroad right-of-way or waterway or the end of a dead-end street.

BOARD. The Board of Public Works and Safety of the city.

BOARD OF HEALTH. The Fort Wayne-Allen County Board of Public Health.

BOULEVARD STREET. Two distinct lanes of traffic, flowing in opposite directions, which are separated by a physical barrier.

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.

COLLECTOR STREET. A collector street distributes traffic from the arterial system to neighborhood street systems (minor collectors and local), generally operating with a moderate service level and traffic volume.

COMMISSION. The City Plan Commission.

CONSTRUCTION ACCESS ROAD. A temporary, non-dedicated, unplatted right-of-way, other than a street, alley or easement, designed to provide sole ingress and egress for all development and construction equipment, as well as all laborers and material men, in connection with the improvement of a platted subdivision of land, including but not limited to the construction of dwellings, buildings and other improvements, which right-of-way is constructed and maintained by the developer and owner at either's sole expense or their cumulative expense and continuously in the absolute ownership and/or exclusive control of the developer and owner until such time as 90% of the record lots have dwellings completed for occupancy or other buildings located thereon, and/or unless by prior release by the City Plan Commission.

COUNCIL. The Common Council of the city.

DEAD-END STREET. A street having one of its termini closed.

DEVELOPER. Any person who lays out and subdivides land.

EXPRESSWAY-FREEWAY. Any expressway-freeway operates at a high service level, consists of limited land access, carries region wide traffic and is generally classified as part of the interstate system.

INDUSTRIAL STREET. A street which, by virtue of its location or design, primarily serves as an access to industrial property or serves to conduct traffic from industrial land to a higher classification street.

LOCAL STREETS. A residential street designed to provide access to adjacent property and to conduct traffic from low volume streets to an activity center or higher classification street.

LOT. A parcel of land of specific from and dimension, situated within a legally recorded plat, and designated by a number or letter for convenience and accuracy, in legal conveyance of the title
thereto.

LOT, CORNER. A lot abutting two or more streets at their intersection where the interior angle or intersection does not exceed 1350.

LOT, FRONT OF. The side or sides of an interior or lot which abuts a street; in a corner lot, the front of the lots shall be determined by the owner or developer of the lot.

LOT, INTERIOR. Any lot other than a corner lot, including a through lot.

LOT, THROUGH. An interior lot, fronting on two streets.

LOW VOLUME STREET. A residential street that is of such a design as to discourage any traffic other than the traffic terminating on lots fronting on said street, that serves only adjacent residential lots and does not act as a collector or means of access to lots not fronting thereon, and that is of such a design that no traffic other than that generated by the lots fronting thereon can be added to the street. Unless otherwise provided by approval of both the Commission and the City Engineer, the maximum number of dwelling units on a low volume street shall be 20 lots.

LOW VOLUME AGGREGATE STREET. A low volume street in a platted subdivision, which qualifies for a curb and gutter waiver and is constructed of compacted aggregate.

MARGINAL ACCESS STREET. A street designed to connect not more than two streets and on which no lots front and which are specifically so designated and approved as such on the plat of the subdivision.

MASTER PLAN. The complete plan or any of its parts for the development of the city as prepared by the Commission and adopted in accordance with Chapter 174, Acts of 1947, General Assembly of Indiana, and Acts amendatory thereto, as is now or may hereafter be in effect.

MINOR COLLECTOR. A minor collector street serves as a connecting link between collector streets and local streets, primarily serving internally to residential communities.

PAVEMENT WIDTH. The width of the paved surface measured from the outer edges of that surface or, in the case of a curbed surface, measured from the back of the curb to the back of the opposite curb.

PARCEL OF LAND. Any continuous, contiguous quantity of land, not within a legally recorded plat, owned by the same titleholder(s).

PERSON. A corporation, firm, partnership, association, organization, or any other group action as a unit, as well as a natural person.

PROPOSED PLAT. The map or drawing on which the sub divider's plan of subdivision is present and which he submits for approval and intends, in its final form, to record.

ROOT PARCEL OF LAND. Any separate and distinct quantity of land created by virtue of a legally recorded deed which land is not located within a legally recorded plat or approved development plan. For purposes of determining the duration of existence of a root parcel, quantity of land shall not lose its character as a root parcel because of subsequent conveyances of lots or parcels of land therefrom; however, any parcel or lot created from a root parcel of land conveyance which is excluded from the necessity of conforming with the provisions of this chapter by virtue of §150.01(B) shall, after the expiration of 12 months from the recordation of the deed evidencing such conveyance, be constructed as a new root parcel.

STREET. A public way established or dedicated by a duly recorded plan, deed, grant, government authority or by operation of law.

STRUCTURE. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, billboards and poster panels, and pools.

SUB-COLLECTOR. A street which functions to conduct traffic between major traffic arterials and/or activity centers. It is a principal traffic artery within a residential area and carries a relatively high volume of traffic.

SUBDIVISION (INCLUDING THE WORD "SUBDIVIDE"). The division, or the act thereof, by conveyance, of a root parcel of land into lots or other parcels therefrom.

TERRITORIAL JURISDICTION. That portion of the city planning jurisdiction lying outside the corporate limits of the city, as provided in IC 18-7-4 and all Acts amendatory thereto, as is now or may hereafter be in effect.

THROUGH LOT. A lot having frontage on two parallel or approximately parallel streets.

ZONING ADMINISTRATOR. The Zoning Administrator of the city.

(Ord. G-84-9, passed 3-13-84)

PROCEDURE AND CONTENTS OF PLAT

§150.10 PRELIMINARY CONSIDERATIONS

In order to make the most of the opportunities relating to the subdivision and to conserve time, effort and expense, the owner or sub divider shall consult with the Commission and other public officials prior to the preparation of the tentative plan of the subdivision. The Master Plan should be reviewed to determine how the proposed plan will fit into the Master Plan. Requirements of the highway plan; school and recreational sites; shopping centers; community facilities; sanitation; water supply and drainage; and relationship to other developments, existing and proposed, in the vicinity, should be determined in advance of the subdivision plan. A thorough estimate of the situation will result in sound decisions with respect to the form, character and extent of the proposed subdivision. No land shall be subdivided for residential use unless adequate access to the land over improved streets or thoroughfares exists or will be provided by the sub divider, or if such land is considered by the Commission to be unsuitable for such use by reason of flooding or improper drainage.

(Ord. G-84-9, passed 3-13-84)

§150.11 APPLICATION FOR A PRIMARY APPROVAL OF A PLAT

The application shall contain a statement specifying the intentions of the owner respecting the proposed land use of the development, deed, restrictions, drainage, sewage disposal, water facilities and the intended date of the development, and shall be accompanied by a receipt from the Clerk-Treasurer showing that a filing fee has been paid in accordance with the following scale: $10 base fee plus $.50 per lot up to 100 lots; each over up 100 lots shall be $.25 additional per lot. The primary plat must be submitted along with the filing fee no later than 28 days before the proposed hearing thereon. In addition to the aforesaid filing fee and following a determination of the Commission's mailing publication notice cost, the applicant shall pay and/or reimburse said cost to the Commission, in full, prior to said public hearing.

(Ord. G-84-9, passed 3-13-84)

§150.12 SUBMISSION AND CONTENTS OF PLAT

A. The tracing and 15 copies of the primary plat shall be submitted to the Commission at the time the application for primary approval is filed. The proposed plat shall represent the entire tract which the applicant intends to develop and over which he has an ownership or financial interest and/or control.

B. The Commission shall set a date for a hearing at which the proposed primary plat will be publicly examined. Notice of such public hearing shall be given by the Zoning Administrator as follows:

1. By publication in accordance with IC 5-3-1;

2. To the applicant, in writing, by means of regular United States mail, postage prepaid, addressed to the applicant at the address listed in the application for approval; and

3. To such other persons as the Commission may designate by rule or regulation duly adopted.

C. The Commission shall send a copy of the primary plat and written notice of the date, place and time of the public hearing thereupon, to all public agencies and governmental units having a probable interest in the proposed subdivision and plat, requesting their written comments with regard to the primary plat proposed by the applicant.

D. The plat, the scale of which shall be 100 feet to one inch, shall be drawn on one sheet of paper when possible, using standard engineering symbols with a legend or explanation of the meaning of each of the various symbols on all drawings submitted and shall be prepared in accordance with the standards of designs herein specified and shall show:

1. Proposed name of subdivision;

2. Location by township, section, township and range or by other legal description;

3. Names and addresses of the developer and surveyor who made the plat;

4. Date, scale and north point;

5. Location, widths, and names of all existing or prior platted streets or other public ways, railroad and utility rights-of-way, parks and other public and private recreation spaces, existing buildings and structures, and section and corporation lines within and adjacent to the tract;

6. Adjoining boundary lines of all adjacent subdivisions (if any) showing the name of the developer or some other means of identification;

7. Layout of proposed streets, their names and widths, and locations of alleys, crosswalkways, sidewalk locations, and easements, and the

location of any construction access roads as required by the City Plan Commission or as deemed necessary by the developer;

8. Layout of proposed lots, their numbers and dimensions;

9. Parcels of land intended to be dedicated for public use or set aside for use of property owners in the subdivision;

10. Building lines, showing all dimensions;

11. Contours at vertical intervals of not more than five feet where the slope is greater than 10% and nor more than two feet where the slope is less than 10%. Elevations shall be marked on such contours based on a datum plane approved by the County Surveyor, or on Sea Level Datum;

12. Location and type of easements and any limitations on such easements;

13. Information as to any agreements which have been entered into with the owners of other property within the neighborhood in which the proposed subdivision is located, as to general plans for the entire neighborhood. Reference shall be made to the Master Plan for suggestions as to the general street pattern and design of the neighborhood;

14. Restrictions of all types which run with the land;

15. Generalized feasibility information:

    a) Street width and type of surfacing material;

    b) Sanitary sewer pipe location, manhole locations and invert at point of connections to existing facilities;

    c) Water line and fire hydrant locations to point of connections to existing facilities;

    d) Storm sewer improvements locations including pipe, manhole and catch basin locations; detention basin location, capacity and appropriate elevations; storm drainage flow lines;

    e) Sidewalk locations;

    f) Street lighting fixture locations

16. Included in said plat, protective covenants running with the land and enforceable by any aggrieved lot owner in the subdivision, or by the City Plan Commission, for and on behalf of the city, which covenants shall:

    a) Prohibit the further subdivision of any lot or combination of lots within the plat unless and until the Commission has reviewed and approved such change;

    b) Require that before any lot or tract located within the plat may be used and occupied, such user or occupier shall first obtain from the Zoning Administrator the Improvement Location Permit required under the City Zoning Code (Ord. 698), as the same may be amended from time to time:

    c) Provide that before any house or building on any lot in the plat shall be used and occupied as a dwelling or as otherwise provided in the subdivision restrictions, the applicant or any subsequent developing owner of said platted tract shall install all improvements serving said lot as provided in said plans and specifications filed with the Commission; and

    d) Provide for front and side yard building lines, utility easements and use thereof and such other provisions as may be compatible with the use and development of the subdivision, that the covenants pertaining to the establishment of easements for public and municipal utilities and sewers shall contain provisions specifying that all such easements dedicated on the face of the plat shall be kept free of all permanent structures; that any structure, shrubbery, trees, or other installation thereon, whether temporary or permanent, shall be subject to the paramount right of the entities for which such easements are intended to benefit to install, repair, maintain or place their utility or sewage facilities; and that the removal of any such obstructions by utilities or sewage treatment works shall in no way obligate them either in damages or to restore the obstruction to its original form.

(Ord. G-84-9, passed 3-13-84)

§150.13 HEARING PROCEDURE; ACTION BY COMMISSION

A. Within 30 days after the date of receipt of the application for primary approval, the proposed plat and the filing fee, the Commission staff shall announce the date and time of the public hearing for primary approval of the plat to be held before the Commission. The Zoning Administrator shall also provide notice of such hearing as follows:

1. By publication in accordance with IC 5-3-1;

2. To the applicant, in writing, by means of regular United States mail, postage prepaid, addressed to the applicant at the address listed in the application for approval;

3. To all public agencies and governmental units having a probable interest in the proposed plat, furnishing a copy thereof and requesting their written comments with regard thereto; and

4. To such other interested parties and in such manner as the Commission may designate by rule.

B. The public hearing for primary approval of the proposed plat shall be conducted in accordance with such procedures as the Commission may adopt by rule.

C. After public hearing upon the proposed plat, the Commission shall determine if the plat complies with and satisfies the standards prescribed for primary approval under this chapter. Within a reasonable time after such hearing, the Commission shall either grant, with or without conditions, or deny primary approval of the proposed plat and enter written findings and a decision in accordance with such action, signed by anyone of the following: The President, the Vice President, the Secretary or the Zoning Administrator for the Commission; provided, however, that if primary approval is denied, the written findings entered by the Commission shall set forth the reasons for such denial. If primary approval is granted, the plat shall be certified on behalf of the Commission by anyone of the officials named above.

D. Notice of the Commission's decision upon the application for primary approval shall be provided by furnishing a copy of its written findings and decision to the applicant and to such remonstrators or other interested parties, if any, as the Commission may designate by rule. Such notice shall be furnished by the Zoning Administrator within five days after the Commission's decision in the manner prescribed by the Commission, by rule duly adopted.

E. Primary approval of a plat by the Commission shall be valid for one year from the date of approval unless the applicant, prior to the expiration of such

one-year period, shall have applied for and received the Commission's approval for an extension of time to obtain secondary approval. If by the expiration of such initial one-year period of time, or during any period of extension approved by the commission, the applicant does not obtain secondary approval of all or part of the area included in the plat for which primary approval had been granted, then the primary approval granted for the plat shall lapse, and be considered as null and void in the event the Commission grants secondary approval for only a portion of the plat, the applicant thereafter will not be obligated to adhere to any time limitations for requesting secondary approval of the remainder of the plat.

(Ord. G-84-9, passed 3-13-84)

PRINCIPLES AND DESIGN STANDARDS FOR PRIMARY APPROVAL

§150.25 GENERAL PROVISIONS

Every subdivision hereafter designated shall comply with the following principles and standards set forth in this subchapter, and the plat thereof shall be prepared to show the same. The subdivision shall be in harmony with the Master Plan and all applicable sections of the City Zoning Code as now or hereafter amended.

(Ord. G-84-9, passed 3-13-84)

§150.26 STREET SYSTEM

A. Minimum right-of-way shall be as follows:

Type of Street	Minimum Width (Feet)
Local Street	50
Low volume street	50
Low volume aggregate	50
Industrial street	50
Boulevard Street	As determined by the City Engineer
Minor collector street	As determined by the City Engineer
Collector and arterial streets as shown in the Master Plan	80
Expressways and Freeways	120

In case of a local, low volume, low volume aggregate, or industrial street to be constructed without curbs or gutters, the minimum right-of-way shall be 50 feet; provided, however, when topographic conditions or other engineering considerations warrant an additional right-of-way, said width shall be determined by the City Engineer.

B. The centerlines of intersecting streets should intersect as nearly at right angles as possible.

C. The simultaneous intersection of streets resulting in traffic from more than four directions is prohibited.

D. At street intersections, the property or right-of-way lines of corner lots shall be rounded at the street intersection corner with an arc which shall have a minimum radius of at least ten feet drawn tangent to each of the intersecting property lines.

E. When one or more of the streets involved in an intersection *is* a boulevard, minor collector, arterial or collector street or expressway or freeway, the foregoing minimum standards may be increased by the Commission;

F. Alleys with a minimum width or right-of-way of 20 feet may be required in all business, commercial, and industrial districts. Except where justified by unusual conditions, alleys will not be permitted in residential districts.

G. No dead-end street shall be permitted where the same is in conflict with the Master Plan. No permitted dead-end street shall provide principle frontage to more than 20 lots. Every permitted dead-end street shall terminate in a circular right-of-way with a minimum diameter of 100 feet. The said street shall terminate with a paved turn-around with a minimum outside curb diameter of 75 feet, unless the Commission approves an equally safe and convenient form of paved space instead of the required turning circle. Temporary dead-end streets will be permitted where the approved primary plat shows that the street will be extended to conform to the provisions of this chapter. A circular right-of-way in excess of the required street right-of-way at the termination of a temporary dead-end street shall not be required.

H. The minimum radius of horizontal curvature measured on the centerline of the street shall be:

Type of Street	Minimum Radius (Feet)
Expressways-Freeways	As shown on the Master Plan
Arterial streets	500
Collector streets	300
Minor collector streets	250
All other streets	150

I. Between reversed horizontal curves there shall be a tangent of at least 25 feet, or more if the Commission deems it appropriate because of the sharpness of the curves.

J. Wherever there exists a dedicated or platted portion of a street or alley or easement adjacent to the proposed subdivision, unless the Commission finds it unnecessary, the continuation of the street, alley or easement right-of-way to the prescribed width shall be platted within the proposed subdivision.

K. In no case shall the name of any street, road, drive or avenue already in use or established by plat anywhere in the city be used except in the case of a direct extension, and in no instance shall any street name include the word north, south, east or west, unless it denotes a geographic location.

L. Any street subject to the provisions of this chapter shall be constructed in such a manner as to permit acceptance into the City Street Maintenance Program, and shall be dedicated to the public for their usual and intended purpose; provided, however, that the requirements for street construction and dedication specified in this chapter may be waived by the Commission, where permitted by this chapter. Following completion into said Maintenance Program, any necessary maintenance bond(s) shall be timely filed in accordance with this chapter.

(Ord. G-84-9, passed 3-13-84)

§150.27 BLOCKS

A. Blocks shall not exceed 1,320 feet in length unless unusual circumstances justify a greater length.

B. Whenever possible, blocks shall be of sufficient dimension to allow two tiers of lots of appropriate depth.

(Ord. G-84-9, passed 3-13-84)

§150.28 LOTS

A. All lots shall abut on a street which is accessible to an established public street already in use.

B. Side lines generally shall be at right angles to a straight street, and radial to curved street lines.

C. Lot dimensions and areas shall not be less than the minimum specified by the City Zoning Code, as now or hereafter amended, for the district in which the lot is located.

D. Provisions shall be made in the subdivision design and restrictions for off-street parking as required by the City Zoning Code, as now or hereafter amended.

E. Whenever lots which front on two or more streets are platted along arterial streets, collector streets or limited access highways as shown in the Master Plan, the design shall be such that access to these lots shall be only from an interior street.

(Ord. G-84-9, passed 3-13-84)

§150.29 EASEMENTS

A. Where alleys are not provided, easements shall be provided for utilities, sewers and storm drains. Such easements shall generally be located along rear or side lot lines in which case a minimum width of 14 feet, seven feet on each side of the lot line, shall be provided or if such easement is within a lot, the total minimum width of 14 feet shall be provided. Easements shall be so laid out that a proper continuity may be had for utilities from block to block.

B. In order to protect stream banks, and to allow the maintenance or reconstruction of any legal open drain or of any open drain intended primarily for the conveyance of natural drainage or storm drainage, and in order to meet the needs of the Allen County Drainage Board under authority of Chapter 305, Acts of 1965, General Assembly of the State of Indiana, and all Acts amendatory thereto, open drainage easements shall be provided as follows:

1. Not less than 30 feet in width beyond the top of one bank of any legal drain an not less than five feet in width beyond the top of the second bank, with the measurement between the tops of bank being approved by the Allen County Surveyor and with the whole being arranged and approved by the Allen County Surveyor so as to permit the reconstruction of the drain in a particular manner;

2. No open drainage easement shall be less than 50 feet in width or shall be other than off-set as indicated immediately above;

3. No trees or permanent structure above grade, including such structures for the use of any private or franchised public utility, shall be permitted in any open drainage easement, and the protective covenants running with the land shall so state; structures below grade and for the use of a franchised public utility may be permitted within the wider side of an open drainage easement when adjacent to the outer edge of said wider side;

4. At the risk of the landowner as indicated by Section 601 of the above Chapter 305, Acts of 1965, temporary structures, fences, or shrubs or bushes for decorative purposes, are permitted within an open drainage easement only if not within five feet of the top of bank, and the protective covenants running with the land shall so state.

C. In order to protect river banks and to allow for widening or relocating, an easement of 30 feet (or more as may be required by the County Surveyor) measured from the low water line along each bank of any river shall be provided.

D. A guy line easement of five feet in width and 20 feet in length, bisecting the obtuse angle of any deflection in the centerline of a utility easement, shall be provided. Said easement length shall be measured from the apex of the deflection angle.

E. Every plat shall contain a statement to the effect that all utility easements as dedicated on the face of the plat shall be kept free of all permanent structures and the removal of any obstruction by a utility company shall in no way obligate the utility company in damages or to restore the obstruction to its original form.

(Ord. G-84-9, passed 3-13-84)

§150.30 MARKERS

The intersection of all boundary lines at the exterior boundaries of a plat shall be marked by a galvanized or wrought iron pipe or iron steel bar at least two feet in length and not less than one inch in diameter. Such marker shall be set so that the center of the marker will coincide exactly with the intersection of the lot or property lines at that point and shall be set so that the top of the marker is level with the surface of the surrounding ground.

(Ord. G-84-9, passed 3-13-84)

§150.31 FLOOD PLAIN MANAGEMENT

In addition to the floodplain management provisions found in the Zoning Code, the Plan Commission shall review each plat to insure that:

A. All such proposed developments are consistent with the need to minimize flood damage.

B. Adequate drainage is provided so as to reduce exposure to flood hazard.

C. Adequate drainage is provided so as not to increase the exposure of flood hazard to adjacent lands.

D. All public utilities and facilities are located and constructed so as to minimize and eliminate flood damage. These facilities and utilities include but are not limited to sewer, gas, electric and water systems.

(Ord. G-8409, passed 3-13-84)

IMPROVEMENT PROVISIONS

§150.45 STREETS

A. Streets shall be completed to grades shown on the plat, profiles, and cross-sections as approved by the Board.

B. Streets according to the type designated in the Thoroughfare Plan shall be improved to the minimum widths as follows:

1. Local streets.

   a) Two-way streets:

      i. 27 feet if curbs are used (may be 23 feet when there is off-street parking for eight cars on each lot and low traffic potential).

      ii. 22 feet if curbs not used (may be 20 feet when there is off-street parking for eight cars on each lot and low traffic potential)

   One-way streets: 20 feet if curbs are used; 18 feet if curbs are not used.

2. Low volume streets.

   a) Two-way streets:

      i. 27 feet if curbs are used (may be 23 feet when there is off-street parking for eight cars on each lot).

      ii. 22 feet if curbs not used (may be 20 feet when there is off-street parking for eight cars on each lot).

   One-way street: 20 feet if curbs are used; 18 feet if curbs are not used.

3. Low-volume aggregate street: 22 feet if curbs are used except:

   a) Boulevard: 18 feet per traffic lane if curbs are not used.

   b) Minor collector: As determined by the City Plan Commission and the City Engineer.

   c) Industrial street: 27 feet with curbs.

   d) Collector street: 33 feet with curbs

e) Arterial street: 37 feet with curbs.

C. The street, according to its type, shall be graded, surfaced and improved to the dimensions required by the cross-sections and the work shall be performed in the manner prescribed by the Board.

D. The Commission may waive or modify the above requirements of this section for limited volume streets when the curb and gutter requirement has been waived as provided for in §150.46 (B) below of this chapter provided that a condition is placed upon said waiver that a restrictive covenant be included in the plat containing said street, which names the street and lot numbers having access to the street and contains the following statement:

"MAINTENANCE PROVISION NOTICE BY BOARD OF WORKS AND SAFETY. Until such time as the above named street is constructed to meet the required specifications and provisions established as street maintenance criteria by the Board, said street or road will not be included in the New Haven Street Maintenance Program. "

§150.46 CURBS AND GUTTERS

A. The Commission shall require curb and gutter to be installed on each side of any street surface, except as hereinafter set forth in this section, constructed of plain Portland cement, concrete, or molded asphalted concrete, or other materials acceptable to the Board. They may be either the vertical curb, the roll curb, integral curb and gutter, or separate curb and gutter type.

B. The Commission may permit the omission of curbs and gutters in any subdivision; when final topography, street longitudinal profile, and drainage system design are acceptable to the Commission; when adequate provisions are made in the protective covenants running with the land to permit access to and freedom from obstruction of the drainage system; and when the street is properly acceptable to the Commission as a local street, low-volume street, low-volume aggregate street, or boulevard street; and provided that every lot fronting thereon shall have a minimum lot area of 40,000 square feet, and provided further that the minimum lot width of all lots fronting thereon is 150 feet.

C. The provisions of this chapter shall apply to any existing recorded subdivision plat approved by the Commission, provided the owners of record of more than 50% of the said platted subdivision real estate file application for omission of curbs and gutters under this section, and there being legal notice thereof (in a manner of a primary plat) establishing a time and place of public hearing and/or curb and gutter requirement be omitted as set forth above.

(Ord. G-84-9, passed 3-13-84)

§150.47 SIDEWALKS

A. Grading of the entire right-of-way shall be provided for the location of sidewalks one foot from front lot lines and a proper grade shall be provided by the developer according to standards shown on plans, profiles, and cross sections approved by the Board.

B. Sidewalks shall be provided by the developer on each side of all streets within the subdivision; provided, however, the Commission may waive or amend the above requirements only in those subdivisions with less than two lots per gross acre and only upon showing by the developer that sidewalks will serve no specific or future need.

C. All required sidewalks shall be designed and installed to comply with the Americans with Disabilities Act, and with all rules and regulations promulgated thereunder, including but not limited to Public Right of Way

Accessibility Guidelines, in effect at the time of the design and installation as may be amended from time to time.

(Ord. G-84-9, passed 3-13-84, Ord. Z-13-16, passed 11-12-13)

§150.48 SANITARY SEWAGE DISPOSAL

The developer shall install or cause to be installed a system for the disposal of sanitary sewage in the subdivision by one of the following means:

A. Public system. A complete sanitary sewer system which shall convey the sewage into an established municipal or other public agency sanitary sewage disposal and treatment system, at a point and in a manner approved in writing by the municipal or other public agency involved. The plans for the complete installation of the sewage system showing all locations, material size, profiles and any connections thereto, shall be prepared by a registered engineer at the expense of the subdivider or developer and shall be approved by and meet the requirements of the affected municipal or other public agency.

B. Private or quasi-public system. A public or quasi-public sanitary sewage system shall consist of either of the following:

   1. A complete sanitary sewage system to convey the sewage to a treatment plant provided by the developers or others in accordance with the requirements of the Board and Board of Health.

   2. A complete sanitary sewer system which shall connect into the sanitary sewage system of a sewage disposal company which shall hold a certificate of territorial authority issued by the Public Service Commission of Indiana, authorizing such sewage disposal service for the area in which the subdivision is located. The plans for the complete installation of the sewer system within the subdivision showing all locations, size, material, profiles, and capacities shall be submitted to and be approved by the Board and the Board of Health.

C. Septic tanks. If the developer submits acceptable evidence to the Board and the Plan Commission that neither of the above forms of sewage disposal and treatment is necessary due to: the low density of the proposed development, or the lack of limiting development to existing or planned (public or quasi-public) sanitary systems, then the Commission may permit the use of private sanitary sewage of a septic tank and absorption field or other approved treatment system, when laid out in accordance with the standards and approval of the Board or the State Board of Health.

(Ord. G-84-9, passed 3-13-84)

§150.49 WATER SUPPLY AND STORM SEWERS

A. Water supply. The developer shall install or cause to be installed a water system for the subdivision by one of the following methods:

1. A public system consisting of a complete water main system which shall be connected to a public or other community water supply which is approved by the city. The plans for the complete installation showing the size, location, depth, material, and all connections thereto including fire hydrants, shall meet the requirements and receive the approval of the Board.

2. A private system consisting of:

a) A community water supply system including well, pump, and all appurtenances thereto, necessary to supply a minimum pressure of 40 pounds per square inch. The plans showing location, depth, size, and material of mains, valves, and connections thereto shall meet the requirements of and be approved by the Board and State Board of Health; or

b) A complete water main system which shall connect into the water main system of a utility company which shall be authorized to operate within the area in which the subdivision is located and which shall be subject to the control of the Public Service Commission of Indiana. The plans for the complete installation of the water main system within the subdivision showing size, location, depth, material, and all connections thereto, including fire hydrants, shall be approved by and meet the requirements of the Board.

3. Individual supply. If the developer submits acceptable evidence to the Board and the Plan Commission that neither of the above forms of water supply is necessary due to: the low density of the development, the lack of limiting physical site condition, and the proximity of the development to existing or planned (public or quasi-public) water systems, then the Commission may permit an individual water supply on each lot in the development subject to compliance with all requirements and approval of the Board or State Board of Health.

B. Storm sewers. An adequate stormwater system with surface inlets shall be installed by the subdivider. The plans for the drainage of the subdivision showing topography, direction of flow, size, location, material, profiles, and all connections thereto, shall meet the requirements of and be approved by the County Surveyor.

(Ord. G-84-9, passed 3-13-84)

§150.50 STREET SIGNS AND RECREATION SPACE

A. Street signs. Standard city street signs shall be provided and installed by the subdivider or developer at all street intersections, at the direction of the Commission.

B. Recreation space

1. Commission-approved recreation space shall be provided in all subdivisions wherein the minimum net lot area is less than 12,000 square feet. The purpose of this space shall be to meet the immediate and future recreation needs of the subdivision's residents in a neighborhood setting. Recreation space shall be provided at the rate of 750 square feet per dwelling unit.

2. Recreation space may be provided in a centrally located site, in distinctly separated sites or connecting links between separated activity areas, or adjacent to other existing or proposed recreation spaces. The Commission shall determine if the proposed space is suitable for the intended use.

3. This requirement may be waived when, in the opinion of the Commission, the applicant has satisfactorily demonstrated that he has provided alternative methods for meeting the recreational needs of his subdivision's residents or the resulting open space is less than 10,000 square feet.

4. All subdivisions with recreation space must contain acceptable covenants which, in the opinion of the Commission, insure adequate maintenance of those recreation spaces.

(Ord. G-84-9, passed 3-13-84)

SECONDARY APPROVAL OF PLAT

§150.60 PROCEDURE AND CONDITIONS

A. Procedure. Following the granting by the Commission of primary approval of a plat, the applicant shall notify the Zoning Administrator for the Commission of his intent to seek secondary approval of either all or a portion of the plat. In the event the applicant intends to seek secondary approval of only a portion of the plat, the applicant shall specifically describe and designate such area so as to reasonably identify the same. The applicant shall also at that time file with the Commission staff the plat in the form and with the contents prescribed hereinafter. The Zoning Administrator shall then cause to be scheduled a meeting of the Commission for the purpose of reviewing the plat and determining whether secondary approval shall be granted, and provide notice to the applicant of the date and time of such meeting. No other notice of such meeting need be given, except as required by law. The Commission staff shall then review all submissions made by the applicant to insure the requirements for secondary approval stated in this chapter have been satisfied and make a recommendation to the Commission for the granting or denial of secondary approval of the plat.

B. Conditions. The Commission will consider secondary approval of a plat only after the applicant has accomplished the following:

1. Filed with the Commission a complete set of plans and: specifications for the development of all street, sewers, water: supply and other utilities and facilities in the subdivision in accordance with the requirements of this chapter; and.

2. Installed all of the improvements required by this chapter, in accordance therewith and in accordance with the said plans and specifications on file, and delivered to or filed with the Commission all necessary approvals and acceptances from all applicable agencies and authorities;

3. In the event all of such improvements have not been so installed, accomplish one of the following:

   a) Filed with the Commission, for those improvements already installed, if any, all necessary approvals and acceptances from all applicable agencies and authorities.

   b) Executed and posted with the Commission a performance bond, in accordance with the regulations adopted by the Commission, to insure installation, acceptance and approval of the improvements as shown

by said plans and specifications for the subdivision filed with the Commission which bond shall:

1. Be in an amount determined by the Commission to be sufficient to complete the improvements and installation in accordance with this chapter;

2. Provide surety satisfactory to the Commission;

3. Run to the Commission; and

4. Specify the time for completion of the improvements and installation.

If a performance bond required under this chapter is posted with the Commission by an applicant, any funds received from such performance bond shall be used by the Board only for completion of the improvements for which the bond was provided and for which there was no prior appropriation. The Commission may make, or cause to be made, such improvement and installations. Upon submission by the developer of the document required under the regulations adopted by the Commission, or its duly authorized representative, shall release such performance bond and discharge the developer and surety, if any, from further liability or responsibility thereunder.

4. Paid in full to the Commission all cost incurred for the furnishing of notice required under this chapter and/or by rule of the granting of primary approval of the plat by the Commission.

5. Filed with the Commission the plat in the form and with the contents prescribed hereinafter.

(Ord. G-84-9, passed 3-13-84)

§150.61 FORM AND CONTENTS OF PLAT

A. Form of plat. The plat for which secondary approval is sought shall be submitted to the Commission in the form of an original tracing on tracing cloth or tracing paper, in ink, and shall be a complete and accurate layout drawn to scale acceptable to the Commission staff and shall contain all additions, corrections and deletions required by the Commission.

B. Contents of plat. The plat for which secondary approval is sought shall also contain and show the following:

1. The boundary lines of the tract subdivided, together with accurate distances and angles and the exact location of all existing and recorded streets intersecting the boundary of the tract;

2. Angles or true bearings and distances to the nearest established street line or existing monuments, which shall be accurately described on the plat;

3. An accurate metes and bounds description of the tract and its title as shown by the records in the office of the Allen County Recorded;

4. Street names;

5. The length of all arcs and radii, central angles, internal angles, points of curvature and tangency, and the length of all tangents;

6. All easements for public services and utilities;

7. Lot numbers and dimensions and individual house numbers for each lot. House numbers will be in accordance with the uniform city numbering system as administered by the Commission;

8. Street lines with accurate dimensions and the location of street, alleys, and lot lines, together with the location of any construction access roads;

9. The accurate outline of all property which is offered for dedication for public use with the purpose thereof indicated and all property that may be reserved by deed covenant or restriction for the common use of property owners of the subdivision;

10. Building line location and dimension;

11. Restrictions of all types which run with the land;

12. Name of the subdivision;

13. Name and address of the subdivider;

14. Northpoint, scale, and date;

15. Section or reverse lines or other legal lines of location superimposed on the final plat;

16. Dedication of public streets and lands;

17. Engineering plans which include street plans, profiles and cross sections, storm sewer plans and profiles, sanitary sewer plans and profiles, water plans, sidewalk plans and cross- sections and street and sidewalk lighting fixture locations when applicable;

18. Such other date as the Plan Commission may by rule require;

19. Minimum flood protection on all lots within an FF (Floodway Fringe) District as designated on the City Zoning Maps.

(Ord. G-84-9, passed 3-13-84)

§150.62 ACTION BY PLAN COMMISSION; CERTIFICATION AND RECORDING OF PLAT

A. Action by the Plan Commission.

1. Within a reasonable time following the applicant's satisfaction of all requirements stated under this subchapter, the Commission shall either grant, with or without conditions, or deny secondary approval of the plat. If secondary approval is denied, the Commission shall within three days thereafter furnish the applicant with a written list of the reasons for such denial.

2. If secondary approval is granted by the Commission, all certifications required under this subchapter shall be obtained by the applicant prior to recording and the plat shall be signed and certified on behalf of the Commission by one of the following: the President, the Vice President, the Secretary or the Zoning Administrator for the Commission.

3. The Commission may grant secondary approval of the plat subject to the expiration of time provided for appeal under IC 36-7-4-708 of the primary approval of the plat; provided, however, that the plat for which secondary approval has been granted shall not be signed or certified by the Commission, prior to the expiration of such appeal period.

4. Notwithstanding the requirements of this chapter for submission to the Commission of certain approvals for improvements installed, the Commission may, upon written request by the applicant, supported by evidence that all submissions have been timely filed, grant secondary approval of a plat although one or more of such approvals may not have been delivered to or received by the Commission. The Commission may grant such secondary approval only when the applicant provides a written statement made under oath and approved by the Commission for recordation as a supplement to the protective covenants, stating that the applicant; will cause to be provided at his cost all things necessary to attain or accomplish the delivery of the required approval(s) which shall not then have been delivered to or received by the Commission. If the developer does not then deliver such approval(s) in a timely fashion, the Commission is hereby empowered to refuse to issue either improvement location permits or certificate of occupancy permits. Once the applicant has thereafter secured and delivered to the Commission the required approval(s), the Zoning Administrator shall then execute a recordable document, which shall be recorded by the applicant at his expense, rescinding the aforesaid supplement to the protective covenants.

B. Certification and recording of plat

1. Certifications. In addition to the execution and certification of the Commission, each plan submitted to the Commission for secondary approval shall contain the following:

a) Certificate forms indicating the approval by the Board, the Allen County Surveyor, and the Board of Health (when required). The style and wording of such forms shall be as prescribed by the Commission;

b) A statement in substantially the following form:

"We _____ the undersigned, owners by virtue of that certain deed shown in Deed Record_____ , page _____ or (Document No. _____),in the office of the Recorder of Allen County, Indiana, of the real estate shown and described herein, do hereby layoff, plat and subdivide, said real estate in accordance with the information shown on the final plat. This subdivision shall be known and designated _____ as an addition to _____; and

A certificate signed by a land surveyor, registered in the State of Indiana, in substantially the following form:

"I _____ , hereby certify that I am a Land Surveyor licensed in compliance with the laws of the State of Indiana; that this plat correctly represents a survey completed by me on _____ ;

that all markers shown thereon actually exist; and that their locations, size, type and material are accurately shown".

2. Recording procedures. Within one year of the granting of secondary approval of the original of said plat, in its final form and with all required contents, and any restrictive covenants, as approved by the Commission, together with a money order, cashier's or certified check, or cash equal to the total cost of recording said plat in the office of the Recorder of Allen County, Indiana; upon receipt of said plat, the Zoning Administrator shall satisfy himself that the plat submitted for recordation complies strictly in its form and contents with the plat for which secondary approval was granted by the Commission. The Zoning Administrator shall forthwith thereafter have the plat signed and certified for and on behalf of the Commission by one of the officials designated in this chapter and shall cause such plat to be duly recorded. In the event a plat for which secondary approval has been granted by the Commission, has not been submitted to the Zoning Administrator for certification and recordation within the aforesaid period of time, or in the event any recorded plat fails to contain on its face the required signature and certifications, the approval of the Commission shall be deemed to be automatically withdrawn and the plat shall be deemed to be of no force or effect.

(Ord. G-84-9, passed 3-13-84)

CHAPTER 151 - ZONING CODE

GENERAL PROVISIONS

§151.001 PURPOSE

The zoning regulation and zone districts as herein set forth are made in accordance with a comprehensive plan in order that adequate light, air, convenience of access, and safety from fire, flood, and other danger may be secured; that congestion in the public streets may be lessened or avoided; and that the public health, safety, comfort, morals, convenience, and general public welfare may be promoted. They are made with reasonable regard to existing conditions, the character of buildings erected in each district may be adapted and the conservation of property values throughout the territory under the jurisdiction of the New Haven Plan Commission of the County of Allen, Indiana.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.002 DEFINITIONS

ACCESSORY LIVING QUARTERS. Living quarters within an accessory building for the sole use of persons employed on the premises. Such quarters have no kitchen facilities and are not rented or otherwise used as a separate dwelling.

ACCESSORY USE.

1. A building or use subordinate to another structure or use located on the same lot and which does not change or alter the character of the premises.

2. Public utility communication, electric gas, water, and sewer lines, their supports, and incidental equipment.

3. Where a substantial part of the wall of an accessory building is a part of the wall of the main building or where an accessory is attached to the main building in a substantial manner as by a roof, the accessory building shall be counted as part of the main building.

ADULT BOOKSTORE or **ADULT VIDEO STORE**. A commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual

representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A "principal business activity" exists where the commercial establishment meets any one or more of the following criteria:

A. At least 35% of the establishment's displayed merchandise consists of said items, or

B. At least 35% of the wholesale value of the establishment's displayed merchandise consists of said items, or

C. At least 35% of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of said items, or

D. At least 35% of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items, or

E. The establishment maintains at least 35% of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items shall be included in "floor space" maintained for the display, sale, or rental of said items); or

F. The establishment maintains at least five hundred square feet (500 sq. ft.) of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items shall be included in "floor space" maintained for the display, sale, or rental of said items); or

G. The establishment regularly offers for sale or rental at least two thousand (2,000) of said items; or

H. The establishment regularly features said items and regularly advertises itself or holds itself out, by using "adult," "adults-only,' "XXX," "sex," "erotic," "novelties," or substantially similar language, as an establishment that caters to adult sexual interests; or

I. The establishment maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas."

For the purpose of this definition, "floor space" means the floor area inside an adult bookstore or adult video store that is visible or accessible to patrons for any reason, excluding restrooms.

ADULT CABARET. A nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, regardless of whether alcoholic beverages are served, which regularly features live conduct characterized by semi-nudity. No establishment shall avoid classification as an adult cabaret by offering or featuring nudity.

ADULT MOTION PICTURE THEATER. A commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five persons for any form of consideration.

AGRICULTURAL BUILDING OR STRUCTURE. A building or structure designed primarily for agricultural purposes in which the majority of the structure is used for the storage of crops or materials used in the preparation thereof, or for storage, protection, and maintenance of farm machinery and equipment, or for housing or preparation of livestock or poultry for marketing, all primarily for the use of the owner or occupant.

AGRICULTURAL LAND USES. The use of land for agricultural purposes including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture and animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing the produce. Provided, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

ALLEY. Right-of-way other than a street, road, crosswalk, or easement, designed for the special accommodation of the property it reaches.

AMORTIZATION. The process of discontinuing nonconforming land uses, as determined by the zoning map of the Plan Commission's jurisdictional area.

ANIMAL HOSPITAL. A medical facility for the treatment of household domestic animals and pets that is operated by, or wherein the treatment is under the direct supervision of, a veterinarian licensed to practice by the State of Indiana. For purposes of this chapter, **VETERINARIAN CLINIC** shall also be considered an animal hospital.

ANTENNA. An arrangement of wires or metal rods used in the sending or receiving of electromagnetic waves.

ANTENNA STRUCTURE. Any structure that is utilized for the mounting point of antennas.

BOARD. The Board of Zoning Appeals of the city.

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

1. **DETACHED BUILDING.** A building having no structural connection with another building.

2. **HEIGHT OF A BUILDING.** The vertical distance measured from the adjoining street centerline grade at a point opposite the principal frontage of the building to the highest point of ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the main height level between the eaves and ridge of a gable, hip, or gambrel roof. Where the buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front of the building.

3. **MAIN BUILDING.** A building constituting the principal use of a lot.

4. **NONCONFORMING BUILDING.** A legally existing building which fails to comply with the regulations set forth in this chapter applicable to the district in which the building is located.

5. **SEMI-DETACHED BUILDING.** A main building having one wall in common with an adjacent main building.

BUILDING LINE. A line with a fixed location parallel to the front street line as determined by this chapter or recorded deed restrictions, of which the foundation wall or any enclosed porch, vestibule, or other such portion of a building shall not project.

BUILDING MATERIAL DEMOLITION. A site designed for the purpose of disposing of building materials from a demolition site or sites without creating nuisances or hazards to public health, safety, or welfare.

BUILDING SURFACE. The total surface of a building face to which a sign is attached.

CEMETERY. Land used for 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 Zoning Administrator stating that the occupancy and use of land or a building or structure referred to therein in conjunction with the provisions of this chapter.

CHARACTERIZED BY. Describing the essential character or quality of an item. As applied in this Chapter, no business shall be classified as a sexually

oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

CHILD CARE HOME/CENTER or DAY NURSERY. A facility or dwelling which is operated by a person, whether licensed or not, to provide care for or maintenance of four or more children (other than the operator's own family and children of whom operator is legal guardian and children of the operator's immediate relatives) during a portion of the day for two or more consecutive weeks. For the purpose of this chapter, certified public, private, or parochial schools or other educational or religious institutions shall not be constituted as a child care home or center.

CLINIC, MEDICAL AND DENTAL. A facility organized and operated for the primary purpose of providing health services for out-patient treatment and special study of human sick or injured by three or more licensed physicians and their professional associates practicing medicine together; and including laboratories and other related service facilities operated in connection with the clinic.

COMMISSION. The New Haven Plan Commission

CONSTRUCTION SIGNS. Any sign announcing the names of architects, engineers, contractors, or other individuals or firms involved with the construction, alteration, or repair of a building project or announcing the character of the building enterprise or the purpose for which the project is intended.

COUNCIL. The Common Council of the city

CUL-DE-SAC STREET. A dead-end street that terminates in a circular right-of-way and does not provide more than one access point onto another street, nor act as a collector, or means of access to lots not fronting thereon.

DIRECTIONAL SIGN. An on-premise sign in front of the building containing information relative to expediting pedestrian or vehicular traffic flow and parking.

DISTRICT or ZONE. An area within which there are uniform regulations governing the use, height, area, size, and intensity of use of buildings and land and open spaces about buildings.

DRIVE-IN RESTAURANT. Any place or premise used for sale, dispensing, or serving of food, refreshment, or beverages, in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

DUMP. (Open) Any premises or portion thereof used for the disposal or storage of garbage, sewage, trash, refuse, waste material of any kind, junk, discarded machinery, vehicles or parts thereof, offal, dead animals, or hazardous materials

by abandonment, discarding, dumping, reduction, burial, incineration, or any means and for whatever purpose which does not conform to the requirements and specifications as set forth in §151.075 through §151.082.

DUMPSTER. A portable or "roll off" container for the temporary storage of trash, rubbish or construction debris, and similar materials, until it can be hauled away for proper disposal.

DWELLING. Any building which is wholly or partly used or intended to be used for a residence by human occupants, including but not limited to the use of living, sleeping, cooking, and eating. For purposes of definition of this chapter only, temporary housing such as hotels, motels, lodging, recreational vehicles, boarding or tourist homes shall not be regarded as dwellings.

1. **MULTIPLE-FAMILY DWELLING.** A building or portion thereof used for occupancy by three or more families living independently of each other. For purposes of this chapter, a condominium structure containing three or more individual units shall be defined as **MULTIPLE-FAMILY DWELLING UNIT**

2. **MULTIPLE GROUP DWELLING.** A group of two or more multiple dwellings occupying a parcel of land in common ownership and having any yard, court, compound, or service in common.

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

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

EASEMENT. An acquired privilege or right-of-use or enjoyment which one person may have in the land of another.

1. **ROADWAY EASEMENT.** A roadway approved by the Commission over private property which permits a specific and limited use of that thoroughfare to the grantee of the easement.

2. **UTILITY AND SERVICE EASEMENT.** A portion or strip of land which is part of a lot or parcel, but which has been reserved for the specific purpose of utilities and related services.

EDUCATIONAL INSTITUTION. Public, parochial, charitable, or nonprofit junior college, college, or university, other than trade or business schools, including instructional and recreational uses, with or without living quarters, dining rooms, restaurants, heating plants, and other incidental facilities for students, teachers, and employees.

EMBELLISHMENT. Letters, figures, characters, or representatives in irregular forms which are to be used as a supplement to the primary sign structure.

ENTRANCE SIGN. A sign used to identify a planned district or platted subdivision with the intention of providing knowledge about the complete project and not a single entity or unit.

FACIA SIGN. A sign attached to or erected against a wall of a building.

FAMILY. One or more persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, nurses home, rooming house, nursing home, fraternity or sorority house. A family shall be deemed to include servants.

FENCE. Any solid structure of 2-1/2 feet or more in height that is attached to the ground with the intent of separating two areas in a visual or physical manner.

FLASHING SIGN. Any sign which contains an intermittent or flashing light source.

FLOOD or FLOODWATER. The water of any river or stream which is above the bank or outside the channel and banks of the river or stream.

1. **FLOOD HAZARD** AREAS. Any flood plain, floodway district, floodway fringe district or combination thereof

2. **FLOOD PLAIN.** The area adjoining a river or stream which has been or may hereafter be covered by flood water.

3. **REGULATORY FLOOD.** That flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in a 100-year period, as calculated by a method of procedure which is acceptable to and approved by the Natural Resources Commission. This flood is equivalent to a flood having a probability of occurrence of 1% in any given year.

4. **REGULATORY FLOOD PROFILE.** A longitudinal profile along the thread of a stream showing the maximum water surface elevations attained by the regulatory flood.

FLOOD INSURANCE RATE MAP (FIRM). The map issued and approved by the Federal Emergency Management Agency, effective August 3, 2009, and any revisions thereto, delineating flood hazard areas and insurance risk premium zones applicable in the jurisdiction of the Commission.

FLOOD INSURANCE STUDY. A scientific engineering report published by the

Federal Emergency Management Agency along with the corresponding floodway map and the flood insurance rate map, both effective July 18, 1983, and any revisions thereto which defines the boundaries of the flood hazard areas within the community.

FLOOD-PROOFED BUILDING. A commercial or industrial building designated to exclude floodwaters from the interior of that building.

FLOOD-PROTECTION GRADE. The elevation of the lowest floor of a building or structure, including a basement, necessary to provide protection from the regulatory flood. If a commercial or industrial building is flood-proofed as herein defined, the elevation to which the building is protected shall be considered the flood protection grade.

FLOODWAY (FW) or REGULATORY FLOODWAY. The channel of a river or stream and its adjoining areas as defined and regulated by the State of Indiana, which are those portions of the flood plain 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.

FLOODWAY FRINGE (FF). Those portions of the flood hazard areas lying outside the floodway.

FLOODWAY MAP. The map issued and approved by the Federal Emergency Management Agency, effective July 18, 1983, and any revisions thereto delineating the floodway and floodway fringe boundaries in the jurisdiction of the Commission.

FREEBOARD. A justifiable additional amount of height above the regulatory flood profile which is intended to safely determine the flood protection grade.

FREESTANDING BUILDING. An independent building which is physically separated from any other structure on the same parcel and is further identified by its own parking lot and landscaping layout, circulation flow, and other features which qualify a building as a complete independent unit.

FRONTAGE. The length of the property line of any parcel along each street which it borders.

1. **GARAGE, PRIVATE.** A detached accessory building or a portion of a main building, used for the storage of self- propelled vehicles where the capacity does not exceed three vehicles, or not more than one and one-half vehicles per family housed in the building to which the garage is accessory, whichever is the greater.

2. **GARAGE, PUBLIC.** Any building or structure other than a private garage, and which is used for storage, repair, rental, greasing,

washing, servicing, adjusting, or equipping of automobiles or other motor vehicles.

GROSS FLOOR AREA. The total floor area of all stories of a building or buildings, measured at the outside foundation. Public or common mall areas, such as an open or covered passageway or concourse providing access to rows of stores, shall be excluded from the definition of gross floor area.

GROSS LEASABLE FLOOR AREA. The total floor area of a structure designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any; expressed in square feet and measured from outside wall faces.

HALF STORY. A story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of the story.

HAZARDOUS WASTES. Any solid or liquid waste with inherent dangers, including but not limited to, toxic chemicals, explosives, pathological wastes, radioactive materials, materials likely to cause fires, liquids, semi-liquids, sludge containing less than 30% solids, pesticides, pesticide containers, raw animal manure, septic tank plumping, and raw or digested sewage sludge.

HEIGHT OF A SIGN. The vertical distance measured from the base ground level to the highest point of the sign.

HOME OCCUPATION. Any use conducted entirely within a dwelling and participated in solely by members of the family, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof or have any exterior evidence other than a sign, as provided for in these regulations, and in connection with which there is no commodity sold on the premises except that which is produced thereon. Dancing and band instrument instruction, nursing homes, tea rooms, tourist homes, beauty parlors, animal hospitals, kennels, barber shops, and retail business or trade shall not be considered home occupations.

HOTEL. A structure or portion thereof in which more than five guest rooms are used to provide or offer temporary accommodations for transient guests.

IDENTIFICATION SIGN. Any permanently attached, freestanding, roof, or projecting on-premise sign which advertises or identifies the premises where a business, service, or activity is located.

IMPROVEMENT LOCATION PERMIT. A permit issued by the city or its duly authorized representative stating that the proposed erection, reconstruction, enlargement, moving, or placement of a building, structure, or other development of real estate as provided for in IC 36-7-4 complies with the provisions of this

chapter and authorizes work therefore.

INCIDENTAL SIGN. Any accessory sign which advertises goods, services, or facilities which are available on the premises where the sign is located. Any sign required by law shall not be counted as an incidental sign.

INCINERATOR or INCINERATION OPERATION. The controlled combustion of waste materials in conformance with all applicable local, state, and federal laws or regulations.

JUNK YARD. Any land or building used for abandonment, storage, keeping, collecting, or baling of paper, rags, scrap metals, other scrap or discarded materials, or for abandonment, demolition, dismantling, storage, or salvaging or automobiles, or other vehicles, machinery, or parts thereof. The outside storage, abandonment, demolition, dismantling, or salvaging of one or more unlicensed automobiles or other vehicles subject to licensing, shall classify the land subject to this use as a JUNK YARD.

KENNEL. Any premises or portion thereof on which five or more animals of a household domestic species over four months of age are kept, or any premises or portions thereof on which three or more animals of a household domestic species are boarded, groomed, bred, or cared for in return for remuneration, or are kept for the purpose of sale.

LOT. A parcel of land occupied or to be occupied by a building and its accessory buildings or uses or by group dwellings and their accessory buildings, together with such open spaces as are required under the provisions of this chapter, having at least the minimum area required by these regulations for a lot in the zone in which the lot is situated and having its principal frontage on a public street or public way or a recorded private easement in a form approved in writing by the Plan Commission.

1. **CORNER LOT.** A lot abutting two or more streets at their intersection, where the interior angle of intersection does not exceed 135 degrees.

2. **FRONT OF A LOT.** The side or sides of an interior or through lot which abuts a street. In a corner lot, the FRONT OF THE LOT shall be determined by the owner or developer of the lot.

3. **INTERIOR LOT.** Any lot, other than a corner lot, including a through lot

4. **RECORD LOT.** The land designated as a separate and distinct parcel of land on a legally recorded subdivision plat (or in legally recorded deed) filed in the office of the Allen County Recorder.

5. **MINIMUM LOT WIDTH AT THE BUILDING LINE.** The least permissible width of a lot measured horizontally along the front building line.

6. **NET LOT AREA.** The total horizontal area included within the area defined by the rear, side, and front lot or proposed front street line. No alley, public way, public land, or area proposed for future street purposes is included in the net area of a lot.

7. **THROUGH LOT.** An interior lot that has legal direct access onto two or more streets or roads.

LOT LINES. Lines bounding a lot, as hereinafter described.

1. **FRONT LOT LINE.** The line running along the front of the lot and separating it from the street. In these regulations, the front lot line is called the **FRONT STREET LINE.** In a through lot both lines abutting the streets are deemed "front street lines".

2. **REAR LOT LINE.** The lot line generally opposite or parallel to the front street line, except in a through lot. If a rear lot line is less than 10 feet long or the lot comes to a point at the rear, the rear lot line is assumed to be a line at least ten feet long, lying wholly within the lot, parallel to the front street line or, parallel to the chord of the arc of the front street line.

3. **SIDE LOT LINE.** Any lot line other than a front street line or a rear lot line. A side lot line separating the lot from a street is a SIDE STREET LINE.

MAJOR ARTERIAL. Those highways so designated on the map contained in the Comprehensive Plan and entitled “1990 Transportation Plan.”

MARQUEE SIGN. A sign displayed, erected, or supported, on an overhanging marquee, canopy, awning, or other similar cover or shelter.

MASTER PLAN. The complete plan or any of its parts for the orderly development of the city as prepared by the Commission and adopted in accordance with IC 18-7-4-101 et seq., and all acts amendatory thereto, as is now or may hereafter be in effect.

MINOR ARTERIAL. Those highways so designated on the map contained in the Comprehensive Plan and entitled “1990 Transportation Plan.”

MOBILE HOME. Any structure entitled by the State of Indiana as a MOBILE HOME or any structure that is built on a chassis and can be used without a permanent foundation as a dwelling unit, office, or other use, and is usually

designed for transportation after fabrication on streets or other public ways on its own wheels, but may also be transported by flatbed or other trailer.

MOBILE HOME COURT. Any tract of ground on which two or more trailer coaches or mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

MOBILE SIGN. A sign which is designed to be moved from one location to another and is not intended to remain as a permanent sign

MODULAR HOME. Any single-family unattached manufactured living unit entitled by the State of Indiana as a MODULAR HOME or any living unit that is usually without wheels and frequently constructed on a perimeter frame rather than a chassis and designed for transportation after fabrication on streets or other public ways on its own wheels, but may also be transported by flatbed or other trailer.

MOTEL. A series of attached, semi-detached, or detached dwellings containing bedroom, bathroom, and closed space, where each unit has convenient access to a parking space for the use of the unit's occupants. With the exception of the apartment of the manager or caretaker, the units are built for and devoted to the use of automobile transients. The site of the motel has direct and convenient access to a main traveled road.

MOTOR VEHICLES. Automobiles, trucks, tractors, trailers, semi- trailers, bicycles, motorcycles, scooters, airplanes, buses, and farm implements whether self-propelled or designed to be pulled, pushed or carried by another motor vehicle.

MOTOR VEHICLE SALVAGE YARD. An area of land used for any of the following uses: storing, wrecking, dismantling, cutting, or breaking of motor vehicles and serviceable parts from worthless and useless parts, marketing of the valuable and serviceable parts, and disposing of the worthless and useless parts. The storing, wrecking, dismantling, cutting, or breaking of one or more unlicensed or expired licensed motor vehicle shall classify the land subject to this use as **A MOTOR VEHICLE SALVAGE YARD.**

MULTI-FACED SIGN. Any sign in a three dimensional configuration, including but not limited to cubes, spheres, and cylinders.

NONCONFORMING USE. A use of a building or of land lawfully existing at the time this or previous zoning ordinance became effective and which does not conform with regulations of the district in which the use is located.

NUDITY. The showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast

with less than a fully opaque covering of any part of the nipple and areola.

OFF-PREMISE SIGN. Any sign located on premises other than those of the business or activity it is intended to identify or describe.

OFF-STREET PARKING SPACE. A space other than on a street, passageway, or alley designed for use or used for the temporary parking of a motor vehicle, and being not less than nine feet wide and 20 feet long including driveway and garage on private residential property.

ON-PREMISE SIGN. Any sign identifying or advertising a business person, activity, good, product, or service located on the premises where the sign is installed.

PAINTED GRAPHICS. Any advertisement painted directly onto the wall of a building.

PAROCHIAL SCHOOL. A school maintained by religious body for either primary or secondary instruction.

POLITICAL SIGN. Any temporary sign pertaining to an election or a referendum or carrying the picture or name of a person seeking election or appointment to a public office.

PORTABLE STORAGE UNIT OR CONTAINER Any container, storage unit, device or other portable structure that is designed to be rented, leased or purchased for the storage of commercial, industrial or residential household goods and which is located for such purposes outside an enclosed building. A commonly accepted name for these storage containers is PODS, an acronym for Portable On-Demand Storage. This definition shall include truck trailers or truck boxes originally used for transportation, but now used for storage. This definition shall not include trash dumpsters, roll-off containers and sanitary containers for storing trash and debris.

PRIVATE LANDING FIELD. A landing field used solely for the convenience of the owner or lessee of the property, utilizing a sod landing strip, having hangar facilities for not more than two aircraft, with no commercial sales or service establishments located on the property.

PRIVATE POOL. Any constructed pool or portable private pool, used for swimming, wading, or bathing, over 24 inches in depth of water or with a top water surface exceeding 250 square feet and which is used for a pool in connection with a family dwelling unit and is available only to the family of the householder and his private guests.

PRIVATE SCHOOL. Private preprimary, primary, grade, high, or preparatory

school, or academy, not owned by any governmental unit or not owned or conducted by or under the sponsorship of a religious or charitable organization.

PROJECTING SIGN. A sign which is affixed to any building, wall, or structure and extends greater than 18 inches beyond the building wall or parts thereof.

PUBLIC INFORMATION SIGN. Signs of a public, noncommercial nature to include safety signs, trespassing signs, traffic signs, signs indicating scenic or historical points or interest, memorial plaques, and the like, and all signs erected by or on order of a public office in the performance of a public duty.

PUBLIC AREA. An open area available for public use (other than a street or alley) and designated for use or used for the temporary parking of more than four motor vehicles, whether free or for compensation, or as an accommodation for clients or customers.

PUBLIC WATER AND SEWER SYSTEM. Systems designed to serve a district, community, municipality or individual development, or portions thereof by a public, quasi-public, or private utility.

REAL ESTATE SIGN. An on-premise sign pertaining to the sale, construction, rental, or lease of the property on which it is located.

RECREATION SPACE.

1. **DEVELOPED.** Real estate devoted to recreational purposes which contains Commission-approved site improvements, including but not limited to shelters, swimming pools, tennis courts, lakes, and playground fixtures among others.

2. **UNDEVELOPED.** Real estate devoted to recreational purposes which *is* void of buildings or structures and under common ownership by a government or private entity for the use and enjoyment of a community of individuals.

RECREATIONAL VEHICLE. A device designed for travel, recreational camping, or vacation purposes which either has its own motor power or it mounted on or drawn by another vehicle, including but not limited to travel trailers, camping trailers, truck campers, and motor homes.

REFUSE PICKUP STATION. Those areas wherein facilities are located for the temporary storage of refuse. These areas may serve as convenient collection points for refuse if contained in approved containers and removed to final disposal site on a regular basis.

REGULARLY. The consistent and repeated doing of an act on an ongoing basis.

RIDING STABLE.

1. **COMMERCIAL.** Any premises or portions thereof, on which horses or other such animals are maintained for the public to ride for monetary remuneration or other forms of compensation.

2. **PRIVATE.** Any premises or portions thereof, on which a private club, association, or other private organization maintains horses or other such animals to be ridden exclusively by its membership and guests thereof.

RIVER or STREAM. All open channels, whether natural, man-made or modified by man, which carry or discharge water.

ROOF SIGN. A sign erected on or above a roof or parapet of a building.

ROOMING OR BOARDING HOUSE. A dwelling in which, for compensation, lodging or meals are furnished regularly to not more than five nontransient guests. Separate cooking facilities are not provided for guests. A rooming or boarding house shall not be deemed a home occupation.

SANITARY LANDFILL. A method of disposing of refuse on land without creating nuisances and hazards to public health, safety, or welfare by utilizing principles of engineering and other practices to confine the refuse to the smallest practical volume, covering it with a layer of suitable cover at the conclusion of each day's operation (or at more frequent intervals as necessary), and is operated in compliance with all requirements and regulations of this chapter.

SATELLITE TELEVISION ANTENNA. An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit. (References to ALL **ANTENNAS** include satellite television antennas.)

SEMI-NUDE or **SEMI-NUDITY**. The showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

SEMI-NUDE MODEL STUDIO. A place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a class operated:

a) By a college, junior college, or university supported entirely or partly by taxation;

b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

c) In a structure;

d) Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

e) Where, in order to participate in a class a student must enroll at least three days in advance of the class.

SEXUAL DEVICE. Any three (3) dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

SEXUAL DEVICE SHOP. A commercial establishment that regularly features sexual devices. This definition shall not be construed to include any pharmacy, drug store, medical clinic, any establishment primarily dedicated to providing medical or healthcare products or services, or any establishment that does not limit access to its premises or a portion of its premises to adults only.

SEXUALLY ORIENTED BUSINESS. An "adult bookstore or adult video store," an "adult cabaret," an "adult motion picture theater," a "semi-nude model studio," or a "sexual device shop."

SIGN. Any identification, description, illustration, or device which is in view of the general public and which directs attention to a person, place, commodity, activity, institution, organization, or business. Also, any board, device, or structure, or part thereof used for advertising, display, or publicity purposes. Signs placed or erected by governmental agencies for the purposes of showing street names or traffic directions or regulations for other governmental purposes shall not be included herein.

SITE AREA.

1. **GROSS.** The entire land area within the boundaries of a site, including all existing and proposed public and private rights-of-way.

2. **NET.** The entire land area within the boundaries of a site, excluding all the area of any existing and proposed public and private rights-of-way.

SPECIFIED ANATOMICAL AREAS. This term means and includes:

a) Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and

b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITY. Any of the following:

a) intercourse, oral copulation, masturbation or sodomy; or

b) excretory functions as a part of or in connection with any of the activities described in (a) above.

STORAGE BUILDING. Buildings used for the storage or warehousing of goods, but not including temporary storage containers such as Portable Storage Units or tractor trailers used for storage.

STORY. That portion of a building included between the surface of any floor and the surface of the floor next above, or if there is no floor above it, then the space between any floor and the ceiling next above it; also any portion of a building used for human occupancy between the topmost floor and the roof. A basement shall not be counted as a story unless the height of the surface of the first floor above the average elevation of the finished lot grade at the front of the building exceeds four feet.

STREET. A public way established or dedicated by duly recorded plat, deed, grant, governmental authority, or by operation of law.

STRUCTURE. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, billboards and poster panels, and pools.

TEMPORARY SIGN. A sign which is not permanently installed such as an advertising display constructed of cloth, canvas, light fabric, cardboard, or other light material.

TENANT HOUSE. As allowed in the A-1 zoning district shall be defined as a single dwelling unit used solely by a person or persons employed on the premises. Mobile homes may be considered as **TENANT HOUSES** when used only as

defined above.

TERRITORIAL JURISDICTION. That portion of Allen County, Indiana, lying both within and outside the corporate limits of the city over which the Plan Commission has exclusive planning, zoning, and subdivision control, as provided in IC 18-7-4-101 et seq., and all acts amendatory thereto, a is now or may hereafter be in effect.

TOURIST HOME. A building in which one but not more than five guest rooms are used to provide or offer overnight accommodations for transient guests.

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

UNLICENSED MOTOR VEHICLE. A motor vehicle without proper, current license plates, registration or inspection certificate to be lawfully operated on public ways.

UNLICENSED MOTOR VEHICLE STORAGE YARD. Premises used for the outside storage of one or more unlicensed motor vehicles.

USABLE SATELLITE SIGNAL. A satellite signal which, when viewed on a conventional television set, is at least equal in picture quality to that received from local commercial television stations or by way of cable television.

USE.

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

2. **OPEN USE.** The use of a lot without a building or including a building incidental to the open use with a ground floor area equal to 5% or less of the area of the lot.

YARD. A space on the same lot with a main building, open, unoccupied, and unobstructed by structures, except as otherwise provided in this chapter.

1. **YARD, FRONT.** A yard extending across the full width of the lot, between the rear of the main building and the rear lot line and the building line.

2. **YARD, REAR.** A yard extending across the full width of the lot between the rear of the main building and the rear lot line the depth of which is the least distance between the rear lot line and the rear of the main building.

3. **YARD, SIDE.** 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. The width of the required SIDE YARD is measured horizontally, at 90-degree angles with the side lot line, from the nearest point of the side lot line to the nearest part of the main building.

(Ord. 698, passed 7-11-62; Am. Ord. G-39-80, passed 12-9-80; Am. Ord. G-13-83, passed 7-12-83; Am. Ord. G-86-19, passed 9-9-86; Am. Ord. Z-95-4, passed 5-9-95; Am. Ord. Z-09-08, passed 7-28-09; Am. Ord. Z-09-19, passed 1-12-10, Ord. No. Z-13-21, passed 2-25-14)

§151.003 SCOPE OF CHAPTER

A. Structures and uses affected by zoning.

1. No structure or land shall hereafter be used and no structure or part thereof shall be erected, moved, or altered unless in conformity with the provisions of this chapter. Unless a land use is allowed hereby, the use shall not be considered in conformity herewith.

2. All land uses which were legal conforming uses subsequent to the original adoption of Ord. 698 which became effective 7-11-62, but are no longer considered as permitted uses as a result of amendments to the ordinance nevertheless shall be construed as conforming uses and treated as such. Similarly, structures or approved plats or development plans which originally met yard and area requirements, but as a result of amendments to the ordinance no longer meet the requirements shall also be construed as conforming.

B. Exemption of agricultural uses. Beyond one mile of the corporate limits of the city, nothing contained in these regulations shall impose restrictions or require a permit with respect to land used or to be used for agricultural purposes, or with respect to the erection, maintenance, repair, alteration, remodeling, or extension of agricultural buildings, or structures to be used for agricultural purposes upon such land, except that the buildings or structures for agricultural purposes should conform to building or setback lines. Dwelling units, however, are not considered exempt from the regulations of this chapter and shall meet all requirements contained herein.

(Ord. 698, passed 7-11-62, Am. Ord. G-38-80, passed 12-9-80)

§151.004 ESTABLISHMENT OF DISTRICTS

A. For the purpose of this chapter the area within the territorial jurisdiction of the Commission is divided and classified into the districts designated as follows.

Designation	Name
1. A-1	Agricultural
2. FW and FF	Flood Hazard
3. RS-l	Residential Single-Family
4. RS-2	Residential Two-Family
5. RS-3	Residential Multiple-Family
6. RS-P	Residential Planned
7. M-H	Manufactured Housing
8. C-1A	Professional and Personal Services
9. C-l	General Commercial
10. C-2	Planned Shopping Center
11. C-4	Roadside Commercial
12. C-P	Planned Business
13. I-1	Light Industrial
14. I-2	General Industrial
15. I-3	Heavy Industrial
16. I-P	Planned Industrial

B. The boundaries of the zoning maps are established as shown on the official zoning maps which shall be located in the office of the Zoning Administrator.

C. Lands previously under the jurisdiction of the City Plan Commission of the City of Fort Wayne, Indiana, or the Allen County Plan Commission, and as a result of annexation or extension of the Commission's territorial jurisdiction are now under the jurisdiction of the New Haven Plan Commission shall automatically be reclassified into the corresponding New Haven Zoning District when such lands are included within jurisdiction of the Commission. The corresponding zoning designations are set forth in Table I.

§151.005 ELIMINATION OF DISTRICTS

A. On 12-9-80 the following zoning classifications are eliminated: R, C-3, C-5, I-4.

B. The real estate previously classified in the above districts shall, on the effective date of this ordinance, be classified as follows.

Old District		New Classification
1.	R	RS-l
2.	C-3	C-1
3.	C-5	C-4P
4.	I-4	I-2P

C. Concurrently, the New Haven zoning maps will be changed accordingly.

D. Real estate previously designated by this chapter as A-2 (Flood Hazard) shall be classified as either FW (Floodway) or FF (Floodway Fringe) to comply with the provisions of the National Flood Insurance Program.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80; Am. Ord. G-12-83, passed 7-12-83)

§151.006 INTERPRETATION OF ZONING MAP

Where, due to the scale, lack of detail, or illegibility of the zoning map, there is an uncertainty, contradiction, or conflict as to the intended location of any zoning district boundary as shown thereon, the Zoning Administrator shall make an interpretation of the map on the request of any person. Any person aggrieved by any such interpretation may appeal the interpretation to the Board of Zoning Appeals. The Zoning Administrator and the Board of Zoning Appeals, in interpreting the zoning map or deciding any appeal, shall apply the following standards.

A. Zoning district boundary lines are intended to follow lot lines, or be parallel or perpendicular thereto, or along the center line of alleys or streets, or along water courses, contour lines, or other similar established lines.

B. Where zoning district boundary lines are so indicated that they approximately follow lot lines, the lot lines shall be construed to be the boundary lines.

C. Where a zoning district boundary line divides a lot, the location of any such zoning district boundary line, unless indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale shown thereon.

D. If, after the application of the foregoing rules, uncertainty still exists as to the exact location of a zoning district boundary line or the physical or cultural features existing on the ground are at variance with those shown on the official zoning map, the boundary line shall be determined in a reasonable manner, considering the history of uses of property and the history of zoning ordinances and amendments.

E. If the exact location of the FW (Floodway) or FF (Floodway Fringe) District boundary line cannot be

F. determined from the zoning maps, the Zoning Administrator shall refer to the Floodway Map, the Flood Insurance Rate Map, and the Flood Insurance Study prepared by the Federal Emergency Management Agency in making a determination.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.007 DISTRICT CLASSIFICATION

The terms A district, RS district, C or I district shall be deemed to refer respectively to all districts designated by the same letter, for example, C district shall include the C-1, C-2, C-4 and C- P districts.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.008 MEASUREMENT OF DISTANCE

Unless otherwise specified, all distances shall be measured horizontally, in any direction.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

PARKING AND LOADING

§151.020 OFF-STREET PARKING

A. The following off-street parking spaces shall be provided and satisfactorily maintained, as specified in §151.002 (B) by the owner of or person using property, for each building which is hereafter erected or at the time any structure is enlarged or increased in capacity or at the time the use of property is hereafter changed. Off-street parking space shall be provided as follows.

1. Each automobile parking space shall be not less than 180 square feet in area.

2. For any place of assembly without fixed seats, at least one parking space for each 120 square feet of gross floor area thereof.

3. For any auditorium, gymnasium, stadium, church, or theater, or any other similar place of assembly, at least one parking space for each six seats based on the maximum seating capacity, including fixed and movable seats.

4. For any automatic car wash, a reservoir space on the lot for not less than ten automobiles per washing lane.

5. For any bank, funeral home, office building, professional office, library, museum, welfare institution, or any other similar use, at least one parking space for each 400 square feet of gross floor area thereof.

6. For any barber shop or beauty shop, at least three off-street parking spaces for each barber or beautician using the shop.

7. For any bowling alley, at least four parking spaces for each bowling lane thereof.

8. For any C-2 Planned Shopping Center, at least five and one-half parking spaces per 1,000 square feet of gross lease able floor area.

9. For any commercial or business office having a gross floor area in excess of 10,000 square feet and occupied solely by the employees of one person, defined in this chapter at least one parking space for each 800 square feet of gross floor area thereof.

10. For any eating or drinking establishment or any other similar use where customers are seated and served within a building, at least one parking space for each 200 square feet of gross floor area thereof.

11. For any eating or drinking establishment or any other similar use where customers are served outside of a building, at least one parking space for each 50 square feet of gross floor area thereof, provided, however, that there shall be less than six spaces for each such establishment.

12. For any food market establishment or any other similar use there shall be at least one parking space for each 200 square feet of gross floor area.

13. For any furniture store, household appliance store, or mechanical trades display store, or any other similar use, at least one parking space for each 1,000 square feet of gross ground 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.

14. For any high school at least one parking space per seven students, based on the maximum number of students enrolled.

15. For any hospital, sanitarium, sanatorium, convalescent home, or any other similar use, at least one parking space for each three beds or any portion thereof.

16. For any hotel in a C-4 district or any other similar use, at least one parking space for each sleeping room.

17. For any launderette, Laundromat, self-service laundry, washateria or any similar use, at least one parking space for each two washing machines or portion thereof.

18. For any manufacturing, processing, wholesaling, storage, or any other industrial use of commercial establishment not specifically set out in this division, at least one parking space for each two employees, plus sufficient spaces to park all company-owned or leased motor vehicles, semi-trailers, and trailers.

19. For any medical clinic or any other similar use, at least six parking spaces for each doctor or dentist using the facility, plus one space for each two regular employees.

20. For any mobile/modular housing projects, at least two parking spaces per lot shall be provided.

21. For any motel in all districts where permitted, at least one parking space for each sleeping room.

22. For any multiple-family dwelling, at least one and one-half parking spaces per dwelling unit.

23. For any retail store or service, except those specified above, at least one parking space for each 400 square feet of gross floor area thereof.

24. For any self-service car wash, at least three off- street parking spaces for each washing stall.

25. For any single-family or two-family dwelling, at least two parking spaces for each dwelling plus one parking space for each two sleeping rooms rented to persons not members of the family occupying the dwelling.

B. In the case of mixed uses in the same building or structure, the total requirements for off-street parking facilities shall be the sum of the requirements of the various uses computed separately on the basis of the items set out in this section and off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use except as hereinafter specified in this section.

C. Nothing in this section shall be construed to prevent, collective provisions for any off-street parking facilities for two or more buildings or uses. Provided, that the total number of off-street parking spaces shall not be less than the sum of the requirements for the various individual uses involved computed separately on the basis of the items set out in this section.

D. All parking spaces provided pursuant to this section shall be on the same lot with the building or use for which the spaces are required, except that the Board of Zoning Appeals, after public hearing, may permit the parking spaces to be on any lot within 300 feet of the building provided that the requirements of (A) (16) and (21) above, and hereof shall not be waived. Provided, that if the Board determines, after public hearing, that it is impractical to provide parking spaces on the same lot with the building or use for which such spaces are required, or within 300 feet thereof, the Board may permit the parking spaces to be on a lot and a greater distance than 300 feet from the building or use, subject to appropriate conditions imposed by the Board regarding the location, character, or other features of the proposed lot for parking spaces as are reasonably required for the purpose of this chapter.

E. The distance to any parking space area as herein required shall be measured between the nearest point of the off-street parking facility and the nearest point of the building the parking facility is to serve.

F. All parking facilities provided pursuant to this section, except those required by (A) (12), (20), (22), and (25) above, shall be directly accessible from a street.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.021 OFF-STREET LOADING AND UNLOADING

On the same premises with every building, structure, or part thereof, hereafter erected, established, or enlarged, and occupied for manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, laundry, dry cleaning, or other uses, involving the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained space for vehicles standing, loading, and unloading as follows.

A. A 12 foot by 35 foot loading space with 14 feet height clearance for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of floor area or land used for above-mentioned purposes. Provided, that in no case shall the required off-street loading space be part of the area used to satisfy the off-street parking requirements of this chapter.

B. In the event the loading area is within 400 feet of an RS district, and the loading area is not obstructed from view from the RS district by a physical barrier, the area shall be screened in accordance with §151.022 (D).

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.022 PARKING AREA IMPROVEMENT

A. Nothing contained in this section shall be deemed to apply to any off-street parking space or driveway for single-family dwelling units.

B. The Board of Public Works and Safety is authorized and required to prescribe to minimum specifications for paving or surfacing of all land used for off-street parking, whether required by this chapter or otherwise and all driveways not excepted in (A) above.

C. All land which hereafter is placed in use for off-street parking and all driveways thereto shall be paved or surfaced with materials and in a manner which meet or exceed such minimum specifications prescribed by the Board of Public Works and Safety.

D. Where the land used for off-street parking adjoins an RS, RS-P, or MH district, a solid wall, compact evergreen screen, hedge, uniformly painted board fence, or earth mound shall be erected and maintained between the land and the adjacent RS, RS-P, or MH district Unless in conflict with §151.120 and §151.121, the screening element shall be at least five feet and not more than eight feet in height.

E. All land used for off-street parking in districts for which front yards are required by this chapter shall be located not less than five feet from any property line abutting on a street.

F. Any light used to illuminate land used for off-street parking or driveways thereto shall be installed and maintained so as to reflect the light away from any adjoining RS district.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.023 MAINTENANCE OF SPACES

Any parking or loading space established prior to 12-9-80 and which is used or intended to be used in connection with any main building, structure, or use, or any spaces designed and intended to comply with the requirements of this chapter for any such main building or structure erected after such effective date, shall hereafter be maintained so long as the building or structure remains unless the owner provides and maintains in another location an equivalent number of required spaces which conform to the provisions of this chapter.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.024 PARKING FOR MULTIPLE-FAMILY HOUSING

Parking areas for multiple-family housing may be located in any yard except the required front yard or required side yard facing the street.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.025 ACCESS ROADS

This section provides a plan to require private construction and maintenance of access roads at certain locations, based upon the following requirements:

A. The purpose of the access road plan is to achieve a reduction in traffic conflicts and congestion and enhance traffic safety by limiting the number of access points onto major streets from adjacent real estate.

B. On real estate located adjacent to the streets, roads and highways described in Subsection (F) there shall be constructed access roads, appropriate permanent accesses to access roads from public rights of way, and necessary right-of-way improvements, in order to achieve the purpose stated in Sub-section (A).

C. An owner of real estate shall construct, at the owner's expense, such access road, permanent access and right-of-way improvements as may be required by the New Haven Plan Commission.

D. The access roads and permanent accesses to them shall be privately maintained by the owner of the property on which an access road or access is located, except for such portion of a permanent access which the City of New Haven agrees to maintain.

E. The New Haven Plan Commission shall be authorized to do the following:

1. Adopt written plans describing the specific areas where access roads will be located, and the manner and timing of their construction.

2. Designate documentation necessary to implement the access road plan.

3. Designate the specifications for construction of access roads, permanent accesses and right-of-way improvements.

4. Adopt such rules as it may deem necessary to implement the access road plan as stated in the Comprehensive Plan.

5. Impose construction of an access road, permanent access and right-of-way improvements as a condition of the issuance of an Improvement

Location Permit or a Certificate Of Occupancy, unless the New Haven Plan Commission permits the owner to make a written commitment for such installation at a later time.

6. Require an access to a public right-of-way from real estate upon which an access road is located, to remain only temporarily, and to be removed or closed at such time as connection to a permanent access is possible.

7. Enforce a violation of breach of an obligation to construct or maintain an access road or permanent access, construct right-of-way improvements, or remove a temporary access, which might be required under this Comprehensive Plan, an access road plan, a rule of the New Haven Plan Commission, or any other related commitment or document. The remedies available for such enforcement shall include any legal or equitable remedies available, including injunctive relief and recovery of attorney fees, costs and expenses incurred in connection with such proceedings.

F. The New Haven Plan Commission shall be authorized to require access roads to be constructed along the following streets and highways:

1. All present and future arterials as defined by the New Haven Comprehensive Plan.

2. Expressways, other limited access highways and their interchanges.

3. Any other street or highway which the New Haven Plan Commission reasonably deems necessary or desirable in the development of real estate to achieve the purpose stated in Subsection (A).

G. In designating areas for the location of access roads, the New Haven Plan Commission shall be guided by recommendations of the Urban Transportation Advisory Board, or its successor.

(Ord. G-92-2, passed 3-25-92)

NONCONFORMING USES AND STRUCTURES

§151.035 CONTINUANCE OF NONCONFORMING STRUCTURE

A. Maintenance permitted. A nonconforming structure lawfully existing on 12-9-80 may be maintained, except as otherwise provided in this section.

B. Repairs. A nonconforming structure may be repaired or altered provided no structural change shall be made.

C. Additions, enlargements, or moving. A structure nonconforming as to use, height, yard requirements, or lot area per dwelling shall not be added to or enlarged in any manner unless the structure can comply with one of the following:

1. If the structure, including additions or enlargements, is made to conform to the use, height, yard, and area requirements of the district in which is located, or

2. If a structure if conforming as to use, but nonconforming as to height, yard, or lot areas requirements, the structure may be added to or enlarged provided that the nonconforming height, yard, or lot area dimensions are not decreased.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.036 CONTINUANCE OF NONCONFORMING USE

A. Continuation and change of use. Except as otherwise provided in this chapter:

1. A nonconforming use lawfully existing on 12-9-80 may be continued;

2. A nonconforming use may be changed to any use found within the same zoning classification that the original nonconforming use would have been legally permitted in, or to a use permitted within a more restrictive zoning classification.

B. Expansion prohibited.

1. A nonconforming use in a structure designed for a conforming use shall not be expanded or extended into any other portion of the conforming structure nor changed except to a nonconforming use.

2. A nonconforming use on a part of a lot shall not be expanded or extended into any other portion of the lot.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.037 NONCONFORMING VARIANCE

The Board of Zoning Appeals may authorize on appeals in specific cases such variance from the terms of this subchapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this subchapter will result in unnecessary hardship, and so that the spirit of this subchapter shall be observed and substantial justice done, provided, that no action shall be taken or decision made except after public hearing.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.038 PLACEMENT OF MOBILE HOMES

A. Placement restricted.

1. A **MOBILE HOME** shall mean for the purposes of this division any prefabricated mobile living unit or dwelling, including all equipment appurtenant thereto, including, but not limited to, jacks, temporary support, temporary foundation, wheels, steps, or like equipment.

2. No mobile home shall be placed or maintained in any area of the city not designated as a mobile home park. This restriction has equal application in business as well as residential areas.

3. This division shall not apply to any mobile homes or trailers presently existing in nondesignated areas within the city, and shall have no retroactive application or effect.

(Ord. G-85-9, passed 4-9-85)

B. Any mobile home court which existed on 12-9-80 and which is located in a district which permitted a mobile home court either as a permitted use or by special exception shall be regarded as conforming use and may be continued, except that any change in layout, expansion, or extension shall be subject to all provisions of §151.095.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80) Penalty, see §151.999

§151.039 AMORTIZATION

A. Whenever a nonconforming use has been discontinued for a period of 12 months, the use shall not thereafter be reestablished and use thereafter shall conform to the provisions of this chapter.

B. No building damaged by fire or other causes to the extent that its restoration will cost more than double its assessed valuation shall be repaired or rebuilt except to conform to the provisions of this chapter.

C. Any nonconforming open use of land lawfully existing on 12-9-80 and not previously designated as a nonconforming open use of land by any prior zoning ordinance, shall be discontinued on or before five years after 12-9-80. Any nonconforming open use of land that has been previously zoned as a nonconforming open use of land with a five-year amortization period established, shall be discontinued on or before the date as established under the previous zoning jurisdiction.

D. Any nonconforming billboard or advertising structure not attached to a building, lawfully existing on 12-9-80 shall be discontinued on or before ten years after the effective date of this ordinance unless a discontinuance date has been established by a prior zoning ordinance in which case the prior date of discontinuance shall apply. Any mobile sign existing on the effective date of this ordinance amendment must be removed from the site one year there from.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.040 NONCONFORMING USES OR BUILDINGS IN FLOOD HAZARD AREAS

In addition to any other provisions of this section, any building, structure, or other use in the FW (Floodway) of the FF (Floodway Fringe) District which is not at or above the flood protection grade or does not otherwise comply with the provisions of §151.091 of this chapter, shall be a nonconforming use and is subject to the following:

A. In an FW (Floodway) District, a nonconforming use or structure may not be expanded or enlarged unless written approval is obtained from the Indiana Natural Resources Commission.

B. In an FF (Floodway Fringe) District, a nonconforming structure may undergo expansion, alteration, or enlargement, provided the modification is on a one-time only basis and such modification does not increase the value of the structure by more than 40% of its pre-improvement market value (excluding the value of the land), unless the structure is permanently modified to comply with the provisions of §151.091 herein.

(Ord. G-13-83, passed 7-12-83)

CONTINGENT USES

§151.050 PERMITTED CONTINGENT USES

The contingent uses hereinafter set forth shall be permitted by the Board of Zoning Appeals after public hearing, in any district where the uses are essential or desirable to the public convenience or welfare provided, however, no permit for a contingent use shall be granted if the Board shall find that the use is in conflict with any plan duly adopted by ordinance of the Council. In granting the permit, the Board may impose appropriate conditions regarding the location, character, and other features of the proposed building, structure, or use as are reasonably required by the purposes of this chapter. The permitted contingent uses are identified as follows:

A. An airport or similarly designed area for the landing and taking off of aircraft, but excluding private landing fields as defined by this chapter, provided that:

   1. The proposed location is in accordance with the master plan of the airports for Allen County. If such a plan has not been adopted, the proposed location must be approved by the Plan Commission in regard to the compatibility with the master plan.

   2. The area and the arrangement of all improvements shall be sufficient, for the class of airport proposed, to meet the requirements of the Federal Aviation Agency, the Aeronautic Administration of Indiana and any other rightfully involved governmental agency.

   3. Any buildings, hangars, or other structures shall be at least 100 feet from any street or lot line.

   4. No application shall be considered, unless it is accompanied by a plan, drawn to scale, showing the proposed location of the airport; boundary lines; dimensions; names of owners of abutting properties; proposed layout of runways, flight patterns, landing strips or areas, taxi strips, aprons, roads, parking areas, hangars, buildings, and other structures, and facilities; the location and height of all buildings, structures, trees, and overhead wires falling within the airport approach zones and less than 500 feet distant from the boundary lines of the airport; other pertinent data, such as topography and grading plan, drainage, water, and sewerage, and the like.

B. Cemetery.

C. Governmental installation not otherwise permitted.

D. A hospital, nursing home, sanitarium, or asylum which does not treat mental, drug, or alcoholic patients.

E. Medical-health center or clinic, with parking provided as specified by this chapter.

F. Public utility facilities such as: radio and television transmitter stations and towers; petroleum and natural gas transmission lines, pumping stations, and facilities; electric substations and telephone exchanges where not otherwise permitted by this chapter; railroad lines; classification yards and terminals; and other similar uses of a public utility or public service nature; including structures and appurtenances for their enclosure, maintenance, and operation.

G. Educational institution.

H. Fairground.

I. Transient amusement enterprise, medicine show, or circus, the chief activity of which is carried on for gain or profit.

J. Private school.

K. Golf course.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.051 TEMPORARY CONTINGENT USE

Notwithstanding anything to the contrary herein, the Board of zoning Appeals, after public hearing, may permit a temporary contingent use, for any period less than six months, to permit a use in conflict with any plan duly adopted by ordinance of the Council to aid the completion, construction, erection, repair, or maintenance or public works or projects, pursuant to contract with any governmental body, unit, authority, or sovereign. Provided, in all cases, the following conditions shall be imposed on the contingent use or user.

A. The contingent use shall be located not more than 1,000 feet from any part of the public works under contract.

B. The contingent use shall conform to the performance standards as specified in §151.090 through §151.105 for the zoning district under which the contingent use is a permitted use.

C. At the completion of the contract for which the contingent use was permitted, the contingent use must be promptly removed and the temporary contingent use site restored to its original condition.

D. The contingent use shall be subject to such other restrictions as the Board of Zoning Appeals may see fit to require.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.052 EXTENSION

The Zoning Administrator shall, with approval of the Council, have the right to extend the period duly authorized by the Board of Zoning Appeals as aforesaid for one successive period of 60 days, on the expiration of the original temporary contingent use granted by the Board, where in the opinion of the Zoning Administrator, approved as aforesaid, the expiration of the period originally granted by the Board causes unreasonable hardship on the contingent use or user and where, by the granting of the extension, the public welfare and convenience will be served by the completion of the contract within the extension period, and substantial justice served.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

SPECIAL EXCEPTIONS

§151.060 PUBLIC HEARING FOR SPECIAL USE

Special exceptions may be permitted by the Board of Zoning Appeals after public hearing only in the specified districts indicated in §151.061. No permit for a special use shall be granted unless the Board shall have first found that the public convenience and welfare will substantially be served and that the proposed use will not be unduly detrimental to the surrounding area. Provided, in the case of mobile and modular homes, the Board need not find that the public convenience and welfare will be substantially served. In the exercise of its approval the Board may impose such additional conditions regarding the location, character, and other features of the proposed building or structure or use as it may deem advisable in the furtherance of the purposes of this chapter.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.061 SPECIAL USES PERMITTED

The Board of Zoning Appeals may permit the following:

A. In any A-1 district, a **veterinary clinic, animal hospital, animal boarding place, or kennel** provided that no part of any building, pen, or run shall be within 100 feet of any lot or property line.

B. In any A-1 district, an **antique shop**, provided that any outdoor display of articles for sale shall be at least 50 feet from any street or property line.

C. In any A-l, RS-l, RS-2, or RS-3 district, a **beauty shop** in the home provided that:

1. The beauty shop must be entirely within the dwelling and clearly incidental and secondary to the use of the dwelling for residential purposes and not change the character thereof or have any exterior evidence of a beauty shop other than those features required by the Indiana State Board of Beauty Culturists Examiners.

2. The use is limited to one beautician who resides in the dwelling.

3. Off-street parking spaces are provided as required in **§**151.020.

4. No special exception be granted for a period to exceed five years.

D. In any A-1 and RS-1 district, the temporary use for a period of not more than three years subject to renewal, of a **single-family dwelling for a boarding or rooming house** on a finding by the Board that the rooming house will not constitute a nuisance because of sidewalk or street traffic, noise, or type of

physical activity, and that the use will not tend to affect adversely the use and development of adjoining properties or the immediate neighborhood.

E. In any A-1, RS-1, RS-2, RS-3, and RS-P district, **a child care home or center** on a finding by the Board that the use will not constitute a nuisance because of traffic, number of children being cared for, noise, or type of physical activity.

F. In any A-1, RS-1, RS-2, and RS-3 district, a **hospital, nursing home, sanitarium, asylum, or other institution** which cares for mental, drug, or alcoholic patients or is a penal or correction institution, subject to the conditions that:

1. No part of any building in which inmates or patients are housed is or is proposed to be located less than 300 feet from any bounding lot or street line.

2. Adequate off-street parking space is provided.

3. Protective fencing, as required by the Plan Commission, is provided where necessary.

G. In any RS-l, RS-2, or RS-3 district a dwelling on any lot or parcel of land immediately abutting along its side lot line or lying directly opposite across a street from any commercially or industrially developed commercial or industrial district, may be used for **limited office purposes** provided that the use is in accordance with the following requirements.

1. The uses shall be confined to the offices of doctors, dentists, lawyers, accountants, realtors, engineers, and similar professional persons, who are required to live in the building.

2. The uses shall not change or alter the exterior appearance of the premises and no name plate or other sign exceeding two square feet in area shall be displayed on the premises. Wherever possible, in the opinion of the Board, all entrances, driveways, walks, parking areas, and signs incidental to the use shall be located on the side of the building nearest to the commercial or industrial district.

H. In any RS-l, RS-2, RS-3, C-l, or C-lA zoning district a **mobile home or modular home** as the primary use of a parcel provided, however, that the granting of the exception would not create, establish, or permit a mobile home court as defined in §l5l.002.

I. In any RS-1 District, a **private landing field** as defined in §151.002.

J. In any A-l and RS-l district a **miniature golf course or a golf or baseball driving range** or other similar recreational establishment of a commercial nature.

K. In any A-1 and RS-1 district a **riding stable** of a commercial nature, subject to the following.

1. The stable shall be located on a tract of not less than five acres.

2. Such use in an RS-l zone shall be for a five-year period subject to renewal.

3. No building shall be located less than 100 feet from the nearest property line.

L. In any A-l district, **an outdoor archery, rifle skeet or trap shooting range** of either a commercial or private nature for a period of three years subject to renewal.

M. In any A-1 district, subject to the provisions of any state or local law, an **indoor rifle or pistol range** of either a commercial or private nature, provided that the range is constructed in such a manner as to eliminate any danger whatever to persons or property.

N. In any A-1, RS-1, RS-2, and RS-3 district, a **golf course, country club, swimming club, and meeting halls of private clubs and organizations**, except that land intended for use by a swimming club or association which was so designated at the time of approval of the final subdivision plat and which is not less than 150 feet from the edge of the subdivision, as approved on the preliminary plat, need not require a special exception permit provision for the servicing of food, refreshments, or entertainment as an accessory use.

O. In any A, RS, C, or I district, a **not-for-profit recreational field** together with its customary accessory uses. Recreational fields may include, but shall not be limited to: baseball diamonds, football and soccer fields, model airplane flying areas, and similar recreational areas.

P. In any A or RS district, a **handicraft shop in a dwelling wherein solely members of the family who reside in the dwelling may sell their handicrafts** such as ceramics, costume jewelry, trinkets, and the like. The use must be clearly incidental and secondary to the use of the dwelling and must not change the character thereof or have any exterior evidence other than a sign, as provided for by these regulations.

Q. In any RS-1, RS-2, or RS-3 zoning district a **private riding stable** as defined in §151.002.

R. In any RS-1, RS-2, RS-3, I-1, I-2, and I-3 district the use of **vacant land for the removal of natural material** or deposits including but not limited to sand, gravel, clay, rock, or stone, earth, or top soil, subject to the following:

1. All applications for the uses shall be accompanied by a map or plat showing the area proposed to be included in the extraction or removal

operation; an estimate or time required for the removal of material; and a final grading plan which shows the existing ground elevations of the site and the land immediately adjacent thereto, the location and elevation of all bounding streets or roads, and the final elevation of the site at the termination of the operation with respect to the elevations of the immediately adjacent land and bounding streets or roads.

2. Unless the Board specifies otherwise, the land areas exposed by the operation shall not have a final cut slope of steeper than three feet horizontal to one foot vertical distance and shall be left suitable for development purposes in accordance with the final grading plan approved by the Board.

3. Unless otherwise permitted by the Board of Zoning Appeals, temporary operating cut slopes steeper than one foot horizontal to one foot vertical shall in no case be brought closer to an exterior property line, right-of-way line of any street, roadway, or alley, as existing or as proposed in the master plan than 50 feet where a sight screen is provided or 75 feet in the case where no provision is made for sight screening.

4. Explosives shall be used only between sunup and sundown except in the case of an emergency.

5. All buildings, structures, or equipment shall be entirely removed from the property within one year after the expiration of the permit.

6. Dikes or other barriers and drainage structures shall be provided, to prevent silting of natural drainage channels or storm drains in the area surrounding the uses.

7. Where required by the Board, final cut slopes shall be treated to prevent erosion; topsoil shall be replaced on the slopes to support vegetation; ground cover shall be planted within 12 months after a cut slope is excavated to its final position; and the ground cover shall be maintained for a period of time sufficient to provide vegetation of a density that will prevent erosion.

8. Where required, suitable plant material shall be placed and maintained to screen cut slopes from public view. There shall be no open storage of discarded machinery, trash, or junk which would present an unsightly appearance.

9. Quarries and sand and gravel pits shall be operated so as to keep dust and noise to a minimum, and access roads shall be maintained as dust-free surfaces from the public street to within 100 feet of the loading point within the quarry or sand and gravel pit.

10. Vehicles carrying materials from quarries or sand and gravel pits shall be located in such a manner as to prevent spilling rock, gravel, sand, or other materials of a mineral nature while in transit on roads and highways.

11. Quarry or sand and gravel excavations which may penetrate near or into a usable water bearing stratum shall be conducted in such a manner that any such stratum so approached for encountered will not be subject to pollution or contamination either during quarrying operations or the excavation of a sand and gravel pit or subsequent to the abandonment of the quarry or sand and gravel pit.

S. In any A, RS, MH, C or I district, a **temporary directional subdivision sign** which includes the name and directions to a new land development. The sign may include any other copy approved by the Board and shall be placed in a location approved by the Board. In determining the location of the proposed structure, the Board shall consider the front yard requirement for the district in which the sign is to be located in addition to the distance of the proposed structure from adjoining residences. The Board shall also prescribe the maximum amount of time the temporary sign may be located on the approved site.

T. In any A-1 district a **trucking operation primarily engaged in commercial transportation of agricultural products** other than those raised on the premises, feed mills where grain is processed on a commercial basis, poultry establishments and animal slaughter houses where animals other than those raised on the premises are processed on a wholesale basis, commercial welding shops, livestock sales or auction barns, commercial diary for the processing, packaging and distribution of diary products, and fertilizer sales, mixing, and storage.

U. In any A-1, A-2, and RS-1 district, a **greenhouse or plant nursery** provided retail sales are limited to the sale of plant and the commodities used in the direct care of plants.

V. In any A-1, RS-l, RS-2, and RS-3 district, **storage facility for the uninhabited storage of recreation vehicles** including but not limited to: travel trailers, boats, boat trailers, campers, snowmobiles, motor homes, and similar recreation vehicles.

W. In any A or RS zoning district a **temporary field office or model home** may be granted an extension as provided for in §151.090.

X. In any A-1, RS-1, RS-2, and RS-3 district a tourist home provided that such use will meet all other applicable governmental regulations.

Y. In any A-l or RS-1 zoning district a **two-family dwelling unit** as the primary use on a parcel of real estate.

Z. In any A, R, RS, C, or I district, **antennas** shall be permitted in the side-yard provided that the following are shown to the satisfaction of the Board of Zoning Appeals.

1. No usable satellite signal can be obtained from the rear yard.

2. If there is no usable satellite signal obtainable from the rear yard because of accessory structures and/or trees in applicant's own yard, no special exception will be permitted.

3. Satellite antennas shall be located and designed to reduce visual impact from surrounding properties at street levels and from public streets.

4. Satellite antennas shall be constructed as specified in 151.090(B)(1)(h).

5. (5) Height requirements shall be followed as specified in 151.090(B)(1)(h).

AA. Mobile Structures:

1. A mobile structure shall mean, for the purpose of this Ordinance, any prefabricated office trailer, mobile classroom, sales office, self contained commercial structure or similar unit that is intended to be placed in a permanent or semi-permanent manner on a given piece of property for more than ninety (90) days.

2. All mobile structures must:

   a) be placed on property zoned for the structure's intended use, and;

   b) receive a "special exception" from the New Haven Zoning Ordinance from the New Haven Board of Appeals.

3. The New Haven Board of Zoning Appeals must find that the mobile structure meets the following tests in order to grant a "special exception":

   a) The nature and intensity of the operation involved in the proposed Special Exception is compatible with surrounding land uses, and;

   b) The proposed Special Exception will not create or contribute to an undesirable precedent in the area, and;

   c) The proposed development has been designed in a manner that will be harmonious with other uses permitted in its zoning

district, and;

d) The proposed development will not create an undue hazard for vehicular or pedestrian traffic.

4. This Ordinance shall not apply to any mobile structures presently existing in the City of New Haven, and shall have no retroactive application or effect.

5. Any person deemed in violation of this Ordinance shall be found to be in violation of the New Haven Zoning Ordinance and subject to all penalties set out within New Haven Code §151.999.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80; Am. Ord. G-13-83, passed 7-12-83; Am. Ord. G-86-19, passed 9-9-86; Am. Ord. Z- 93-14, passed 7-13-93)

Cross-reference:
Solid waste disposal a special use, see §151.075 through §151.082.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80; Am Ord. Z-95-4, passed 5-9-95)

§151.062 CONSIDERATION BY BOARD OF ZONING APPEALS

In considering a petition for any permitted special exception the Board of Zoning Appeals shall give due regard to the following factors as they will apply to the particular situation.

A. The location and size of the use; the nature and intensity of the operations involved in or conducted in connection with it; its site layout, including parking space requirements; and its relation to streets giving access to it so that vehicular traffic to and from the use will not create undue hazards to the normal traffic of the vicinity, taking into account among other things, vehicular turning movement in relation to routes of traffic flow, relation to street intersections, sight distances, and relation to pedestrian traffic.

B. The nature, location, size and site layout of the use so that it will be harmonious to the district in which it is situated.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.063 EXISTING USES

All special exceptions, except sanitary landfills, transfer stations, incinerators, or building material demolition sites which existed on 12-9-80, and which are located in a district which would permit the use in accordance with the provisions of the section, shall be regarded as conforming uses and may be continued, except that major changes in layout, expansion, or extension to the uses shall be subject to Board review and approval as required for special exception.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.064 CONFORMING USES

All special exceptions hereafter authorized by the Board of Zoning Appeals in accordance with the provisions of this subchapter shall be regarded as conforming uses and may be continued, except that major changes in layout, expansion, or extension to the use shall be subject to Board review and approval as required for special exception.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

SOLID WASTE DISPOSAL

§151.075 PERMITTED USES

A. An incinerator, sanitary landfill, transfer station, building material demolition disposal sites, and other Board-approved solid waste disposal methods are permitted as indicated in §15l.076, on a finding that the use will not constitute a nuisance because of traffic, noise, odors, smoke, or physical activity, provided that the area, and setback requirements as specified by the Board of Zoning Appeals are complied with.

B. In addition to the requirements of §15l.076 through §151.081, any facility approved under this subchapter shall also have received all applicable state and local approvals required by statute or ordinance, prior to the issuance of an improvement location and certificate of occupancy permit.

(Ord. 698,passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

Cross-reference:
Special exceptions, see §15l.060 through §151.064.

§151.076 LAND USE RESTRICTIONS

A. Open dumping shall not be permitted under this section or under this chapter.

B. In any A-1, I-1, I-2, or I-3 district, an incinerator or incineration operation may be permitted by the Board of Zoning Appeals in compliance with all requirements and regulations of this chapter. The Board may impose standards and set requirements for site access, yards, drainage, screening, signing, fencing, and the like together with surety bonds, supervision standards, and similar controls or detailed requirements for equipment or operation that it may deem necessary in the furtherance of the purposes of the chapter. Whenever the applicable standards or requirements of any other ordinance or governmental unit or agency thereof are higher or more restrictive, the latter shall control.

C. In any A, RS, MH, C, or I district, a refuse pickup or transfer station may be permitted by the Board. The Board may impose standards and set regulations for site access, yards, drainage, screening, signing, fending, and the like together with surety bonds, supervision standards, and similar controls or detailed requirements for equipment or operation that it may deem necessary in the furtherance of the purposes of this chapter. Whenever the applicable

standards or requirements of any other ordinance or governmental unit or agency thereof are higher or more restrictive, the latter shall control.

D. In any A-1, I-1, I-2, or I-3 district, a sanitary landfill operation may be permitted by the Board in compliance with all requirements and regulations of this chapter. Whenever the applicable standards or requirements of any other ordinance or governmental unit or agency thereof are higher or more restrictive, the latter shall control.

E. In any A-1, I-1, I-2, or I-3 district, a building demolition disposal site may be permitted by the Board. The Board may impose procedures, standards, and set requirements for the site, as it deems necessary, such as but not limited to, access screening, fencing, and dust control. Whenever the applicable standards or requirements of any other ordinance or governmental unit or agency thereof are higher or more restrictive, those standards and requirements shall govern the Board's approval.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.077 APPLICATION AND APPROVAL PROCEDURES

A. Special exception applications for incinerators, transfer stations, sanitary landfills, building material demolition disposal sites, or other Board-approved sanitary disposal method shall be made on forms prescribed by the Board of Zoning Appeals and shall include all data required by this chapter accompanied by the filing fee.

B. Preliminary application information shall include the following.

1. U.S.G.S. topographical quadrangle map or maps as necessary to include the proposed site and the man-made and natural surface features within one mile of the site.

2. A map which depicts zoning and generalized existing land use within one mile of the proposed site.

3. A plot plan of the site and adjacent areas at an acceptable scale which includes the location of all existing and proposed access and on-site roads, existing and proposed buildings, water courses, surface water runoff, fencing, and contours at intervals of no more than two feet.

4. A map showing a typical trench or area fill, the portions of the site where refuse will be deposited showing the direction of the operation and the portions of the site to be used only for the acquisition of cover, and also showing soil type boundaries within the site.

5. A report on the site's soil conditions as determined by the U.S. Soil Conservation Service or other qualified agency, including an indication of soil types with boundaries and limitations.

6. A narrative describing the proposed operation, including the following:

    a) Population and areas expected to be served by the proposed site.

    b) Anticipated quantity, types and resources of materials to be deposited.

    c) Proposals for recycling, reclamation, and salvaging operations.

    d) Proposals for handling bulky refuse such as refrigerators, stoves, trees, tires, and the like.

    e) Proposals for on-site collection and after-hours collection.

    f) Winter and inclement weather operating procedures.

    g) Thickness of daily and final cover, source and type of cover material.

    h) Procedures for dust control; blowing paper and open burning prevention.

    i) Proposed methods for control of rodents and insects.

    j) Proposed generalized leachate control measures.

    k) Proposed methods for handling animal carcasses, oils, hazardous materials, flammables, and the like.

    l) Proposed land use after completion of the project and approximate elevation of the completed site with respect to existing elevation.

    m) An indication of the flooding potential of the site based on a 1% recurrence frequency.

    n) Any other data the Board may rule necessary for submission at a preliminary hearing.

C. Final application requirements for sanitary landfills and building material demolition disposal sites shall include the following:

1. A final plot plan including all information required in the preliminary stage together with final drainage design and the location of all soil boring and on-site wells.

2. Working drawings, engineering information, and computations of the proposed operation showing the method of operation direction and details on trenches or area fill including the size of the working face; surface water drainage patters, plans and cross-sectional drawings of on-site roads; proof of proper material in adequate quantity for cover; size and legend of all signs.

3. A full geologic evaluation of the site by a competent specialist based on not less than the following:

   a) Soil borings. Through consultation with the Indiana State Board of Health, soil borings shall be taken on the site. All borings are to be taken to a depth of at least 20 feet below the lowest level of the proposed excavation of the refuse filling operation or to bedrock whichever is shallower.

   b) Well information. A submission of boring information and map location for all wells located within 1/4 mile of the proposed site for which the information has been recorded with the Indiana Department of Natural Resources.

   c) Details of construction and location of ground water monitoring wells and gas venting systems.

4. A narrative report setting forth the following:

   a) Name and address of party responsible for the operation and maintenance of the operation.

   b) The equipment to be used for placement and compaction of all refuse, excavation of soil, moving of stockpiled soil and the application of soil to be compacted refuse; provisions for backup equipment.

   c) On-site records to be kept.

   d) Safety and hygienic facilities for employees.

e) Finalized leachate control measures.

f) A statement describing the final conditions of the site following completion of the fill operation, with respect to seeding, grading, and final site work.

5. Any other data the Board may rule necessary for submission at a final hearing.

D. Final application information for incinerators and transfer stations shall include the following:

1. A plot plan of the site and adjacent areas at an acceptable scale which includes the location of all existing and proposed access and on-site roads, existing and proposed buildings, water courses, surface water runoff, fencing, and screening elements.

2. Maps as necessary to include the proposed site and the man-made and natural surface features within one mile of the proposed site.

3. A map which depicts zoning and the existing land uses within one mile of the proposed site.

E. Additional application requirements for incinerators shall include the following:

1. Working drawings, engineering information, and computations of the proposed operation showing the method of operation; the surface water drainage patterns; plans and cross sectional drawings of on-site roads; and size and legend of all signs.

2. A narrative describing the proposed operation, including the following:

a) Name and address of party responsible for the operation and maintenance of the operation.

b) Population and areas expected to be served by the proposed site.

c) Anticipated quantity, types, and resources of materials to be deposited.

d) Proposals for recycling, reclamation, and salvaging operations.

e) Proposals for handling bulky refuse such as refrigerators, stoves, trees, tires, and the like.

f) Proposals for on-site collection and after-hours collection.

g) Procedures for dust control, blowing paper, and open burning prevention.

h) Proposed methods for control of rodents and insects.

i) Proposed methods for handling animal carcasses, oils, hazardous materials, flammables, and the like.

j) An indication of, and preventive measures for, any flooding potential of the site based on a 1% recurrence frequency.

k) Any other data material the Board may rule necessary for submission at a hearing.

l) All applicable state and federal requirements.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.078 REVIEW BY BOARD.

A. Prior to the granting of a special exception for sanitary landfill or a building material demolition disposal site, the Board of Zoning Appeals shall have held public hearings for both a preliminary approval and final approval of same. The hearings, at the election of the applicant, may be separate or consolidated. In the event the applicant chooses simultaneous hearings, the application information must include all data required for both the preliminary and final approvals. Application for incinerators or transfer stations need only a final approval hearing.

B. The purpose of the Board in reviewing testimony and information at a preliminary hearing will be to ascertain if the public convenience and welfare will be substantially served by the proposal and it will be unduly detrimental to the surrounding area, based primarily on information available without the development of detailed final plans or in-depth geologic investigation. In the event the Board shall have found after a preliminary hearing that the public convenience and welfare would be substantially served and after reviewing the preliminary information that the proposal would not be unduly detrimental to the surrounding area, a final hearing will be conducted. Complete detailed plans, specifications, geologic and drainage information and the like must accompany the application for the final hearing. The

granting of a preliminary approval shall in no manner be deemed to commit the Board to any final approval in the event that final data reveals limitations or conditions which would render the proposal detrimental to the area, or if final plans be incomplete, inadequate, or unacceptable.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80 passed 12-9-80)

§151.079 APPROVAL REQUIREMENTS

In determining the approval of a special exception for a sanitary landfill, building material demolition disposal sites, incinerators, and transfer stations, the Board of Zoning Appeals shall have found that in addition to meeting all other requirements and tests of this subchapter, the proposed special exception meets or exceeds the following standards, requirements, and limitations. The Board may permit variation from the approval requirements set forth below for incinerators or transfer stations and for industrial landfills auxiliary to an industrial use and at the same industrial site.

A. Minimum site size 70 acres.

B. Minimum required depth of front, rear, or side yards shall be 100 feet, wherein no portion of the filling operation shall be conducted. Roadways may be within the front, rear, or side yards if maintained dust-free.

C. The entire landfill operation shall be enclosed with a substantial wall, fence, or other approved barrier at least five feet in height. Facilities for after-hours acceptance of refuse need not be within the fencing area.

D. A site screening strip at least 30 feet in width shall be provided and maintained between the exterior boundaries or property lines of the project and the fencing set forth in (C) above. Site screening can include planting and earth berming or mounding. All site screening proposals are to be specifically approved by the Board.

E. Only necessary identification and directional signs shall be permitted.

F. Ingress or egress points to or from the site shall be a minimum of 125 feet from any adjacent property line. Those portions of the site's roadways which are within 150 feet of the public street or streets serving the facility shall be maintained in a state so as to avoid blowing dust problems. In the event a landfill is proposed on a site which has no frontage on a public right-of-way and is served by an easement or access road, the 125-foot dimensional requirement may be waived by the Board if the Board deems it appropriate.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.080 OPERATIONAL REQUIREMENTS

Any sanitary landfill or building material demolition disposal site approved under the provisions of this chapter shall be subject to the following operational requirements. Failure to comply with the operational requirements shall be deemed a violation of this chapter and subject to the penalty provisions of §10.99.

A. A landfill operation shall be under the direction of a responsible individual at all times. Access to sanitary landfill or building material demolition disposal site shall be limited to those times when an attendant is on duty and only to those authorized to use the site for the disposal of refuse.

B. Unloading of refuse shall be continuously supervised.

C. Measures shall be provided to control dust and blowing paper. The entire area shall be kept clean and orderly.

D. Refuse shall be spread so that it can be compacted in layers generally not exceeding a depth of two feet of compacted material. Large and bulky items, when not excluded from the site, shall be disposed of in a manner approved by the Board of Zoning Appeals.

E. A compacted layer of at least six inches of suitable material shall be placed on all exposed refuse by the end of each working day.

F. A layer of suitable cover material compacted to a minimum thickness of two feet shall be placed over the entire surface of each portion of the final lift.

G. All daily cover depth must be continually maintained and final cover depths shall be maintained for a period of two years.

H. The disposal of hazardous and special waste must conform to the following.

1. Under no circumstances shall hazardous wastes be accepted at a sanitary landfill or building material demolition disposal site unless proper authorization from the Indiana Stream Pollution Control Board has been received.

2. Prior to disposal, a list of all hazardous wastes approved by Indiana Stream Pollution Control Board shall be submitted to the Fort Wayne-Allen County Board of Public Health by the owner or operator of the disposal site.

3. Bulky wastes, such as automobile bodies, furniture and appliances shall be crushed on solid ground and then pushed into the working face near the bottom of the cell or into a separate disposal area.

I. No refuse shall be burned on the premises except in an incinerator approved as part of the total site plan in a manner approved by the Board.

J. Salvaging shall be organized so that it will not interfere with prompt sanitary disposal of refuse or create unsightliness or health hazards. Scavenging (the uncontrolled removal of materials) shall not be permitted.

K. Conditions unfavorable for the production of insects and rodents shall be maintained by carrying out routine landfill operations in systematic manner. Supplemental insect and rodent control measures shall be instituted whenever necessary as determined by the Zoning Administrator or the State or local Board of Health.

L. The site, including the fill surface shall be graded and provided with drainage facilities to minimize runoff onto and into the fill, to prevent erosion or washing of the fill, to drain off rainwater falling on the fill, and to prevent the collection of standing water.

M. Cover material shall be of such character that it can be compacted to provide a tight seal and shall be free of putrescible materials and large objects.

N. Adequate numbers, types, and sizes of properly maintained equipment shall be used in operating the landfill in accordance with good engineering practice and with these rules. Emergency equipment shall be available on the site or suitable arrangements made for such equipment during breakdown or during peak loads.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.081 COMPLETION REQUIREMENTS

On completion of the landfill operation or on the "close-out" of any phase thereof, the land shall be graded, backfilled, and finished to a surface which will result in a topography in substantial conformity to the approved site plan and prepared in a manner as approved on the final site plan.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.082 REQUIRED PERMITS; BOND

A. No sanitary landfill operation, building material demolition disposal site, incineration facility, transfer station, or other Board-accepted refuse disposal or recycling procedure, or phase thereof shall be started until an improvement location permit and a certificate of occupancy permit have been issued by the Zoning Administrator and a bond filed thereof, as set forth in (B) below. Prior to the issuance of the aforementioned permits, the Zoning Administrator shall determine that a special exception has been granted for the proposed use and all applicable conditions of the approval have been complied with. Applications for the improvement location and certificate of occupancy permits shall be made on forms supplied by the Zoning Administrator and shall be accompanied by a surety bond subject to Zoning Administrator's approval for the faithful performance of all applicable requirements of this chapter, including the operation and completion of the sanitary landfill in accordance with the approved plan thereof. Permits may be issued and bond filed for the total operation or for one or more phases thereof, as shown on the final site plan.

B. The bond shall run jointly and severally to the city and any other governmental agency requiring a similar bond, and shall be in an amount a set by the Board. The bond shall specify the time for completion of all applicable requirements of this chapter and shall specify the total operational area, or phase thereof, covered by the bond, and shall be continuously maintained for a period not less than one year after the landfill, or phase thereof, shall have been properly completed.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

PERMITTED USES

§151.090 A-1 AGRICULTURAL DISTRICT

A. Purpose. The Agricultural District is established to permit the full range of agricultural activities as well as limited types of low density residential development and other uses customarily conducted in agricultural areas.

B. Permitted uses.

1. Accessory uses, including the following.

a) Home occupations.

b) Office in a one-family dwelling, provided that the use is incidental to the main use as a dwelling and further provided that the use is limited to a person actually residing in the dwelling.

c) Living quarters such as tenant house, apartment, or room for persons employed on the premises and not rented or otherwise used as a separate dwelling.

d) Barns and other bona fide farm buildings.

e) Private garages and private greenhouses.

f) Roadside stands, offering for sale agricultural or other products grown or produced on the premises on which the stand is located, provided the stand is located at least 25 feet from the front property line, and off-street parking is provided in accordance with this chapter.

g) Private landing field as defined in this chapter.

h) All antennas shall be a permitted accessory use in accordance with the following standards:

1. Antennas and antenna structures, except satellite antennas, which are not located on the principal structure shall be located to the side or rear of the principal building on a lot and shall meet all yard requirements in §151.129 and §151.130.

2. A satellite television antenna having a diameter of four feet or less may be located on the principal building or an accessory building

on a building lot, subject to the height regulations in division 3 below.

3. A satellite television antenna shall have a maximum height of 20 feet when located on the ground. Satellite antennas located on the principal building or an accessory building as described in subsection 2 shall not exceed the height limitation for the district in which they are located. The height of an antenna or the combined height of an antenna and antenna structure shall not exceed the height limit for the district in which it is located, as follows:

District	Maximum Height
A-1, C-1A, C-1, C-2, C-4	135 feet
RS-1, RS-2	75 feet
RS-3, MH	75 feet
I-1, I-2, I-3, I-4	135 feet
C-P, I-P	Maximum height as shown on the Commission-approved development plan.

4. Any antenna having printed matter on or attached to its surface shall be treated as a sign in accordance with the regulations in §151.145 through §151.148.

5. All cable and connections from all antennas to other equipment on the premises exceeding six feet in length shall be buried underground when the antenna is located on the ground, or appropriately concealed when the antenna is located on the building.

6. Not more than one satellite television antenna shall be allowed on any lot.

7. All antennas and the construction and installation thereof shall conform to applicable building and electrical regulations and requirements.

8. All antennas shall meet all manufacturer's specifications, be non-combustible, of corrosive resistant material and be erected in a secure, wind resistant manner.

9. All antennas must be adequately grounded for protection against a direct strike of lightening.

10. All antennas shall be located and designed to reduce visual impact from surrounding properties at street levels and from public streets.

11. All antennas may be inspected for compliance of this chapter by the Zoning Administrator or his/her designee.

12. All portions of the radiating part of an antenna shall not be accessible to the general public.

13. All portions of the antenna, antenna structure and related supports shall be contained within the perimeter.

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

15. The current Federal Communications Commission (FCC) regulations which are more restrictive than the provisions of this chapter shall govern.

2. Agricultural uses, including but not limited to, floriculture; horticulture; forestry; crop and tree farming; gardening; dairy, stock, and poultry farming; and the operation of any machinery or vehicles and other uses customarily incidental thereto; but excluding slaughter houses, fertilizer works, bone yards, plants for the processing of animal skins or hides, and plants for the reduction of animal matter.

3. Churches, convents, monasteries, other places of worship; public and parochial schools.

4. Dwellings: one-family detached and mobile homes.

5. Libraries, museums, and similar institutions of a noncommercial nature.

6. Parking or storage of farm vehicles, farm machinery, and other motor vehicles used on the premises in connection with any use permitted in the A-1 district.

7. Public buildings or uses supported in whole or in part by local or county taxes or by special public assessments; and other public uses provided that any land or buildings used in connection therewith are publicly owned and operated; and provided that dumps, incinerators, and dog pounds or any other use that might be a nuisance by reason of odor or noise shall not be permitted except on the grant of a special exception or contingent use permit, whichever is applicable.

8. Rental of guest rooms to not over three roomers, but excluding rental of room to tourists.

9. Riding stable of a private noncommercial nature on at least three acres of land.
10. Sand, gravel, or clay pits; rock or stone quarries; mining; removal of earth or top soil or other operation involving the removal or extraction of

natural material deposits.

11. A sawmill for the cutting of timber grown in the immediate area.

12. Signs, including professional name plates, those advertising home occupations or sale or lease of the premises, and other permanent, and temporary signs, in accordance with the provisions of §151.145 through §151.148.

13. Swimming pools (private) providing they meet yard requirements as set forth in **§**151.134 and §151.135 (B) (5); however, excluding swimming pools of a club, cooperative, corporation, or any association or organization of any type except as specified under the conditions of §151.062 (J) (6).

14. A temporary field office on a land development site providing that the use is limited to the land developer for a period not exceeding three years from the approval date of the final plat. Provided, the Board of Zoning Appeals, after petition for extension filed by the land developers and public hearing held thereon, as provided by law, may extend the three-year limitation period for any additional period approved by the Board.

15. A model home within an approved subdivision plat may be used for a temporary sales office for sale of homes within the subdivision for a maximum period of one year. The Board of Zoning Appeals may grant an extension to this time period, after a public hearing, for additional period to be determined by the Board.

16. Portable Storage Containers and Dumpsters according to the following requirement:

    a) Portable Storage Containers and Dumpsters shall not be used as an accessory structure, permanent storage building, utility building, shed, or other such uses.

    b) Portable Storage Containers and Dumpsters must be used on a lot of record with the existence of a primary residence, or used during the construction of a primary residence, or unless used in connection with the construction associated with an approved major subdivision, development plan, or other approved construction site.

    c) There shall be no more than one Portable Storage Container or Dumpster per lot of record. A lot of record may have one of each within the limits established in this Section 151.090(B)(16).

d) Portable Storage Containers shall be restricted to no larger than 8 feet wide, 40 feet long and 8 1/2 feet high.

e) Portable Storage Containers and Dumpsters shall be allowed on a lot of record once per any twelve (12) month period for no more than a total of forty-five (45) days, unless it is being used on an approved construction site as described in Section 151.090(B)(16)(b) above, or in no case more than six (6) months. Portable Storage Containers and Dumpsters may be allowed in C and I districts for a longer period of time if approved by the Board of Zoning Appeals as a Special Exception under Section 151.061 of this Ordinance.

f) Portable Storage Containers and Dumpsters used as part of a permitted construction project shall be permanently removed from the premises within thirty (30) working days of the issuance of a Certificate of Occupancy.

g) Portable Storage Containers and Dumpsters shall only be placed on or projecting into the public right-of-way adjacent to a lot of record if it is not possible to be placed elsewhere on the lot of record. Any placement of a Portable Storage Container or Dumpster in, or projecting into, the public right-of-way is subject to the review and approval of City of New Haven Engineering Department. The Engineering Department will review the proposal for potential negative impacts on the safety of the traveling public in such rights-of-way. The Engineering Department has the authority to deny the location of a Portable Storage Container or Dumpster in the right-of-way when issues of public safety warrant such denial. There shall be a lighted barricade located at the end or ends of any unit located partially or entirely in the public right-of-wav. The Engineering Department may impose additional time, place and manner restrictions on the Portable Storage Container or Dumpster in the interests of public safety.

h) Violations of this Section 151.090(B)(16) shall be subject to the Enforcement provisions at §151.158, the remedy provisions at §151.998, and the penalty provisions at §151.999 of this Zoning Ordinance.

i) An Improvement Location Permit shall be required for all Portable Storage Containers and Dumpsters located on a lot of record completely or partially outside of the public right-of-way, and shall be subject to the improvement location permit requirements of Section 151.156 of this Zoning Ordinance. No

Improvement Location Permit shall be required for a Portable Storage Container or Dumpster entirely within the public right-of-way, but approval for such location shall first be received from the Engineering Department.

j) Any Portable Storage Container or Dumpster located on a lot or parcel on the effective date of the provisions of this Section 151.090(16) shall be allowed to remain for a maximum of 45 days from the effective date. Portable Storage Containers or Dumpsters located in the public right-of-way on the effective date of this Section are subject to the review and approval of the City of New Haven Engineering Department.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80; Am. Ord. G-86-19, passed 9-9-86; Am Ord. Z-95-4, passed 5-9-95, Ord. Z-13-21, passed 2-25-14)

§151.091 FW AND FF FLOOD HAZARD DISTRICTS

A. Purpose.

1. The Flood Hazard Districts are established to limit development in the flood-prone areas near any water course, protecting the public health, safety, and welfare while ~ minimizing the financial burden and inconvenience imposed on the individual property owners and the general public through periodic floods and overflow of water onto land.

2. The Flood Hazard District is divided into two sub- districts: the FW (Floodway) District and the FF (Floodway Fringe) District. These sub-districts provide an additional measure of protection where flooding potential has been identified. The sub-district requirements and limitations are additional to all other provisions of the principal zoning designation for which the real estate has been classified.

B. Permitted Uses.

1. FW (Floodway) District. Uses permitted in the FW (Floodway) District shall be regulated by the Indiana Natural Resources Commission as established in IC 13-2-22-14. However, in no instance may a use be permitted in the FW (Floodway) District which is not a permitted use in the principal zoning designation established for the real estate by §151.096 herein. The boundaries of the FW District as delineated on the floodway map prepared and approved by the Federal Emergency Management Agency are overlaid on the official zoning maps. The zoning ordinance may also classify additional areas within the FW (Floodway) District based upon the best information available for those streams or stream segments not included on the Floodway Map.

2. FF (Floodway Fringe) District.

a) All uses permitted in the respective principal zoning district shall be permitted. However, prior to the issuance of an Improvement Location Permit within an FF District, the Zoning Administrator shall establish a minimum flood protection grade. The flood protection grade shall be two feet above the Regulatory Flood Profile as established in the Flood Insurance Study for the city.

b) The boundaries of the FF (Floodway Fringe) District are delineated on the Flood Insurance Rate Map as those areas subject to flood hazard from the regulatory flood which are outside the boundaries of the regulatory floodway. The FF District boundaries are overlaid on the official zoning maps. The zoning ordinance may also classify additional areas within the FF District based upon the best information

available for those streams or stream segments not included in the Flood Insurance Rate Map.

c) Non-residential structures may be constructed within the FF (Floodway Fringe) District below the minimum flood protection grade provided:

1. The structure shall be flood-proofed as defined herein to an elevation two feet above the Regulatory Flood Profile.

2. All flood-proofed buildings shall be constructed to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with the regulatory flood.

3. The plans and specifications for all necessary structural facilities and modifications are certified by a professional engineer or registered architect licensed in the state.

4. The use of the structure complies with all provisions of the applicable principal zoning designation for which the real estate is classified.

C. Floor elevation record. A record of the lowest floor elevation for any new improvement within an FW or FF District shall be maintained by the Zoning Administrator. The elevation shall be furnished to the Zoning Administrator at the time of application for the improvement location permit.

D. Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on engineering and scientific considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice and debris jams. This chapter does not imply that real estate outside of delineated flood hazard areas, as defined herein, will be free from flooding or flood damages. This chapter does not create liability on the part of the state, the Indiana Natural Resources Commission, the city, or the Plan Commission, or any elected or appointed official or employee thereof for any flood damages that result from reliance on this rule or any administrative decision lawfully made thereunder.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80; Am. Ord. G-13-83, passed 7-12-83)

§151.092 RS-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

A. Purpose. The suburban residential district is intended to provide a variety of areas for single-family developments while offering maximum design flexibility to the extent that each area is an attractive, stable, and orderly residential environment.

B. Permitted uses.

1. All uses permitted in the A-1 District except that the following uses are permitted only as a special exception in the RS-1 District.

a) Sand, gravel, or clay pits; rock or stone quarries; mining; removal of earth or top soil.

b) Sawmills.

c) Mobile homes and modular homes.

d) Landing field, private.

e) Riding stable, private.

C. District regulations. The Plan Commission may, as indicated in §151.127 through §151.136, reduce the minimum lot size and yard requirements subject to the conditions set forth in §150.51. When such reductions in requirements are reviewed, emphasis will be placed in the following areas: plat design and layout, pedestrian walkways, recreation areas, and building arrangement.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.093 RS-2 TWO-FAMILY RESIDENTIAL DISTRICT

A. Purpose. The medium density residential district is intended to provide for a living environmental commonly associated with two-family dwellings. Typical housing types would include single-family attached units and two-family dwellings.

B. Permitted uses.

1. All uses permitted in the RS-1 District.

2. One-family dwelling attached; excepting mobile and modular homes unless permitted by special exception.

3. Two-family dwellings, excepting mobile and modular homes unless permitted by special exception.

C. District regulations. The Plan Commission may, as indicated in §151.127 through §151.136, reduce the minimum lot size and yard requirements subject to the conditions set forth in §150.51. When such reductions in requirements are reviewed, emphasis will be placed in the following areas: plat design and layout, pedestrian walkways, recreation areas, and building arrangement.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.094 RS-3 MULTIPLE-FAMILY DISTRICT

A. Purpose. The Multiple-Family District is established to permit multiple residences in an urban environment where compatibility with surrounding land uses is maintained and all of the facilities necessary for urban living are provided.

B. Permitted uses. All uses permitted in the RS-2 District, plus the following.

1. Apartment-hotel.

2. Accessory uses, including office space, in accordance with the following provisions. In any multiple dwelling and multiple-group dwellings, there may be maintained on the premises an office for the conducting of business incidental to the rental, operation, service, and maintenance of the project, provided that no such office shall occupy a floor area greater than that of one dwelling unit and no sign used in connection with the office exceed three square feet in size.

3. Multiple dwellings and multiple group dwellings; excepting mobile or modular homes unless permitted by special exception.

4. Fraternity and sorority houses.

5. Rooming or boarding houses.

C. Submission procedures and requirements.

1. Before an improvement location permit may be issued for a multiple-family or multiple-group development containing five or more dwelling units, the Plan Commission must approve a preliminary and final development plan for the entire tract. The submissions and procedures required to obtain the development plan approval are set forth in §151.115 and §151.116.

2. In determining its approval or disapproval of a proposed development plan and supporting data, the Commission shall require compliance with the following specific RS-3 requirements.

a) Either public or private streets may be provided; however, all public streets must meet the requirements of Chapter 150. If private streets are constructed, proposals for a minimum right-of-way of 50 feet is required. Streets shall be surfaced with a portland cement concrete, asphaltic concrete, or other approved hard surface. A typical cross-section must be submitted to the City Highway Engineer for

comments.

b) In computing the maximum permitted density for the development proposal, there shall be a minimum of 3,500 square feet of net land area provided for each dwelling unit within the proposed development.

D. Design standards. In determining the action to be taken on a proposed development plan, the Commission shall be guided by the design standards as set forth in §151.117 and supplemented below.

1. In any multiple-family or multiple-group development, no building shall be closer than 25 feet to the adjacent project boundary line and within 50 feet of a public right-of-way line when the project abuts a public street or highway.

2. In any multiple-family or multiple-group development, 45% of the net site area shall be placed in recreation space of which 120 square feet per dwelling shall be developed recreational land. Within multiple-family developments, required yards may be included as undeveloped recreation space.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.095 MH MANUFACTURED HOUSING DISTRICT

A. Purpose. The intent of this district *is* to provide sites for mobile or modular housing communities at appropriate locations in relationship to the existing and potential development of the surroundings while establishing an attractive residential environment.

B. Permitted uses.

1. All uses permitted in the RS-1 District.

2. Mobile/modular housing projects under common ownership.

C. Submission procedures and requirements. Prior to the issuance of an improvement location permit in an MH District, a preliminary and final development plan for the total site shall be reviewed and approved by the Plan Commission. The submissions and procedures required to obtain the development plan approval are set forth in §l51.115 and §151.116. In determining its approval or disapproval of a proposed development plan and supporting data, the Commission shall review for compliance with the following.

1. Lot area and density.

a) The tract to be developed shall contain a minimum of five acres.

b) Each lot shall contain a minimum area of 5,000 square feet.

c) All lots within the proposed project shall have a minimum lot width of 50 feet.

2. Yard requirements.

a) The minimum perimeter front yard depth, where the project abuts a public right-of-way shall be 50 feet from the right-of-way.

b) A minimum side and rear yard depth of 25 feet is required along the perimeter of any MH District.

c) Minimum interior yards for the project shall be provided in accordance with the following standards. A minimum required setback of eight feet from the existing right-of-way of any interior street within the project; the minimum distance between units shall be 25 feet provided, dwellings with extensions may project ten feet into the side yard adjacent to the main entry, or to the side lot line opposite to the main entry provided, further, that in no case shall a dwelling have less than

18 feet aggregate of side yards between homes; a minimum rear yard of eight feet shall be provided.

3. Streets. Public or private streets may be provided, however, all public streets must meet the requirements of Chapter 150. If private streets are to be constructed the following conditions must be met.

   a) Minimum street improvements widths.

      1. Off-street parking, 27 feet.

      2. On-street parking, 36 feet.

   b) Streets shall be surfaced with a portland cement concrete, asphalt concrete, or other approved hard surface. A typical cross-section must be submitted to the City Highway Engineer for comment.

D. Design standards. In determining action to be taken on a proposed development plan, the Commission shall be guided by the design standards as set forth in §151.1l7 and supplemented below.

   1. At least 750 square feet per living unit shall be reserved for open/recreation space areas. This figure is in addition to any private open areas created by yard requirements.

   2. A minimum of two paved off-street parking spaces shall be provided per lot.

   3. Each lot shall be provided with a ten-foot by ten-foot concrete slab which will serve as a location for individual tenant storage.

   4. A hard-surfaced walkway or patio connecting the dwelling with its off-street parking area shall be provided.

   5. Each lot shall contain an area reserved for the placement of a living unit, the base construction (foundation, pads, ribbons) of which shall meet or exceed the Indiana State Board of Health and the City-County Building Department of Allen County specifications.

   6. Each living unit shall be skirted, entirely enclosing the bottom, within 90 days after its placement.

   7. Each living unit lot shall be provided with anchors, tie downs, or other devices, as per Indiana State Board of Health rules and regulations, or any other requirements imposed by law for insuring the stability of the manufactured home.

E. Prior to the location of any mobile/modular home in a mobile home court which meets the requirements of this chapter, the developer, owner, or lessee of the court shall have applied for and been issued a certificate of occupancy from the Zoning Administrator. The certificate of occupancy may be issued for any number of living units. However, all improvements serving those units must be installed and operational. If the mobile home court is located within an FF (Floodway Fringe) District, the Zoning Administrator shall establish a minimum flood protection grade for each proposed mobile home site prior to the issuance of a certificate of occupancy. The applicant shall also certify to the Zoning Administrator that all provisions of 44 CFR 60.3-C-5 have been met.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80; Am. Ord. G-13-83, passed 7-12-83)

§151.096 RS-P PLANNED RESIDENTIAL DISTRICTS

A. Purpose. The intent of a planned residential district is to encourage innovative development of residential communities and offer developers of land the maximum amount of flexibility in design and development. As a means to assure maximum efficiency, standards governing lot size, yards, and building location may be varied, subsequent to approval by the Plan Commission.

B. Permitted uses.

1. Planned district.

   a) RSP-1 Planned Single-Family

   b) RSP-2 Planned Two-Family

   c) RSP-3 Planned Multiple-family Housing

   d) RSP-MH Planned Manufactured Housing

2. The uses permitted in each district shall be the same as those permitted within the corresponding RS-l, RS-2, RS-3 and MH Districts found in this chapter.

3. On recommending establishment of the RS-P District, the Commission shall supplement each such district by appending thereto maximum permitted number of dwelling units per gross acre of land contained in each district. The maximum number shall be stated in dwelling units per acre and shall appear on the zoning maps.

C. Development plan submission procedures and requirements. Prior to the issuance of an improvement location permit in an RS-P District, the Commission shall have approved a preliminary and final development plan for the entire site. The submission and procedures required to obtain the development plan approval are detailed in §151.115 and §151.116.

D. Design standards. In determining the action to be taken on a proposed development plan, the Commission shall be guided by the design standards set forth in §151.117.

1. The maximum permitted density per acre for each planned residential district is as follows.

   a) RSP-1 4.4 dwelling units per gross acre

   b) RSP-2 6.8 dwelling units per gross acre

c) RSP-3 22 dwelling units per gross acre

RSP-MH 6.2 dwelling units per gross acre, however, if the real estate is to be subdivided, the RSP-1 requirements are applicable to the RSP-MH District.

2. The height and bulk of buildings, parking and loading requirements, and yard requirements will be equal to those in the regular districts unless waived by the Commission at the time of development plan approval. If the regular requirements are waived, then the Commission will establish new minimum requirements based on the following.

   a) Type of dwelling proposed.

   b) Amount of recreation space adjacent to the subject lot.

   c) Abutting natural features.

   d) Pedestrian walkways.

   e) Overall compatibility and livability with surroundings.

3. All planned residential districts shall have recreational space unless waived by the Commission. Recreation space provisions shall be as follows.

   a) Within the RSP-1, RSP-2, and RSP-MH District, recreation space shall be provided at a rate of 750 square feet per dwelling.

   b) Within the RSP-3 District, 45% of the net site area shall be maintained in recreation space of which 120 square feet per dwelling shall be developed recreational land.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.097 C-1A PROFESSIONAL AND PERSONAL SERVICES DISTRICT

A. Purpose.

1. The Professional and Personal Services District is intended to accommodate those nonresidential uses of a professional or personal service nature which are of low intensity and often serve as a buffer between commercial and residential uses of real estate.

2. C-1A District parcels shall not be used for sales, storage, or display of wholesale or retail merchandise with the exception of those uses permitted by (B) below.

B. Permitted uses. All uses permitted in the RS-1 District plus the following.

1. Professional services, including but not limited to the following:

   a) Medical clinics with related facilities such as prescription service.
   b) Law offices.
   c) Professional engineering offices.
   d) Architects offices.
   e) Accountants offices.
   f) Real estate and related services.
   g) Finance and insurance offices, banks.
   h) Optometry services.
   i) Funeral homes, mortuaries.

2. Services and sales, limited to the following.

   a) Photography and art studios.
   b) Sales and repair of musical instruments.
   c) Watch repair shop.
   d) Barber and beauty shop.
   e) Commercial art studio.
   f) Advertising office.
   g) Music and dance studio, as a secondary use in a single- or multiple-family dwellings.

3. Accessory uses.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.098 C-1 GENERAL COMMERCIAL DISTRICT

A. Purpose. The General Commercial District is established to include areas that are appropriate to all types of retail and service establishments primarily using inside display areas, which offer a complete range of goods and services to consumers.

B. Permitted uses. All uses permitted in the C-1A District plus the following.

1. Agriculture.

2. Automobile service, including but not limited to the following.

   a) Service station, but not including major automotive, mechanical, or body repair or refinishing, and not to exceed, including accessory uses and structures, two (2) acres in size.
   b) Tire and accessory store.
   c) Self-service automobile wash.

3. Business service, including but not limited to the following.

   a) Bank, currency, exchange, savings and loan association loan office.
   b) Travel bureau, taxi station.
   c) Public utility customer service.
   d) Commercial office.

4. Clothing, service, including but not limited to the following:

   a) Tailor, dressmaking shop, costume rental.
   b) Shoe repair, hat cleaning or repair.
   c) Self-service laundry, cleaning or laundry pickup station, pressing establishment.

5. Equipment service, including but not limited to the following:

   a) Household appliance.
   b) Electrical appliance, radio store.
   c) Photo supply shop.
   d) Phonograph and record shop.

6. Food service, including but not limited to the following:

   a) Caterer.
   b) Bakery goods outlet.
   c) Ice cream or candy shop.

d) Grocery, supermarket, fruit or vegetable store, meat market, delicatessen.
e) Restaurant, tavern, tea room, night club.
f) Package liquor store.

7. Personal service, including but not limited to the following:

a) Masseur or reducing salon, cosmetic store.
b) Medical appliance.

8. General retail service, including but not limited to the following.

a) Book store, hobby shop, gift shop, antique shop, and art store.
b) Bird store or pet shop, toy shop.
c) Drug store, stationery or news dealer store, cigar store.
d) Department store, dry goods store, notion store.
e) Furrier, including cold storage of garments.
f) Hardware, garden equipment supply store, paint store.
g) Haberdashery, ready-to-wear shop.
h) Interior decorating or furniture store.
i) Jewelry store, and leather goods.
j) Millinery shop, shoe store.
k) Music conservatory school.
l) Retail florist including greenhouse.
m) Variety store, sporting goods store.
n) Pawn shop, second-hand store.

9. Amusement enterprise, including but not limited to the following.

a) Bowling alley, skating rink.
b) Billiard or pool hall, penny arcade.
c) Indoor theater.
Dance hall or studio.

10. Hotel, motel, private club or lodge.

11. Advertising sign or billboard in accordance with the provisions of §151.145 through §151.148.

12. Telephone exchange and electrical substation.

13. Accessory uses.

14. Animal hospital or kennel catering to household pets, as distinguished from agricultural animals, provided all animal runs are located within an enclosed building, and provided further that all noises and odors be

confined to the interior of the building or buildings, and provided further that same not be operated as to constitute a nuisance in the neighborhood.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80, Am. Ord. Z-07-02, passed 03-13-07)

§151.099 C-2 PLANNED SHOPPING CENTER DISTRICT

A. Purpose. The C-2 Planned Shopping Center District is established in order to insure the provisions of adequate commercial facilities at an appropriate location and of an appropriate design, scale, and intensity which will create a harmonious and functional relationship with the immediate surroundings and the community. In reviewing the proposed C-2 District the Plan Commission will consider the nature of the proposed uses, the total size of the proposed C-2 District. Traffic generation, both pedestrian and vehicular, and its impact on surrounding streets and highways will also be of major importance in the Commission's review process. Each proposed shopping center as well as expansion of existing centers will be evaluated in accordance with the goals and policies of the comprehensive plan. The C-2 District is not intended to be utilized by a single business or use, but rather should be a harmonious arrangement of different establishments which will serve the community.

B. Subdistricts and permitted uses. Prior to tracts of real estate being developed as planned shopping centers, the real estate shall be rezoned to a specific C-2 subdistrict and be subject to the requirements of that subdistrict.

1. C-2A Neighborhood Shopping Center.

   a) The neighborhood shopping center shall be designated with the sole intent of serving the surrounding residential neighborhoods by providing goods and services that meet day-to-day needs. Tenants typically found within this center include grocery and drug stores. A major tenant space shall not exceed a maximum of 30,000 square feet of gross floor area and no more than two major tenants shall be permitted. No single tenant space other than those permitted above shall exceed 20,000 square feet of gross floor area. The maximum gross floor area shall be limited to 25% of the net site area, provided no C-2A shopping center shall exceed 109,000 square feet of gross floor area as defined herein, regardless of site size.

   b) Permitted uses shall include all C-1A and C-1 uses except residences, hotels, motels, private clubs or lodges, telephone exchanges, electrical substations, animal hospitals, and kennels.

2. C-2B Community Shopping Center.

   a) The community shopping center, in addition to serving the function of a neighborhood center, may provide access to a greater variety of merchandise. Tenants within this center are similar in character, as well as drawing power, to those stores found within a neighborhood center. Tenants typically include grocery, drug, and variety stores.

b) A major tenant space shall not exceed a maximum of 60,000 square feet of gross floor area and not more than one major tenant shall be permitted, however, in lieu of this requirement there may be two major tenants permitted with a limit per tenant not to exceed a maximum of 45,000 square feet of gross floor area. No single tenant space other than those permitted above shall exceed 30,000 square feet of gross floor area. The maximum floor area shall be limited to 25% of the net site area, provided, no C-2B shopping center shall exceed 218,000 square feet of gross floor area as defined herein, regardless of site size.

c) Permitted uses include all C-2A uses and, in addition, animal hospitals and kennels, as more specifically set forth under the C-1 District permitted use provisions of this chapter.

3. C-2C Metropolitan Shopping Center.

a) The metropolitan shopping center is intended to serve a community of neighborhoods. Tenants are intended to be retail and service oriented, and may include a department store, specialty store, discount store or variety store.

b) A major tenant shall not exceed a maximum of 90,000 square feet of gross floor area and not more than two major tenants shall be permitted. No single tenant space other than those permitted above shall exceed 60,000 square feet of gross floor area. The maximum gross floor area shall be limited to 25% of the net site area, provided, no C-2C shopping center shall exceed 327,000 square feet of gross floor area as defined herein, regardless of site size.

c) Permitted uses include C-2B uses and additionally, hotels, motels, private lodges or clubs, telephone exchanges, and electrical substations.

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4. C-2D Regional Shopping Center.

a) The regional shopping center provides complete comparison shopping. The center's drawing power stems from a wide variety of retail goods and services as well as a number of large traffic generators including one or more department stores. Tenant space size is unlimited as well as the number of tenants allowed. Building coverage shall not exceed 25% of the net site area although overall site size is not limited.

b) Permitted uses include all C-2C uses.

C. Exceptions to subdistrict requirements. The Plan Commission, to enhance a degree of flexibility in shopping center development, may grant requests for exceptions to the subdistrict requirements as set forth in (B) above, however, the Commission may not waive the 25% maximum site coverage by buildings or the maximum gross floor area of enclosed space for the entire center as set forth for each subdistrict. Exceptions may only be granted after the request has been reviewed at a public hearing, which hearing may be held in conjunction with a request for development plan approval, and if the Commission finds that:

1. The intent and spirit of the requirements of this chapter as they relate to the zoning subdistrict are met; and

2. The exception is not contrary to the public interest; and
   The intent of the master plan as it relates to commercial policies is met.

D. Submission procedures and requirements.

1. The reclassification of real estate to a C-2 shopping center designation shall be processed in the same manner as any other petition for rezoning, except that the following additional data must be submitted together with the petition for rezoning.

   a) A generalized sketch plan of the site.

   b) A traffic survey of adjacent streets and highways including existing traffic counts and the anticipated additional traffic generation created as a result of the proposed development.

   c) The shopping center's expected trade area as well as existing and proposed population within this area.

2. Prior to the issuance of an improvement location permit for a C-2 shopping center, the Plan Commission shall have approved a preliminary and final development plan. The submission requirements and the procedures required to obtain the development plan approval are set forth in §151.115 and §151.116.

E. Design standards. In determining the action to be taken on a proposed development plan, the Commission shall be guided by the design standards as set forth in §151.117 and as supplemented below.

1. Parking and circulation of vehicles and pedestrians. In addition to the general use provisions of §151.020 through §151.024, the Commission shall review the following items.

a) The provision of facilities for the handicapped and parking for bicycles.

b) Pedestrian circulation to the center from adjacent properties as well as internal pedestrian circulation.

c) The overall vehicle traffic pattern including public transit as well as vehicle circulation.

2. Landscaping. Intent, quantity, and distribution.

   a) Landscaping can be utilized to aid in the circulation of vehicles and pedestrians, to identify entrances and to improve the appearance of the center.

   b) A minimum of 10% of the net site area shall be landscaped. In its review of the shopping center's compliance with the landscaping requirements of this chapter, the Commission shall consider a combination of such features as grassed areas, planting areas for trees and shrubbery, natural areas, and other Commission-approved elements; landscaping in parking areas should be so designed so as not to unreasonably interfere with snow removal.

3. Sight screening. Screening shall be used as a means to separate the shopping center from adjacent land uses when deemed necessary by the Commission. The degree and type of screening necessary to separate adjacent real estate will be based on the intensity and nature of surrounding land uses. In its review of a sight screening proposal the Commission will consider the following.

   a) Setback from adjacent right-of-way or real estate.

   b) Surrounding zoning and land use.

   c) Compatibility of proposed parking with surrounding area.

   d) Sight lines from surrounding area.

   e) Extent and effectiveness of landscaping with the parking area.

   If the Commission determines that earth berming is the most appropriate means of screening adjacent real estate, the Commission may consider the berming as meeting a portion of the landscaping requirements set forth in (E) (2). In determining the amount of earth berming to be considered as landscaping, the Commission will use as a guide the degree and type of berming proposed, as well as its

effectiveness in meeting the landscaping intent.

4. Traffic. A proposed shopping center development plan must provide facilities to minimize conflicts between the traffic generation resulting from the shopping center and traffic on existing or proposed streets and highways. Methods to improve traffic flow which may be required include, but are not limited to the following.

   a) Road or street widening.

   b) Acceleration and deceleration lanes.

   c) Traffic-control devices and lanes.

   d) Curbed ingress and egress lanes extending from the right-of-way into the site with the length of such lanes being a proportion to the proposed traffic generation but not less than 50 feet.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.100 C-4 ROADSIDE COMMERCIAL DISTRICT

A. Purpose. The Roadside Commercial District is established to accommodate those retail outlets, commercial-amusement enterprises, and service oriented uses which serve the needs of motorists or must, by necessity, be located adjacent to the streets and highways of the city.

B. Permitted uses.

1. Drive-in establishments, including but not limited to the following:

   a) Agricultural implement sales, heavy garden equipment sales.
   b) Archery, golf or similar range.
   c) Auction hall.
   d) Restaurant.
   e) Drive-in theater.
   f) Fruit or vegetable stand.
   g) Ice vending station.
   h) Pottery or souvenir stand.
   i) Refreshment stand.
   j) Service station.
   k) Drive-in bank.

2. Amusement enterprise, including but not limited to the following.

   a) Amusement park, skating rink, swimming pool.
   b) Miniature golf, miniature railroad.
   c) Race track, riding academy, pony ride.

3. Other sales and services, including but not limited to the following.

   a) Animal hospital and kennel utilizing enclosed or outside animal runs.
   b) Automotive repair garage, auto or mobile home sales, automatic laundry, auto body shop, bicycle or motorcycle shop.
   c) Bottled gas service.
   d) Trailer or mobile home court subject to the provisions of F, 'MH' District, Section VI of Allen County Ordinance No. 8-1960.
   e) Motel or tourist court.
   f) Wholesale florist, greenhouse.
   g) Light equipment rental.
   h) Live bait stand.
   i) Boat sales.

4. Accessory uses.

5. (5) Miscellaneous uses, including but not limited to the following.

a) Business or trade school.
b) Bus or rail passenger service.
c) Repair or service, cabinet or carpenter shop.
d) Exterminating shop.
e) Glass cutting or glazing, sign painting shop.
f) Laundry or cleaning plant.
g) Plumbing, heating, air-conditioning or electrical service shop.
h) Sheet metal shop, welding shop.
i) Upholstery shop, window blind sales or repair.
j) Rescue or revival mission.
k) Accessory uses.
l) New building materials sales and light custom assembly thereof.
m) Bulk storage of petroleum products for local distribution, as distinguished from a petroleum products terminal for extensive storage and regional purposes provided that all storage be underground.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.101 C-P PLANNED BUSINESS DISTRICT

A. Purpose. The Business Districts C-1A, C-1, and C-4 shall have a corresponding district to be known as a Planned Business District. A Planned Business District shall provide for and encourage the grouping of businesses into centers and complexes incorporating modern concepts of service and design.

B. Permitted uses and corresponding district.

Regular Business District	**Corresponding Planned District**
C-1A	C-1A (P)
C-1	C-1 (P)
C-4	C-4 (P)

All uses permitted in the regular business districts shall be permitted in the corresponding planned business districts, however, within the C-1A (P) zoning district, general office facilities will be permitted in addition to those specifically permitted in the C-1A District.

C. Submission procedures and requirements.

1. Prior to the issuance of an improved location permit in a planned business district, the Plan Commission shall have approved a preliminary and final development plan for the total site. The submissions and procedures required to obtain the development plan approval are set forth in §151.115 and §151.116.

2. The Commission, during its review process, will consider the following items.

   a) Jointly used parking facilities will be encouraged by the Commission, thereby reducing the number of individual entrances and exits to thoroughfares.

   b) The applicant shall submit a set of sign standards to be reviewed by the Commission. The standards will be approved as part of the final development plan and joint use of signs will be encouraged where deemed necessary by the Commission.

D. Design standards. In determining the action to be taken on a proposed development plan, the Commission shall be guided by the design standards and policies established in §151.117 and supplemented below.

1. The height and bulk of buildings, parking and loading requirements, and yard requirements shall be equal to those in the regular districts unless

specifically waived by the Commission at the time of development plan approval. In the event the Commission waives any of the aforementioned requirements, they must find that the general intent, spirit, and purpose of the requirements are met.

2. The Commission shall require 10% of the net site area to be landscaped. Landscaping elements include but are not limited to planting beds, islands, embankments, and other aesthetic areas.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.102 I-1 LIGHT INDUSTRIAL DISTRICT

A. Purpose. The Light Industrial District is intended to provide areas for light industrial and manufacturing uses without creating unacceptable adverse effects on the surrounding land uses.

B. Permitted uses.

1. All uses permitted in the C-1 and C-4 Districts.

2. Offices, professional and general.

3. A dwelling as a caretaker's quarters.

4. Other commercial and light industrial uses including but not limited to the following.

a) Bottling works, but excluding breweries and distilleries.
b) Building material sales yard, excluding concrete mixing.
c) Chick hatchery.
d) Road or building contractor's equipment storage building, or yard.
e) Sales and rentals of road or building contractor's equipment.
f) Public utility service yard.
g) Electrical switching or transforming station.
h) Draying, freighting, or trucking yard or terminal.
i) Feed or grain storage, liquid fertilizer storage.
j) Fuel yard, including bulk storage or petroleum products for local distribution, as distinguished from a petroleum products terminal for extensive storage and regional distribution purposes.
k) Ice manufacture or cold storage.
l) Experimental or testing laboratory.
m) Printing plant.
n) Poultry dressing.
o) Warehousing, wholesale, merchandise.
p) Storage, excluding auto wrecking, junk, or scrap materials.
q) Wholesale food market.
r) Spur railroad tracks.

5. Sexually oriented businesses (see §151.106).

C. Any use permitted in the I-2 District, provided that the use including all accessory and incidental use does not occupy an area in excess of 25,000 square feet gross floor area, and also provided that the emission of smoke, particulate matter, or noxious or toxic gases shall confirm to the standards and regulations of state and federal agencies.

D. Accessory use.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80; Am. Ord. Z-09-19, passed 1-12-10)

§151.103 I-2 GENERAL INDUSTRIAL DISTRICT

The General Industrial District is established to provide areas in which fabricating, manufacturing, and processing industries are the principal uses of the land. Moderate performance standards are established to prevent incompatibility and unacceptable conflict with adjacent land uses. Permitted uses are as follows.

A. All uses permitted in the I-1 District.

B. Fabricating, Manufacturing, and processing industries, provided the same conform to the following requirements.

1. Enclosed buildings. All operations are conducted within enclosed buildings and all materials and products are stored within enclosed buildings or effectively screened by a wall or screen not less than six feet high.

2. Minimum distance. The minimum distance between any boundary line of an A or R District and:

   a) A building or structure is 50 feet.

   b) A parking area used by passenger vehicles is 15 feet.

   c) A driveway, parking area, or loading dock used by trucks, tractors, semi-trailers, or trailers is 150 feet.

3. The emission of smoke, particulate matter, or noxious i or toxic gases shall conform to the standards and regulations of f state and federal agencies, as well as other requirements imposed by law.

4. All walks, driveways, and parking areas are dustproofed.

5. No dust of any kind produced by the industrial operations is permitted to escape beyond the confines of the building in which it is produced.

6. No noxious odor of any kind is permitted to extend beyond the lot lines. Tanneries, abattoirs, glue factories, oil refineries, soap factories, artificial gas manufacture, rubber manufacture, fertilizer manufacture, and similar industries shall present detailed plans for elimination of noxious odors before a permit will be granted.

7. No glare may be seen from any street or any A, RS, or C District.

C. Research and development activities outside of enclosed buildings.

D. Sexually oriented businesses (see §151.106).

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80; Am. Ord. Z-09-19, passed 1-12-10)

§151.104 I-3 HEAVY INDUSTRIAL DISTRICT

A. Purpose. The Heavy Industrial District is intended to provide suitable areas for intense industrial operations, including open land operations.

B. Permitted uses.

1. All uses permitted in the I-2 District excepting general and professional office unless utilized as an incidental use to those permitted uses within the District.

2. Fabricating, manufacturing, processing, extraction, heavy repair, dismantling, industries, and storage, including open land operations, provided that the emission of smoke, particulate matter, or noxious or toxic gases shall conform to the standards and regulations of state and federal agencies. Under no circumstances is a sanitary landfill, building demolition disposal site, incinerator, or transfer disposal station a permitted use in an I-3 District unless authorized as a special exception.

3. Motor vehicle salvage yard and unlicensed vehicle storage yard if operated in compliance with the following provisions.

a) There shall be no measurable vibration beyond the property line of the tract of real estate on which the operation of a motor vehicle salvage yard is conducted.

b) Motor vehicle salvage yards and unlicensed vehicle storage yards must be confined to a clearly defined area which shall have a site screening fence or fence and plantings, with the fence not less than seven feet in height along all public highways and roads, and being set back 25 feet more than the I-3 front yard requirements as defined in §151.002 and set forth in §151.130 through §151.136.

c) It shall be unlawful for an owner, manager, or employee of a motor vehicle salvage yard to set fire to, or cause to be burned, any pile or accumulation of materials whatsoever, which, because of the highly combustible nature of the materials, or because of the size or quality of the pile of accumulation, or because of the location of the pile or accumulation in the yard, endangers the life or property of any other person.

d) Each motor vehicle salvage yard shall maintain in good working order such fire extinguishers as required by public authority together with at least one fire extinguisher of a type designed for extinguishing fires fed by petroleum products within 200 feet of any point where motor

vehicles or parts thereof are being burned.

e) All roadways in and about motor vehicle salvage yards or unlicensed motor vehicle storage yards upon which move or are moved motor vehicles or parts thereof or equipment used in salvage operations shall be so treated or surfaced that excessive quantities of dust injurious to the health or physical comfort of neighboring property owners are not created.

f) An owner, manager, or employee of a motor vehicle salvage yard or an unlicensed motor vehicle storage yard shall not place motor vehicles or parts thereof within ten feet of an adjoining property nor closer to the front yard requirement than ten feet from the interior side of the site screening fence or fence and plantings.

g) It shall be unlawful for any owner, manager, or employee of a motor vehicle salvage yard to cause to be carried on any wrecking, dismantling, cutting, burning, or breaking of motor vehicles or parts thereof closer to the front yard requirements that ten feet from the interior side of the site screening fence or fence and plantings.

h) It shall be unlawful for any owner, manager, or employee of a motor vehicle salvage yard to cause to be carried on any wrecking, dismantling, cutting, burning, or breaking of motor vehicles or parts thereof within 150 feet of residential buildings on adjoining lands, including, but not limited to, homes, farmhouses, apartment houses, hotels and motels being used. However, this provision shall not apply with respect to any person who begins such a use within 150 feet of a motor vehicle salvage yard which is then in existence.

4. Sexually oriented businesses (see §151.106).

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80; Am. Ord. Z-09-19, passed 1-12-10)

§151.105 I-P PLANNED INDUSTRIAL DISTRICTS

A. Purpose. Each of the following industrial districts (I-1, I-2, I-3) shall have a separate and corresponding district known as a planned industrial district. The intent of this district is to provide a means for industrial land uses, regardless of overall size or acreage, to develop in accordance with a set plan and in consideration of the surroundings, especially within transitional areas.

B. Permitted uses and corresponding districts.

Regular Industrial District	**Corresponding Planned District**
I-1	I-1 (P)
I-2	I-2 (P)
I-3	I-3 (P)

The uses permitted in each planned district shall be the same as those permitted within the corresponding districts.

C. Submission requirements and procedures.

1. Prior to the issuance of an improvement location permit in a planned industrial district the Plan Commission shall have approved a preliminary and final development plan for the total site. The submissions and procedures required to obtain the development plan approval are set forth in §151.115 and §151.116.

2. The Commission, during its review process, will consider the following items.

   a) Jointly used parking facilities will be encouraged by the Commission, thereby reducing the number of individual entrances and exits to thoroughfares.

   b) The applicant shall submit a set of sign standards to be reviewed by the Commission. The standards will be approved as part of the final development plan and joint use of signs will be encouraged where deemed necessary by the Commission.

D. Design standards. In determining the action to be taken on a proposed development plan, the Commission shall be guided by the design standards and policies established in §151.117 and supplemented by the following. The height and bulk of buildings, parking and loading requirements, and yard requirements will be equal to those in the regular districts unless specifically waived by the Commission at the time of development plan approval. In the event the Commission waives any of the aforementioned requirements, they

must find that the general intent, spirit, and purpose of the requirements are met.

E. Performance standards. In determining the action to be taken on a proposed development plan, the Commission may set standards relating to smoke, dust, noise, vibrations, toxic or noxious matters, odorous matters, fire and explosive hazards, and heat and glare for industrial uses within the I-P approved development plan

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.106 SEXUALLY ORIENTED BUSINESSES

A. Purpose. It is a purpose of this Chapter to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene material.

B. Findings and Rationale. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Common Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.,* 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); and

Plaza Group Properties, LLC v. Spencer County Plan Commission, 877 N.E.2d 877 (Ind. Ct. App. 2007); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Andy's Restaurant & Lounge, Inc. v. City of Gary*, 466 F.3d 550 (7th Cir. 2006); *Schultz v. City of Cumberland*, 26 F. Supp. 2d 1128 (W.D. Wisc. 1998), *aff'd in part, rev'd in part*, 228 F.3d 831 (7th Cir. 2000); *Blue Canary Corp. v. City of Milwaukee*, 270 F.3d 1156 (7th Cir. 2001); *Matney v. County of Kenosha*, 86 F.3d 692 (7th Cir. 1996); *Berg v. Health & Hospital Corp.*, 865 F.2d 797 (7th Cir. 1989); *DiMa Corp. v. Town of Hallie*, 185 F.3d 823 (7th Cir. 1999); *Graff v. City of Chicago*, 9 F.3d 1309 (7th Cir. 1993); *North Avenue Novelties, Inc. v. City of Chicago*, 88 F.3d 441 (7th Cir. 1996); *Chulchian v. City of Indianapolis*, 633 F.2d 27 (7th Cir. 1980); *Bigg Wolf Discount Video v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *County of Cook v. Renaissance Arcade and Bookstore*, 122 Ill. 2d 123 (1988) (including cases cited therein); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *LLEH, Inc. v. Wichita County*, 289 F.3d 358 (5th Cir. 2002); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Richland Bookmart, Inc. v. Knox County*, 555 F.3d 512 (6th Cir. 2009); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of*

Spokane, 75 F.3d 663 (9th Cir. 1996); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *For the People Theatres of N.Y., Inc. v. City of New York*, 793 N.Y.S.2d 356 (N.Y. App. Div. 2005); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005);

and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Ft. Worth, Texas – 2004; Kennedale, Texas – 2005; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; Jackson County, Missouri – 2008; Louisville, Kentucky – 2004; New York, New York Times Square - 1994; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota),

the Common Council finds:

1. Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.

2. Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.

3. Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City's rationale for this Chapter, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the City's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the City. The City finds that the cases and documentation relied on in this Chapter are reasonably believed to be relevant to said secondary effects.

The City hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects.

C. Location Regulations.

1. It shall be unlawful to establish, operate, or cause to be operated a sexually oriented business in New Haven, unless said sexually oriented business is at least:

   a) 500 feet from any parcel occupied by another sexually oriented business or by a business licensed by the State of Indiana to sell alcohol at the premises; and

   b) 500 feet from any parcel occupied by a house of worship, public or private elementary or secondary school, public park, or any parcel zoned for residential use (RS-1, RS-2, RS-3, RS-P, M-H).

2. For the purpose of this subsection (C), measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of any structure, including signs and roof overhangs, used in conjunction with the sexually oriented business to the closest point on a property boundary or right-of-way associated with any of the land use(s) identified in subsection (1) above.

3. Notwithstanding anything to the contrary in the New Haven Ordinances, a nonconforming sexually oriented business, lawfully existing in all respects under law prior to the effective date of this section, may continue to operate for two (2) years following that date in order to make a reasonable recoupment of its investment in its current location. At the conclusion of said two (2) years, the use will no longer be recognized as a lawful nonconforming use, provided that a nonconforming sexually oriented business may apply for one or more six-month extensions of the original two-year period upon a showing of financial hardship. An application for an initial extension based upon financial hardship ("hardship exception") shall be made at least sixty (60) days before the conclusion of the aforementioned two-year (2-yr.) period. If a hardship extension is granted, subsequent applications for hardship extensions shall be made at least sixty (60) days before the conclusion of the non-conforming sexually oriented business's current extension period.

4. Procedure for seeking hardship extension. An application for a hardship extension shall be filed in writing with the City Clerk Treasurer, and shall include evidence of purchase and improvement costs, income earned and lost, depreciation, and costs of relocation. Within ten (10) days after

receiving the application, the City Clerk Treasurer shall schedule a public hearing on the application before the Hearing Officer, which public hearing shall be conducted within thirty (30) days after the City Clerk Treasurer's receipt of the application. Notice of the time and place of such public hearing shall be published at least ten (10) days before the hearing in a newspaper of general circulation published within the City, and shall contain the particular location for which the hardship extension is requested.

The Hearing Officer shall issue a written decision within ten (10) days after the public hearing on the application for a hardship extension. The hardship extension shall be granted upon a showing that the nonconforming sexually oriented business is unable to recoup its investments, made prior to the effective date of this section, in its current location unless the hardship extension is granted. For purposes of this section, "Hearing Officer" means an attorney, not otherwise employed by the City, who is licensed to practice law in Indiana, and retained to serve as an independent tribunal to conduct hearings under this section.

(Ord. Z-09-19, passed 1-12-10)

DEVELOPMENT PLANS

§151.115 PROCEDURES

A. Prior to the issuance of an improvement location permit for any use in a district wherein a development plan is required, the Plan Commission shall have approved a development plan in accordance with this chapter and the comprehensive plan. A preliminary and final development plan may be scheduled for the same public hearing. However, all submission requirements for each respective plan must be met. A petition for rezoning of a parcel of real estate and a preliminary development plan for the same real estate may be reviewed at the same public hearing, however, a final development plan requires a separate public hearing.

B. Application.

1. The application, submitted on Plan Commission forms, shall be for preliminary approval of an entire tract or a final approval for all or a portion of a site previously approved in preliminary form.

2. The application shall be accompanied by the following.

a) A tracing or reproducible copy of the development plan.

b) (Fifteen copies of the development plan and legal description.

c) Other detailed data required in §151.116.

C. Establishment of hearing data. On timely receipt of all items necessary for application for development plan approval, the Commission, whenever possible, shall schedule same for the next regularly scheduled monthly public hearing for which the applicant has met the predetermined filing deadline.

D. Notification of public hearing.

1. Legal notice of the public hearing on the development plan shall conform to IC 18-7-5-39.

2. The Commission may also notify, in writing, the applicant and persons having probable interest of the date, time, and place of the public hearing on the development plan.

3. Notice of the date, place, and time of the public hearing, as well as a copy of the development plan, shall be sent to public agencies having probable interest in the plan. It is the intent that these agencies' comments be

received, in writing, by the Commission at least five days prior to the public hearing.

E. Public hearing and Commission action.

1. The Commission will conduct a public hearing on the development plan and within a reasonable period of time thereafter take action as follows.

   a) If it shall find that the plan meets the requirements of this chapter, it may approve same as the preliminary or final development plan.

   b) If it shall find that, on the plan being amended, altered, and changed as specified by the Plan Commission it r will meet the requirements of this chapter, it shall so notify the applicant. Thereupon, the applicant shall prepare and fine with the Commission a revised development plan or supporting data incorporation the specifications within 90 days of the notification. When extenuating circumstances prevail, the applicant may request an additional 90 days.

   c) If it shall find that the plan does not comply with the requirements of this chapter and is not susceptible to alteration, change, or amendment to meet the requirements, or if the applicant fails to file a revised development plan in compliance with the specifications as set forth within 90 days of Commission notification, the Commission shall disapprove the development plan.

2. A preliminary development plan is valid for one year from the date of the Commission approval.

3. In the event a final development plan for any portion of the subject real estate *is* not submitted for final approval within one year of preliminary development plan approval, the preliminary development plan shall be considered null and void.

F. Notification of Commission action.

1. After the Commission takes final action on a development plan, it shall notify the applicant, attorneys of record, and the remonstrators of record, who have filed, in writing, their names and mailing addresses with the Commission of the action of the Commission.

2. In the event a petition of remonstrance is filed with the Commission on a development plan, the Commission need notify only the first three names appearing thereon.

G. Issuance of permits.

1. Only after a final development plan has been approved as set forth hereby, shall an improvement location permit for construction be issued by the Zoning Administrator.

2. Prior to the issuance of an improvement location permit, the applicant shall have duly recorded in the office of the Allen County Recorder utility easements, rights-of-way, plats, deed restrictions, or any other legal instruments required by the Commission and in the form approved by the Commission.

H. Amendments to approved development plan. In the event a developer desires to change an approved development plan and when, in the opinion of the Plan Commission or its designated representative, the change is substantial, the change may be made only after approval by the Plan Commission and after a public hearing thereon. The Commission may waive any procedural or submission requirements it deems necessary when reviewing a change to an approved development plan.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.116 SUBMISSION REQUIREMENTS

Preliminary or final development plans shall be submitted and accompanied by an application on a form prescribed by the Plan Commission, complete with the signature of 100% of the owners of record of the tract involved and shall have been prepared in accordance with the provisions of this chapter as well as the recommendations of the pre-application discussion. After approval of the preliminary development plan is granted by the Commission, any amendments thereto made prior to the final development plan approval by the Commission shall be shown on a form prescribed by the Commission and shall contain the signature of the original developers (or successors to the original developers) and need not contain signatures of all real property owners within the development. After final development plan approval is granted by the Commission, then any further amendments thereto shall be shown on a form prescribed by the Commission and shall contain the signatures of all owners of record (as shown in the office of the Recorder of Allen County, Indiana) of the real estate contained in the development.

A. Supporting data required for preliminary development plan submissions.

1. A development schedule indicating the approximate date when the construction of the development, or stages of the development, can be expected to begin and be completed.

2. Quantitative data for the following.

a) Number and type of structures, parcel size, proposed lot coverage of buildings and structures.

b) Gross residential densities, types of dwelling units, and net density per type of dwelling unit when mixed use, where applicable.

3. Statements identifying the intended means of assuring permanency, continuance and maintenance of all open-recreation spaces to be dedicated for use by residents of the development or the general public, where applicable.

4. Proposed restrictive covenants.

B. Site plan and supporting maps required for preliminary development plan submissions.

1. Date, scale, (graphic and written), north point, name and address of designer and engineer, name and address of the developer, and proposed name of the development.

2. A generalized legal description of the total site as , well as dimensions of the boundaries of the tract, including generalized bearings and distances, measured from a section corner.

3. The existing site conditions including contours (at a predetermined interval), water courses and drainageways, flood plain elevations, wooded area, soil types (including interpretations of character), and other unique natural features.

4. The location, minimum size, and configuration of areas to be conveyed, dedicated, or otherwise reserved as common open spaces, parks, recreational areas, school sites, and similar public and semi-public uses, where applicable.

5. The existing and proposed vehicular circulation system, including right-of-way widths and driving surface widths of streets, off-street parking areas, service areas, loading areas, street names, intersection radii, street dedications, and points of access to public rights-of-ways, where applicable.

6. The existing and proposed pedestrian circulation system, including links with the public transit system and nearby land uses where applicable.

7. Proposed lot or tract lines, lot numbers, lot dimensions, easements, and building lines. Those areas to be subdivided pursuant to the terms of Chapter 150 shall conform to same and be clearly delineated on the development plan.

8. The proposed treatment of the perimeter of the site, including materials and techniques to be used such as screens, fences, walls, and landscaping.

C. The above information must be submitted for all of the site included in the application. Applications can be reviewed only for those areas for which all required submission data has been presented.

D. Supporting data required for final development plan submission.

1. Legal description.

2. Restrictive covenants including provision for open space maintenance, when applicable.

3. Traverse closure.

4. Construction performance schedule and accompanying development plan indicating delineations of specific areas. Those areas required to have open space shall include the time of the development of recreational or other facilities within the open space. The development plan shall also indicate the location of any construction access roads and their relationship to the staging of development.

5. Letters of comment from the following.

   a) Allen County Surveyor's Office.

   b) City Engineer and the Allen County Highway Department, if the project is beyond the corporate limits.

   c) The city or other public agencies having approval over the waste water disposal system and fresh water supply system.

6. Letters from the utilities serving the area with the waste water disposal or fresh water supplies, setting forth their ability to serve the development.

7. Additional information as required by the Commission.

E. Site plans and supporting maps required for final development plan submission. The final development plan shall be submitted to the Commission in the form of an original mylar or similar material drawn in ink and shall be a complete and accurate layout of the project and shall contain all additions, corrections, and deletions required by the Commission, as well as the following information.

1. Date, scale (graphic and written), north point, name and address of the designer and engineer, name, and address of the developer of the tract, name of development.

2. Dimensions of the boundaries of the tract including bearings and distances and the exact location of all existing and recorded streets intersecting the boundary of the tract.

3. Section or reserve lines or other legal points of reference and distance to same.

4. Building lines, lot lines, easement locations and dimensions.

5. Lot numbers and individual addresses for each lot.

6. Streets-plans, profiles, cross-sections and names, location, and geometrics for entrance onto public rights-of-way, including acceleration-

deceleration and passing lanes, dedication documents when applicable.

7. Pedestrian walkways - plans and cross-sections.

8. Easements such as pedestrian, utility, drainage, and the like.

9. Sanitary, storm sewer and water lines - plans and profiles, water line plans; storm drainage plans.

10. Parking area - plans, cross-sections, and landscaping details.

11. The length of all arcs and radii, central angles, internal angles, points of curvature and tangency, the length of all tangents, intersection radii and rights-of-way widths.

12. Lighting plan including areas to be lighted, the type of fixtures to be used, and the lighting intensity level for all areas to be lighted, when required.

13. Landscape plans including the location of all landscape materials and elements. This requirement is waived in those areas used for single-family residential purposes.

14. Other data which may be required by the Plan Commission.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.117 DESIGN STANDARDS

The following minimum design standards shall apply to all size improvements on real estate for which a development plan is required. Individual zoning districts may also supplement the following standards with more detailed standards pertinent to individual districts.

A. Environmental design.

1. It is the intention of the Plan Commission to encourage preservation of natural site amenities and to minimize disturbance to the natural environment.

2. Existing trees and other natural features shall be preserved whenever possible. The location of these features must be considered when planning common open space, location of buildings, underground services, walks, paved areas, and finished grade levels. The Commission may inquire into the means whereby natural features will be protected during construction.

B. Building separation. In reviewing the location of all structures within the development plan boundaries, the Commission shall determine that the structures are located to allow adequate light, air, ease of entry, and access by emergency vehicles. For those districts without specified yard requirements the Commission shall be guided by the following.

1. That the open areas provided around the building be sufficient to provide the occupants of the structure with adequate light and air from all outside walls which contain windows or doors.

2. That sufficient space is provided for access and entry to buildings from all streets, parking lots, and other buildings.

3. That in the event lots for one-family or two-family dwellings are to be sold prior to construction and the applicant cannot indicate structures on the development plan, the structures shall be subject to the yard provisions of §151.131 for the RS-l District or other Commission-approved minimums, unless specifically waived.

C. Vehicular circulation facilities.

1. In determining the number of driveway entrances, widths of pavement and driveways and the width and length of acceleration, deceleration and passing lanes, the Commission will consult standards as set forth in the "Access Standards Manual for Fort

Wayne, New Haven and Allen County."

2. All right-of-way widths and street improvements must meet the requirements of Chapter 150 as now or hereafter amended. However, those requirements may be waived on approval of the City Engineer and the Commission. All streets shall be surfaced to meet city street specifications governed by street classification.

D. Pedestrian circulation facilities. Pedestrian walkways shall be constructed in a location and to specifications approved by the Commission. The walkways shall provide for pedestrian circulation throughout the development and shall be separated from vehicular traffic. Where distance separation cannot be achieved, physical separation may be required in cases in which the Commission deems necessary. All required pedestrian facilities shall be designed and installed to comply with the Americans with Disabilities Act, and with all rules and regulations promulgated thereunder, including but not limited to the Public Right of Way Accessibility Guidelines, in effect at the time of the design and installation, as may be amended from time to time.

E. Sanitary sewage disposal and water supply systems. All water supply and sanitary sewage disposal systems, from private to public in nature, shall be subject to compliance with local, and where appropriate, State Board of Health requirements. Plans must be submitted to and approved by the responsible agencies.

F. Recreation space.

1. The specific requirements for the amount and type of recreation space are contained in those parts of this chapter dealing with specific zoning district requirements. The following standards are to be utilized in the evaluation of all required recreation space in a Commission-approved development plan.

a) Commission-approved recreation space shall be provided in all RS-P, RS-3, and MH districts. The purpose of providing the space shall be to meet the immediate and future recreational needs of the development's residents in a neighborhood setting. Recreation space may be provided in a centrally locates site, in distinctly separated sites, as connecting links between separated activity areas, or adjacent to other existing or proposed recreation spaces. The Commission shall determine if the proposed recreation space is suitable for the intended use. This requirement may be waived when, in the opinion of the Commission, the applicant has satisfactorily demonstrated that he has provided alternative methods for meeting the recreational needs of his development's residents or the resulting open space is less than 10,000

square feet.

b) All developments with recreation space must contain acceptable covenants which, in the opinion of the Commission, insure adequate maintenance of those recreation spaces, when applicable. If the developer proposes to convey the ownership of the recreation space to the Park and Recreation Board, the Commission must be in receipt of written documentation from the park and Recreation Board, acknowledging its agreement to accept ownership and maintenance of same.

2. The term recreation space shall be interpreted to mean void of non-recreational structures, street rights-of-way, open parking areas and driveways for dwellings.

3. Space intended for limited recreational or other uses, such as a golf course, to which all residents of the development may not be permitted free access because of the payment of a fee or a charge, shall have a maximum of three-fourths of the space utilized in meeting the recreation space requirements of the total development.

G. Paving. All access drives and off-street parking facilities shall either be paved with concrete or with other approved surfacing material to adequately provide a durable and dust-free surface.

H. Parking standards.

1. Parking areas may be required to be arranged so as to prevent through traffic to other parking areas.

2. Parking areas shall be screened from adjacent non- related structures, roads, and traffic arteries with plantings, earth berms, walls, or changes in grade, when deemed necessary by the Commission.

3. All parking areas shall be marked so as to provide for orderly and safe parking, storage, and movement.

4. When it is in the interest of safety and better vehicle and pedestrian circulation, the Plan Commission may require the use of landscape elements to provide physical separation of use areas.

5. All parking areas shall be adequately lighted. All such lighting shall be so arranged as to direct light away from adjoining residential real estate.

6. All parking areas and off-street loading areas shall be graded and drained to remove all surface water without erosion and flooding.

I. Street lighting. Street lighting shall be provided in all residential developments. Alternative street lighting proposals will be considered by the Commission if found to be appropriate in scale and intensity. Where pedestrian facilities are separated from streets to the extent that they are not adequately lighted from the street light facilities, separate lighting facilities shall be provided on the pedestrian facilities.

J. Flood plain management. In addition to flood plain management provisions found elsewhere in this chapter the Plan Commission shall review each development plan to insure that:

1. All such proposed developments are consistent with the need to minimize flood damage.

2. Adequate drainage is provided so as to reduce exposure to flood hazard.

3. Adequate drainage is provided so as not to increase the exposure of flood hazard to adjacent lands.

4. All public utilities and facilities are located and constructed so as to minimize and eliminate flood damage. These facilities and utilities include but are not limited to sewer, gas, electric and water systems.

(Ord. 698, passed 7-11-62; Am. Ord. G-30-80, passed 12-9-80; Am. Ord. G-13-83, passed 7-12-83, Ord. Z-13-16, passed 11-12-13)

HEIGHT AND AREA REQUIREMENTS

§151.125 HEIGHT LIMITS

A. Except as herein provided, no building or structure shall be erected, altered, enlarged or reconstructed to exceed the height limit established for the district wherein the building or structure is located, as follows.

District	Maximum Height
A-1, A-2, A-3, A-E	
C-1A, C-l, C-2, C-4	35 feet
RS-l, RS-2	25 feet
RS-3, MH	50 feet
I-1, I-2, I-3, I-4	75 feet
C-P, I-P	Maximum height as shown on the Commission-approved development plan.

B. Exceptions to Height Limitations

1. In the districts limiting height not to exceed 25 feet, any permitted structure may be increased in height not to exceed 35 feet, provided the required side yards are increased an additional foot for each three feet the structure exceeds 25 feet.

2. On through lots 150 feet or less in depth, the height of a building may be measured from the adjoining curb level on either street.

3. On through lots more than 150 feet in depth, the height regulations and basis of height measurements for the street permitting the greater height, shall apply to a depth of not more than 150 feet from the street.

4. Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, electrical transmission and communication, poles and towers, theater screens, steeples, roof signs, flagpoles, chimneys, smokestacks, water tanks, grain elevators, silos, gas containers, industrial installation requiring a vertical production procedure such as flour mills, steel mills and refineries, or

similar structures may be erected above the height limits herein prescribed, but no such structures or any place above the height limit shall be allowed for the purpose of providing additional floor space for residential, business, or industrial use.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80; Am Ord. Z-95-4, passed 5-9-95) (1/4/94 Ed.)

§151.126 LOT AREA-REQUIREMENTS

A. Except as hereinafter provided, no residential building or structure shall be erected unless the building or structure conforms and no building or structure shall be altered, enlarged, or reconstructed unless the alteration, enlargement, or construction conforms with the area requirements of the district in which it is located as follows.

District	Minimum Width at the Front Building Line	Minimum Net Lot Area (Sq. Ft.)	Required Lot Area For Each Dwelling No. of Dwellings and Sq. Ft. Per Dwelling Unit
A-1 if served by a private well and disposal system, or any combination of one private system with one approved public facility.	120 feet	20,000	1 dwelling-20,000 2 dwellings-15,000
A-1 if served by approved public sewer and water systems	75 feet	12,000	1 dwelling-12,000 2 dwellings-9,000
RS-1 and RS-2 if served by private well and disposal system, or approved public water and public water and private disposal system	100 feet	20,000	1 dwelling-20,000 2 dwellings-15,000
RS-l and RS-2 if served by approved public water and sewer systems, or private well and approved public sewer	75 feet	12,000	1 dwelling-12,000 2 dwellings-9,000
RS-l and RS-2 if served by approved public water and sewer systems, in addition to meeting requirements set forth in §150.51	60 feet	7,500	1 dwelling-7,500 2 dwellings-5,000

District	Minimum Width at the Front Building Line	Minimum Net Lot Area (Sq. Ft.)	Required Lot Area For Each Dwelling No. of Dwellings and Sq. Ft. Per Dwelling Unit
RS-3 if served by a private well and disposal systems, or approved public water and private disposal systems.	100 feet	20,000	1 dwelling-20,000 2 dwellings-15,000 3 dwellings-12,000 4 dwellings-10,000 5 or more dwelling units in one development shall comply with the requirements set forth in §151.096 (D).
RS-3 if served by approved public water and sewer systems.	75 feet	12,000	1 dwelling-12,000 2 dwellings-9,000 3 dwellings-7,000 4 dwellings-6,000 5 or more dwelling units in one development shall comply with the requirements set forth in §151.096 (D).
RS-3 if served by approved public water and sewer systems in addition to meeting the requirements set forth in §150.51.	60 feet	7,500	1 dwelling-7,500 2 dwellings-5,000 3 dwellings-4,000 4 dwellings-3,500
C-1, C-1A, MH	For single-family and two-family dwellings, the specifications are the same as those of the nearest A-1, RS-1, RS-2 and RS-3 district as determined by measuring from the center of the parcel to be developed.		
RS-P, C-P, I-P	The Commission establishes minimum lot requirements at the time of the approval of the RS-P development plan.		

B. Lots established by a legally recorded plat or deed prior to the adoption of Ordinance 698 which have less than the minimum area or width requirements established by this subchapter, may nevertheless be used for any use permitted within the district in which the lot is located. In addition, lots established by a recorded plat or deed subsequent to §l50.51 and which met the requirements of that section, but as a result of amendments thereto can no longer meet the minimum area or width requirements, may nevertheless be used for any use permitted within the district in which the lot is located.

C. In areas unserved by public or other approved community water or sewage facilities the minimum lot areas required by these regulations shall be increased to include any additional area deemed necessary by the State or County Boards of Health to insure safe water supply or adequate sewage disposal.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.127 NUMBER OF DWELLINGS ON A LOT

Every dwelling hereinafter erected shall be located on a lot as herein defined and, there shall be not more than one main building on one lot. Exceptions to the aforementioned requirement include the following.

A. Multiple-family dwellings in an RS-3 or RS-P District.

B. One mobile home on a parcel of land together with a conventional dwelling unit, provided that the mobile home is permitted by the zoning classification or by special exception and all other requirements of this chapter are met.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.128 FRONT YARDS

Except as hereinafter provided, no building or structure shall be erected unless the building or structure conforms, and no building or structure shall be altered, enlarged, or reconstructed unless the alteration, enlargement, or reconstruction conforms with the yard regulations of the district in which it is located, as provided in §151.130 through §151.134. Each lot shall have a front yard with a minimum depth measured from, and parallel to the front right-of-way line, existing or proposed, whichever is greater, as established in the master plan.

A. The minimum front yard depth shall be as follows.

District	**Depth in Feet**
A-1 if served by individual well from the proposed facility	75-feet minimum front yard depth shall be required and septic system or one community existing right-of-way of all streets and highways designated as arterial or collector on the master plan, as well as those roads which follow section and half-section lines. A 40-foot minimum front yard shall be permitted on all other streets and Commission-approved easements.
A-1 if served by public or other approved community water sewer system	Equal to one-half the width of the street right-of-way as defined above. Provided, that the required of depth of these front yards shall not be less than 30 feet and need and not be more than 60 feet.
RS-1, RS-2, RS-3, and MH	
RS-1 and RS-2 if recreation space is provided according to §151.51	30 foot minimum front yard depth unless the front yard adjoins the circular portion of a cul-de-sac street in which case a 25-foot front yard depth is permitted.
C-lA, C-l, C-4, I-1, I-2 for residential uses	35
C-l, C-lA, I-1, I-2 other than residential	25
C-2, I-3	75

B. At each end of a through lot there shall be a front yard that conforms to the front yard requirements of this section. One such front yard may serve as a required rear yard to permit accessory structures.

C. Where a lot is situated between two lots each of which has an existing main building thereon, the front yards of which are less than the minimum required front yards established herein, the front yard requirement of the lot shall be the average of the front yards of the existing buildings.

D. Where a lot abuts only one lot having an existing main building thereon, the front yard of which is less than the minimum required front yard established herein, the front yard requirement of the lot shall be the average of the front yard of the existing building and the required front yard.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.129 SIDE YARDS

A. There shall be two side yards for each lot, the minimum width of each of which and the aggregate width of both of which shall be as follows.

District	**Minimum Width of One Side Yard**	**Aggregate Width of Both Yards**
A-1 if served by individual septic system and well or one public facility	15 feet	35 feet
A-1 if served by public or other approved community sewer and water system	10% of the lot width or 15 feet whichever is less.	25% of the lot width or 35 feet whichever is less.
RS-1, RS-2, RS-3 without community recreation space		
MH, C-l, C-1A, C-4, I-1, I-2 when used for residential purposes on the first floor		
RS-l, RS-2 if recreation space is provided according to §150.5	7 feet	14 feet
C-l, C-1A, C-2, C-4, I-1, I-2, I-3, when the yard abuts an A, RS, or MH district.	25 feet or 10% of the lot width whichever is less.	Twice the "one side yard" requirements where applicable
C-l, C-1A, C-2, C-4, I-1, I-2, I-3, when the yard does not abut an A, RS, or MH district.	No requirement	No requirement

B. For the purpose of side yard regulations, dwellings with common party walls shall be considered as one building occupying one lot.

C. In the case of a corner lot, the side yard width to the side street line shall be equal to at least one-half of the front yard depth requirement for the district in which the lot is located. In no case shall the side yard width to the side street line be less than 20 feet.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.130 REAR YARDS

A. There shall be a rear yard for each lot as indicated below, and the minimum depth of the yard shall be as follows.

District	**Rear Yard Requirement**
For residential use in all districts except RS-P, without recreation space	25% of lot depth or 25 feet whichever is less
RS-1 and RS-2 if recreation space is provided according to §150.51	25% of the lot depth or 25 feet whichever is less unless there is abutting common recreation space which, in the Plan Commission's opinion, is significant-then-a 15-foot rear yard depth is permitted.
C-l, C-1A, C-2, C-4, I-1, I-2, I-3 when abutting an A, RS, or MH district, otherwise none required.	20% of lot depth, or 25 feet, whichever is less.

B. An accessory building not exceeding 20 feet in height, may occupy not more than 30% of the required rear yard area, provided that no accessory building shall be closer than three feet to the side or rear property line of the required rear yard.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.131 MULTIPLE-FAMILY HOUSING DEVELOPMENTS

The Plan Commission shall review the location of all structures within the development to assure that adequate light, air, and ease of entry is available for all structures.

A. The Commission shall be governed by the following minimum requirements for building of two stories or less.

   1. Minimum distance from front or rear of building to front or rear of adjacent buildings shall be 45 feet.

   2. Minimum distance from side of building to front or rear of adjacent building shall be 35 feet.

   3. Minimum distance from side of building to side of adjacent building shall be 25 feet.

B. All multiple-family structures within and adjacent to the boundary lines of a RS-3 Multiple-Family Residential District or less restrictive districts or adjacent to either an A or RS-l District shall meet the minimum requirements of §151.130 through §151.132 for those sides abutting the boundary, except that the maximum required side yard shall be 25 feet.

C. All multiple-family structures adjacent to a lot line abutting an RS-3, MH, C or I District shall conform with the following minimum side yard requirements. Ten percent of the proposed or actual lot width, 15 foot maximum.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.132 SWIMMING POOLS

A pool wall shall not be located any closer than six feet from a side or rear property line. Under no circumstances shall a private swimming pool be located in the required front yard.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.133 EXCEPTIONS

A. No required yard or other open space around an existing building, or which is hereafter provided around any building for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space or any lot be considered as providing a yard or open space for another lot

whereon a building is to be erected.

B. Nothing contained in this chapter shall prohibit the construction or maintenance of a fence of any height in connection with any permitted agricultural use.

C. Fences, walls, and hedges may be permitted in any yard, or along the edge of any yard. The height of fences, walls, and hedges shall not exceed eight feet in any side or rear yard. In all industrial districts a fence may be permitted up to eight feet in height along the side or front of a front yard providing it does not constitute an obstruction for motor vehicles. In all districts, except in industrial districts, no fence, wall, or hedge along the side or front of any front yard, or in front of the side building line of a corner lot shall be over 2-1/2 feet in height. However, fences that do not create a visual or physical barrier (split-rail fence) and whose purpose cannot serve any physical function other than for decoration or aesthetic appeal, may be constructed up to 3-1/2 feet in height with the front and side yards of a front yard. Fences within planned unit development (RS-P) zoning districts may be exempted from the above requirements by the Plan Commission as part of development plan approval.

D. Trees, shrubs, flowers, or plants shall be permitted in any front, side, or rear yard, provided it does not violate the corner setbacks as set forth in (C) below.

E. Walls, driveways, curbs, retaining walls, mailboxes, name plates, lamp posts, bird baths and structures of a like nature, shall be permitted in any front, side, or rear yard.

F. Private swimming pools shall be completely surrounded by a fence of not less than four feet. Above-ground swimming pools need not be fenced if their side walls are at least four feet in height, or when a fence is secured on top of the side pool walls to a minimum of four feet in height as measured from ground level. All swimming pool fences or walls shall be constructed as to have no openings larger than four inches in dimension, except for doors and gates. All doors and gates shall be self-latching and self-closing.

G. No fence, wall, hedge, planting, or other obstruction to vision in excess of 2-1/2 feet shall be erected or maintained on that part of the corner lot that is included between the lines of intersection street rights-of-way and a line intersecting them at points of 25 feet distance from the intersection of the street lines.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.134 OTHER PROJECTIONS.

A. A cornice, eave belt course, sill, canopy, or other similar architectural feature (not including bay window or other vertical projection which shall be a part of the main building) may extend or project into a required side yard not more than two inches for each one foot of width of the side yard and may extend or project into a required front or rear yard not more than 30 inches. Chimneys or fireplaces may project into a required front, side, or rear yard not more than two feet, provided the width of the side yard is not reduced to less than three feet.

B. A fire escape may extend or project into any front, side, or rear yard not more than four feet.

C. An open, unenclosed stairway or balcony, not covered by a roof or canopy may extend or project into a required rear yard not more than four feet, and the balcony may extend into a required front yard not more than 30 inches.

D. An unenclosed platform or landing which does not extend or project into any required front, side, or rear yard not more than six feet, provided that the width of a side yard is not reduced to less than three feet. An overhang, canopy, or portico may be placed over the open porch, but it shall not be enclosed.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.135 MINIMUM RESIDENTIAL BUILDING SIZE

No building or structure shall be erected, enlarged, or reconstructed for residential purposes having a ground floor area, exclusive of unenclosed porches, terraces, breezeways and garages, of less than the minimum established for the district wherein the building or structure is located, as follows.

Ground Floor Area of Building (Square Feet)		
District	**One Story**	**More Than One Story**
A-1, RS-1, RS-2, RS-3, MH, RS-P, one dwelling unit	672	480
Two dwelling units (when applicable)	960	480
Three or more units (when applicable)	480/unit	480/unit
C-1, C-1A, C-4, I-1, I-2, I-3	Same requirement as RS-3 District	

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

SIGN REGULATIONS

§151.145 PURPOSE

The purpose of this subchapter is to promote the public health, safety, and welfare by regulating existing and proposed signs. It is intended to protect property values and reduce potential hazards while creating a positive economic and business environment. It recognizes the need for sufficient identification, advertising, and communication within the community that is structurally sound, well maintained, and attractive in appearance. To accomplish this purpose, the subchapter is intended to regulate the area, location, height, and other related aspects of signs and sign structures while also:

A. Preserving the character of residential neighborhoods;

B. Offering suitable conditions for identifying businesses and services provided in commercial, institutional, and industrial areas;

C. Reducing traffic hazards by restricting signs and lights which obstruct the view of an approaching road intersection, railroad, school playground or park, pedestrian crosswalk, or any other situation which may endanger the health and welfare of any pedestrian or occupant of any vehicle.

§151.146 SIGNS PROHIBITED

The following signs shall be prohibited:

A. Commercial signs when located upon vacant lots or parcels or when displaying information not related to the conduct of a business or other enterprise located on the same premises as said sign, except as such signs are permitted by state or federal regulations or unless otherwise permitted by this ordinance.

B. Signs which move or give the appearance of movement. This category includes, but is not limited to, signs which flutter, swing, undulate, rotate, oscillate or otherwise move by natural or artificial means, and signs containing moving or scrolling text, or flashing or running lights giving the illusion of movement. Devices that display stationary digital text shall not be included in this category.

C. Roof signs, except as hereafter authorized.

D. Signs placed on parked vehicles, boats or trailers where the apparent purpose is to advertise a product or to direct the public to a business or activity located on or off the same premises. Motor vehicles engaged in the cartage or goods or the transport of passengers are exempt from this restriction

E. Signs which imitate traffic signs, including but not limited to, signs which incorporate the words STOP, DANGER, WARNING, CAUTION, or GO SLOW, unless such language is part of a name of a business. (Signs which are accessory to a parking lot shall not be deemed to fall within this prohibition).

F. Portable or wheeled signs converted to a sign permanent in nature.

G. Inflatable images such as balloons, except as specifically authorized in Section 151.150 below.

H. Miscellaneous advertising devices, other than signs that conform to the provisions of this Section, shall not be allowed.

I. Obsolete signs; any sign that contains inaccurate or outdated information.

J. Pennants, streamers, portable signs, and festoon lights, except as specifically authorized in Section 151.150 below.

K. Signs hung across any street or alley or within a public right-of-way, except as hereafter authorized.

§151.147 SIGN PERMITS

No sign, except as provided in Section 151.148 below, shall hereafter be erected, constructed, altered, or relocated without first obtaining a permit from the City of New Haven Zoning Administrator. Applications for a sign permit shall be filed with the Zoning Administrator in accordance with the requirements of this Ordinance.

A. **Improvement Location Permit Applications.** All applications shall contain the following information.

1. Name, address and telephone number of the applicant and person, firm, corporation or association erecting, constructing, altering or relocating the sign.

2. Location of the building, structure or parcel of property to which, or upon which, the sign is to be attached or erected.

3. Position of sign in relation to nearby building, structures and street grade.

4. Two (2) copies of plans and specifications showing the method of construction.

5. Sketch showing sign faces, exposed surfaces and proposed message thereof accurately represented in scale as to size, proportion and color.

6. Written consent of the owners of the building, structure or land on or to which the sign is to be erected.

7. Such other information as the Zoning Administrator may require demonstrating full compliance with this and all other laws and ordinances of the City

B. **Issuance of the Permit**. Upon receipt of a fully complete sign permit application, the Zoning Administrator shall examine the application and all material attached thereto to determine its compliance with this Section, as well as, any other applicable City title, Ordinance, or law. The Zoning Administrator shall take formal action on the application as specified according to policy.

C. **Validity of the Permit.** If work authorized under a sign permit has not commenced within sixty (60) days of issuance or work has not been completed within six (6) months of the date of issuance, the sign permit shall then become void.

D. **Appeals**. An appeal from the decision of the Zoning Administrator shall be taken to the New Haven Board of Zoning Appeals.

§151.148 EXEMPTIONS

A. **Exempt Signs**. The following signs shall be exempt from the permit requirements set forth in Section 151.147 above; provided however, they must meet the remaining requirements of this Section, as well as any limitation set forth elsewhere in this Ordinance.

1. Public Service Signs. Signs used for safety purposes relative to the repair or maintenance of streets, sidewalks, or utilities in a public right-of-way.

2. Address Signs. Address numbers not exceeding two (2) square feet in area.

3. Governmental. Signs and public notices erected or required by Governmental bodies, or authorized for a public purpose by any law, statute, or Ordinance, including official traffic signs authorized by the City of New Haven.

4. Public Information Signs. Signs identifying the telephone, restrooms, and similar facilities, providing no advertising matter accompanies the sign.

5. Temporary Window Signs. In all commercial districts, two (2) temporary signs per window with the total sign area for both signs not to exceed forty (40) percent of the window surface area, provided no single sign shall remain longer than fourteen (14) days. A series of windows that are separated by frames and supporting material of less than six (6) inches in width shall be considered as a single window for the purposes of area computation.

6. Memorial Plaques. Memorial plaques and cornerstones when permanently affixed to a building or premises.

7. Bulletin Boards. Notice and bulletin boards for public, charitable, religious, or similar type institution when not exceeding sixteen (16) square feet and located on the same premises as the institution. Such signs shall not be visible from the public right-of-way.

8. Historical Identification Signs. Signs for property designated by the Federal, State, or local governments as a historical location, site, or landmark, provided such sign does not exceed twelve (12) square feet.

9. Miscellaneous Information Matter. Matter appearing on newspaper vending boxes, automatic teller machines, and other vending machines, or matter appearing on or adjacent to entry doors such as "Push," "Pull,"

"Open," and "Closed," or matter appearing on display windows or doors denoting hours of operation, credit cards accepted, and similar information.

10. Private Traffic Direction Signs. Private traffic direction signs directing traffic movement on a premise or within a premise, not exceeding eight (8) square feet in area and four (4) feet in height for each sign.

11. Service Station Information Signs. Service station informational signs, provided, however, such signs shall comply with the following regulations:

    a) Service station information signs shall be permanently mounted to gasoline pump islands or canopy supports;

    b) A maximum of one (1) sign shall be permitted per gasoline pump-island. No single sign shall exceed two (2) square feet in area and no sign shall exceed a height of twelve (12) feet;

    c) A maximum of two (2) signs, positioned one hundred and eighty (180) degrees apart from one another, shall be permitted per canopy support. No sign shall exceed eight (8) square feet in area, nor shall a sign exceed a height of twelve (12) feet.

12. Real Estate Signs. Real estate signs in the type and number listed below:

    a) Signs advertising the sale, lease, or rent of residential property:

        1) No sign shall exceed nine (9) square feet in area;
        2) No sign shall be erected more than six (6) feet above grade;
        3) Not more than one (1) sign per street frontage is displayed;
        4) Every sign is located on the same premises as the subject property; and
        5) Every sign is removed seven (7) days after the closing or execution of the lease.

    b) Signs advertising the sale, lease, or rent of unimproved property, provided:

        1) No sign shall exceed sixteen (16) square feet in area for properties less than ten (10) acres; thirty-two (32) square feet in area for properties from eleven (11) acres and above;
        2) Not more than one (1) sign per street frontage is displayed;
        3) Every sign is located on the same premises as the subject property; and
        4) Every sign is removed seven (7) days after the closing or execution of the lease.

    c) Signs advertising the sale, lease, or rent of nonresidential property, provided:

1) No sign shall exceed the following size limitations:

Property Size	**Maximum size of sign**
Less than 10 acres	16 sq. ft.
10 - 19.99 acres	32 sq. ft
20 – 39.99 acres	48 sq. ft.
40 acres or greater	64 sq. ft.

2) Not more than one (1) sign per street frontage is displayed, except in cases of properties forty (40) acres and above which may have two (2);
3) Every sign is located on the same premises as the subject property; and
4) Every sign is removed seven (7) days after the closing or execution of the lease.

d) Signs identifying a real estate **Open House**, provided:

1) No sign shall exceed nine (9) square feet in area,
2) Not more than four (4) signs per property shall be displayed. The signs may be located at any intersection within one (1) square mile of the subject property, but only one (1) sign per intersection per property shall be allowed
3) The signs shall be displayed only between the hours of 9:00 AM and 6:00 PM.

13. Construction Signs. Not more than two (2) construction signs each with a sign surface area not to exceed thirty two (32) square feet per sign identifying the architects, engineers, contractors and other individuals or firms involved with the construction and announcing the character of the building enterprise or the purpose for which the building is intended, but not including the advertisement of any product. The signs shall be confined to the site of the construction and shall be removed within fourteen (14) days after the issuance of an occupancy permit. Such signs shall not exceed ten (10) feet in height.

14. Temporary Signs. Temporary signs as noted in section 151.150 below.

15. No Trespassing Signs. No trespassing signs, warning signs (e.g., "Beware of Dog") and other such signs regulating the use of property

when such signs do not exceed two (2) square feet in area.

16. Political Signs. Political signs are permitted, however, such signs shall comply with the following regulations:

    a) Political signs shall not be posted more than forty-five (45) days prior to the election or referendum to which they pertain and shall be removed within forty-eight (48) hours after close of the polls for the election or referendum to which they pertain;

    b) No sign shall be placed in the public right-of-way, on utility poles, on municipally owned property, unless permitted by the New Haven Board of Public Works. or in any other area prohibited by this Ordinance and;

    c) No sign shall exceed thirty-two (32) square feet in area.

17. Home Occupation Signs. One (1) sign may be allowed per dwelling unit. Signs shall be limited to twelve (12) square feet in the A-1 district and two (2) square feet in RS and MH districts.

B. **Changing Sign Copy.** For the purposes of this Section, the changing of the copy of a sign, bulletin board, display encasement, marquee or maintenance where no structural changes are made or changing of interchangeable letters on signs designed for use of interchangeable letters shall not require a permit.

§151.149 GENERAL SIGN STANDARDS

A. **General Limitations on Sign Location**

1. All signs requiring a permit shall be located on the premises they serve. However, a maximum of two (2) directional signs not exceeding two (2) square feet each may be allowed for non-residential properties which do not have frontage on an arterial or collector street. The New Haven Board of Public Works must approve all permanent directional signs.

2. No sign shall be erected or maintained at the intersection of any streets in such a manner as to obstruct the free and clear vision of a driver of a vehicle or a pedestrian. No part of any sign or sign structure including supports, shall be located within a clear vision area except directional signs which must be less than three (3) feet in height. A sign may project or extend into a clear vision area only if the sign's lowest edge is greater than eight (8) feet above ground level or if the sign is less than three (3) feet in total height. Clear vision area is described as:

   a.) An area formed by the intersection of the right-of-way lines of two (2) public roadways and a line connecting points measured twenty-five (25) feet from the intersection of these right-of-way lines; and

   b.) A strip five (5) feet wide adjacent and parallel to all proposed or existing public right-of-way lines, whichever is greater.

3. No sign shall be erected or maintained so as to prevent the free ingress or egress from any door, window, or fire escape, and no signs shall be attached to a standpipe or fire escape.

4. No sign shall be allowed or maintained if the sign shall, in any way, violate existing state or federal regulations governing such signs. Signs controlled by these provisions shall be in compliance therewith.

5. No person shall place, paste, print, or affix, in any manner, a handbill, sign, poster, advertisement or notice of any kind in any public right-of-way on any trees, light standards, telephone poles or other supporting structure.

6. Signs shall be permitted on awnings, canopies and marquees. However, such signs shall not exceed a height of twenty (20) feet above the average surrounding grade. The area of such signs shall be counted against the maximum sign surface area permitted by this Section.

7. All freestanding or mobile signs shall be separated by a minimum of thirty (30) feet and shall be located no closer than fifteen (15) feet to a

side property line.

B. **Illumination**.

1. Location and Design of Light Source. Whenever an external artificial light source is used to illuminate a sign, such source shall be located, shielded and directed so as to not pose a traffic hazard. No sign shall be erected or maintained at any location where, by reason of its illumination, it may obstruct, impair, obscure, or interfere with the view of any traffic-control device.

2. Level of Illumination. All artificial illumination shall be so designed, located, shielded, and directed as to prevent the casting of direct light upon adjacent property or streets.

C. **Sign Area Computation.**

The following principals shall control the computation of sign area.

1. Computation of Area of Individual Signs. The area of a sign face shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, color, or other display, together with any material or color forming an integral part of the background or the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing unless such framework or bracing is made part of the message or face of the sign.

2. Computation of Area of Multiple-Faced Signs. The sign area for a sign with more than one (1) face shall be computed by adding together the area of all sign faces visible from any one (1) point. When two (2) identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one (1) of the faces.

D. **Construction and Design Standards**. All signs shall meet the construction and design standards set forth for signs in the Allen County Building Code.

E. **Maintenance**. Painted faces or structural members shall be repainted whenever peeling or fading occurs. Neon tubes, lamps, ballasts and transformers shall be kept in good state of repair and in safe condition. The

Zoning Administrator may order the removal of any sign, which becomes a public hazard due to lack of maintenance or repair.

§151.150 TEMPORARY SIGNS

The following signs shall be allowed in the City. Temporary signs shall, in all respects, comply with the applicable regulations contained in this Section. Signs placed within the right-of-way must comply with the New Haven Board of Public Works regulations.

A. **Temporary Event (Minor) Signs**. The following signs shall be exempt from the permit requirements set forth in Section 151.147 above; provided however, they meet the remaining requirements of this Section, as well as any limitation set forth elsewhere in this Ordinance**.** Minor temporary events include but are not limited to, the following: garage sales, yard sales, auctions, and fundraising events for community, social, religious, or fraternal organizations. Signs for minor temporary events may be permitted as follows:

1. No type of minor event shall exceed a total of ten (10) days per year and three (3) days per occurrence.

2. The total square footage in area of all temporary signs shall not exceed sixteen (16) square feet in area. Signs directing traffic to the event may be placed at the nearest intersection(s) to the subject property but may be displayed only during the event and shall not exceed three (3) feet in height.

B. **Temporary Event (Major) Signs**. Major temporary events include, but are not limited to, the following: civic events, festivals, carnivals, grand openings, and business liquidation or other special sales or promotions.

1. No major temporary event sign shall be erected without first obtaining a permit from the City of New Haven Zoning Administrator. No fee will be charged, and the permit will be required only for the purpose of monitoring the usage of such displays.

2. The total square footage in area of all temporary signs shall not exceed forty-eight (48) square feet in area.

3. Signs for major temporary events may be displayed for a period not to exceed four (4) weeks per event occurrence.

4. Signs for civic events may be hung across any street or alley or within a public right-of-way if approved by the Board of Public Works.

§151.151 REGULATION BY DISTRICT CLASSIFICATION

A. **Residential Districts**. Subject to the requirements of Section 151.147 above, the following signs may be permitted in Residential Districts (A-1, RS-1, RS-2, RS-3, MH):

Sign Type	Number, Area, Height, and Other Limitations
Monument or Wall - single family subdivision identification	**Maximum number**: 2 signs per entrance **Size limitations:** Each sign shall consist of no more than 100 square feet in area and may be attached to a supporting structure, including a wall or monument. **Maximum height**: Monument - 6 feet
Monument or Wall - multiple family complex or church facility – for sites less than 10 acres	**Maximum number**: 2 signs **Size limitations:** Each sign shall consist of not more than 32 square feet in area. **Maximum height**: Monument - 6 feet
Monument or Wall - Multiple family complex or church facility - for sites 10 acres and more.	**Maximum number**: 2 signs **Size limitations:** Each sign shall consist of not more than 64 square feet in area. **Maximum height**: Monument - 6 feet

B. **Commercial Districts.** Subject to the requirements of Section 151.147 above, the following signs may be permitted in the Commercial Districts (C-1A, C-1, C-2, C-4). For the purposes of providing sign uniformity, a property is encouraged to incorporate either wall and monument signs or wall and pole signs. Except as provided for in Section 151.152 below, the use of monument signs and pole signs together on the same street frontage is prohibited.

Sign Type		Number, Area, Height, and Other Limitations
Wall		Coverage up to 30% of any wall surface.
Monument or Pole		
	Individual building sites	**Maximum number:** none **Size limitations:** 2 square feet for each lineal foot of street frontage, the total not to exceed 300 square feet. **Maximum height:** Monument - 6 feet / Pole – 35 feet
	Shopping centers and multiple tenant buildings.	**Maximum number:** none **Size limitations:** 2 square feet for each lineal foot of street frontage, the maximum size of any sign not to exceed 300 square feet and the total not to exceed 500 square feet. **Maximum height:** Monument - 6 feet / Pole – 35 feet.
	Office Park Entrance	**Maximum number**: 2 signs per entrance **Size limitations:** Total not to exceed 100 square feet **Maximum height**: Monument - 6 feet / Pole – 35 feet.

C. **Industrial Districts**. Subject to the requirements of Section 151.147 above, the following signs may be permitted in the Office and Industrial Districts (I-1, I-2, I-3). For the purposes of providing sign uniformity, a property is encouraged to incorporate either wall and monument signs or wall and pole signs. Except as provided for in Section 151.152 below, the use of monument signs and pole signs together on the same street frontage is prohibited.

Sign Type		Number, Area, Height, and Other Limitations
Wall		Coverage up to 30% of any wall surface.
Monument or Pole		
	Individual building sites	**Maximum number:** none **Size limitations:** 2 square feet for each lineal foot of street frontage, the total not to exceed 300 square feet. **Maximum height:** Monument - 6 feet / Pole – 75 feet.
	Multiple tenant buildings	**Maximum number:** none **Size limitations:** 2 square feet for each lineal foot of street frontage, the maximum size of any sign not to exceed 300 square feet and the total not to exceed 600 square feet. **Maximum height:** Monument - 6 feet / Pole – 75 feet.
	Industrial Park Entrance	**Maximum number**: 2 signs per entrance **Size limitations:** 2 square feet for each lineal foot of street frontage, the maximum size of any sign not to exceed 300 square feet and the total not to exceed 600 square feet. **Maximum height**: Monument - 6 feet / Pole – 75 feet.

Note: Maximum height of pole signs for commercial uses in industrial districts shall be limited to thirty-five (35) feet.

§151.152 ENFORCEMENT

A. **Enforcement Authority**. The Zoning Administrator is hereby authorized to enforce the provisions of this ordinance. The Zoning Administrator is authorized to employ assistants and agents to aid him or her in the enforcement and administration of this ordinance.

B. **Inspection**. The Zoning Administrator may inspect, at such times as deemed necessary, each sign or sign structure regulated by this Section for the purpose of ascertaining whether the sign is in compliance with this Section or any other relevant City code, law or Ordinance.

C. **Unsafe and Unlawful Signs.**

1. Duty to Remove or Repair.

a.) Should the Zoning Administrator find any sign regulated by this Section to be unsafe, unlawful, or a menace to the public, or constructed, erected, or maintained in violation of the provisions of this Section, he or she shall cause notice to be given to the holder of the permit, or the property owner in the case of exempt signs, by one of the following methods:

1) Delivery by registered or certified mail to the owner at the address last shown on the City records, of a written notice of violation of the Sign Ordinance; or

2) Posting in a visible place upon the real property a notice of violation of the City Sign Ordinance and sending, by first class mail, to the owner at the address last shown on the City records, a written notice of violation of the City Sign Ordinance.

b.) If the holder of the permit should fail to remove the sign or bring the sign or other advertising structure in compliance, by initiation of appropriate action in the Allen Circuit or Superior Court the Zoning Administrator may cause, at the holder's or property owner's expense, the sign or other advertising structure to be removed or brought into compliance.

c.) If the holder or owner fails to pay the Court ordered costs and expenses of such repair or removal, then such costs and expenses shall become a lien against the property. In addition, the Zoning Administrator shall refuse to issue a Sign Permit to any holder or owner who refuses to pay the costs and expenses assessed under this provision.

2. Unlawful signs. Unlawful signs, regardless of type, shall be removed within twenty-four (24) hours of the time when notice was perfected.

3. Signs Causing Immediate Peril. The Zoning Administrator may cause any sign or other advertising structure that is in immediate peril to persons or property to be removed summarily without notice.

D. **Signs No Longer in Use**.

1. Removal. Any sign advertising a defunct business, or an unavailable product or service, shall be taken down and removed by the owner, agent, or person having the control of the premises upon which the sign is located.

2. Notice. The Zoning Administrator shall give notice to the owner or to any person occupying the property that the sign on the premises is in violation.

3. Failure to Comply. Failure to comply with the notice within the time specified shall cause the Zoning Administrator to authorize removal by initiation of appropriate action in the Allen Circuit of Superior Court. Expenses related to removal shall be the responsibility of the owner of the premises upon which such sign is located.

4. Lien. The Zoning Administrator shall notify the owner or occupant of the premises of the total costs incurred for such repair or removal of the sign. If the owner or occupant fails to pay the Court ordered costs and expenses of such repair or removal, then such costs and expenses shall become a lien against the property.

E. **Signs Not Conforming to This Section**.

1. Authority to Continue. Any lawful sign located within the City at effective date of this Ordinance or which shall come to be located in the City as a result of annexation after effective date of this Ordinance, which does not conform to the provisions of this Section, may continue provided, the sign remains in conformance with the provisions of this Section.

2. Conditions of Lawful Status. For the purposes of this Section, legal, nonconforming status shall be conferred only on signs authorized by a sign permit or variance of a preceding Ordinance, title, code, or law; or if no sign permit was required under the applicable preceding Ordinance, code, or law.

3. Ordinary Maintenance and Repair. Nothing in this Section shall relieve the owner or beneficial user of a legal nonconforming sign, or the owner of the property on which the legal nonconforming sign is located from the provisions of this Section regarding safety, maintenance, and repair. Normal maintenance, including repainting, cleaning, or routine repair of a legal nonconforming sign shall not be deemed to a condition which triggers a loss of lawful status described below, unless such maintenance increases, in fact, the nonconforming aspects of the sign.

4. Repairs Pursuant to Public Order. Nothing in this Section shall be deemed to prevent the strengthening or restoration to a safe condition of a legal nonconforming sign in accordance with a reasonable order of a public official who is charged with protecting the public safety and who declares such a sign to be unsafe and order its restoration to a safe condition, provided such restoration is not otherwise in violation of the various provisions of this Section prohibiting the repair or restoration of partially damaged or destroyed signs.

5. Loss of Lawful Status.

   a) Legal nonconforming status shall terminate under the following conditions:

      1) if the use of a sign is discontinued for a period of sixty (60) days it shall be deemed abandoned and shall not thereafter be reestablished; or

      2) if a sign is structurally altered such that its nonconforming aspects increase; or

      3) if a sign is relocated, replaced, or moved in any way; or the sign is damaged and the cost of repair is fifty (50) percent of its replacement value.

   b) Upon the happening of any of the aforementioned events, the sign shall be immediately brought into compliance with this Section in conjunction with a new sign permit or the sign shall be removed. For the purposes of this Section, the changing of copy shall not be considered the replacement of an existing legal nonconforming sign.

(Ord. Z-06-05, passed 07-11-06, Am. Ord. Z-07-02, passed 03-13-07)

§151.153 DEFINITIONS

Abandoned Sign. A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product or activity.

Awning. A shelter constructed of non-rigid materials on a supporting frame projecting from and supported by the exterior wall of a building.

Banner. A temporary sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, ornamentation applied to paper, plastic, or fabric of any kind excluding flags, emblems, and insignia of political, professional, religious, educational, or corporate organizations providing that such flags, emblems and insignia are displayed for non-commercial purposes.

Festoons. A string of ribbons, tinsel, small flags, streamers or pinwheels.

Flag. A cloth or similar material with colors, patterns, etc. used as a signal.

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

Painted Graphics. Any advertisement painted directly onto the wall of a building.

Parapet. A low wall or protective railing; often used around a balcony or balconet, or along the edge of a roof.

Sign. A name, identification, description, display, or illustration which is affixed to or painted or represented directly or indirectly upon a building, structure, or piece of land and which directs attention to an object, project, place, activity, person, institution, organization, or business.

Sign, Directional. A sign which is used to direct traffic to a non-residential property which does not have frontage on an arterial or collector street.

Sign, Flashing. Any illuminated sign on which the artificial light is not maintained stationary and/or constant in intensity and color at all times when such sign is in use. For the purpose of this Ordinance, any revolving, illuminated sign shall be considered a “flashing sign”.

Sign, Gross Surface Area of. The entire area within a single continuous perimeter enclosing the extreme limits of a sign and in no case passing through or between any adjacent elements of the same. However, such perimeter shall not include any structural or framing elements lying outside the limits of such sign

with two (2) visible surfaces, the gross surface area shall be the sum of all sides of the sign.

Sign, Height. The vertical measurement from the highest part of a sign, including all support structures, to the highest surface of the adjacent public road. Any earth berms and elevated foundation supporting signs, signposts, and sign supports are included in the height of the sign.

Sign, Identification. A sign indicating the name and address of a building, or the name of an occupant thereof, and the practice of a permitted occupation therein.

Sign, Monument. Any sign, other than a pole sign placed upon or supported by the ground independently of any other structure.

Sign, Nonconforming. Any sign which was lawfully erected in compliance with applicable regulations of the City of New Haven and maintained prior to the effective date of this Ordinance, and which fails to conform to all applicable standards and restrictions of this Ordinance.

Sign, Off Premise Advertising. A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located or to which it is affixed.

Sign, On Premise. Any sign identifying or advertising a business person, activity, good, product, or service located on the premises where the sign is installed.

Sign, Pole. A sign erected and maintained on a freestanding mast or pole and not attached to any building, or supported by one or more uprights or braces in or upon the ground, but not including monument signs.

Sign, Political. A sign that advertises a candidate or issue to be voted upon on a definite election day.

Sign, Portable. Any sign designed to be transported or movable, including but not limited to:

1. Signs with wheels or with wheels removed;
2. Signs with chassis or support constructed without wheels;
3. Signs designed to be transported by trailer, wheels or boat;
4. Signs converted to or constructed as an A- or T- frame sign;
5. Signs painted, mounted, or affixed on a motor vehicle for advertising purposes, parked on or off public right-of-way, and visible from the public right-of-way, except signs identifying the related business when the motor vehicle is being used in the normal day-to-day operations of that business.

Sign, Projecting. A sign which is suspended from or affixed to any building wall or other structure and extends beyond the building wall or structure or parts thereof more than eighteen (18) inches.

Sign, Public Service. A sign or device displaying only the time, temperature, stock market quotations or civic messages.

Sign, Roof. A sign that is mounted or painted on the roof of a building, or that is wholly dependent upon a building for support and that projects above the roof. (Roof signs are prohibited.)

Sign, Vehicular. Signs on parked vehicles visible from the public right-of-way where the primary purpose of the vehicle is to advertise a product or to direct people to a business or activity located on the same or nearby property. For the purpose of this Ordinance, vehicular signs shall not include business logos, identification or advertising on vehicles primarily used for other business purposes.

Sign, Wall. A sign affixed, painted, posted, or placed on a building or structure.

Sign, Window. A sign that is applied or attached to or suspended from the exterior or interior of a window or located within the interior of a structure so that its message can be read from the exterior of the structure.

Sign Structure or Support. Any structure that supports or is capable of supporting a sign, including decorative cover.

Temporary Event (Minor). An event that does not exceed a total of ten (10) days per year and three (3) days per event. Minor temporary events include, but are not limited to, the following: garage sales, yard sales, auctions, and fundraising events for community, social, religious, or fraternal organizations.

Temporary Event (Major). A public or community event which occurs not more than once per year and does not exceed four (4) weeks. Major temporary events include, but are not limited to, the following: festivals, carnivals, parades, grand openings, and business liquidation or other special sales or promotions.

(Ord. Z-06-05, passed 07-11-06)

ADMINISTRATION

§151.155 BOARD OF ZONING APPEALS

A. Organization.

1. A Board of Zoning Appeals for the city is established in accordance with IC 18-7-4-101 through 18-7-4-1213.

2. The Board shall meet at the call of the Chairman and at such times as the Board may determine.

B. Powers of the Board.

1. The Board of Zoning Appeals shall do the following.

a) Hear and determine appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator and any other administrative official or board charged with the enforcement of this chapter or any regulation adopted pursuant hereto.

b) Permit and authorize contingent uses and special exceptions subject to and within the limitations prescribed by the provisions of this chapter.

c) Authorize on appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done. However, no action shall be taken or decision made except after public hearing.

2. In exercising its powers, the Board may reverse or affirm, wholly, or partly, or may modify the order, requirement, decision, or determination appealed from as in its opinion ought to be done in the premises, and to that end shall have all powers of the officer or board from whom the appeal is taken. It may impose such conditions, regarding the location, character, and other features of the proposed building, structure, or use with which the appeal before it is concerned, as it may deem advisable in the furtherance of the purposes of this chapter and the protection of the public convenience and welfare.

3. Variances from Flood Hazard District provisions.

a) When reviewing variances from the provisions of the FW and FF (Flood Hazard) District, the Board shall give consideration to the

guidelines provided by the Federal Emergency Management Agency as published in 44 CFR 60.6.

b) The Board shall issue a written notice to the recipient of an approved variance from the provisions of the Flood Hazard District that the proposed construction below the regulatory flood profile could result in increased premium rates for flood insurance and that such construction increases the risks to life and property.

c) The Board shall not approve a variance of the provisions of the FW (Floodway District) prior to receipt of written approval for the request from the Indiana Natural Resources Commission.

C. Procedure of the Board. The procedure of the Board shall be governed by the provisions of IC 18-7-4-101 through 18-7-4-1213.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80; Am. Ord. G-13-80, passed 7-12-83)

§151.156 IMPROVEMENT LOCATION PERMIT

A. All buildings, structures, and satellite television antennas, or dwellings except those buildings and structures incidental to agricultural uses, utility lines and supports, accessory buildings of 144 square feet or less, and fences which are no greater than eight feet in height and located behind the front building line or the side building line on the side street of a corner lot shall not be erected, reconstructed, enlarged, maintained, or moved until an improvement location permit shall have been issued by the Zoning Administrator.

B. No improvement location permit shall be issued by the Zoning Administrator for the maintenance or proposed erection, reconstruction, enlargement, or moving of a building or structure unless the same conforms with the provisions of this chapter.

C. Applicants for improvement location permits shall be made by the owner of the real estate on which the improvement is to be, or has been, located or the agent thereof or the superintendent or contractor in charge of the work, on forms prescribed by the Zoning Administrator and shall be accompanied by plans and specifications of sufficient detail to enable the Zoning Administrator to determine whether the improvements, as erected or proposed, will comply with provisions of this chapter.

D. The applicant shall post the permit in a prominent place on the premise prior to and during the period of erection, reconstruction, enlargement, or moving.

E. Every permit may be revoked if active work is not commenced within 60 days after the date of its issue, and continued with due; diligence to completion. The Zoning Administrator shall judge if due diligence is being shown and shall notify the owner or agent in case due diligence is not being shown.

F. If the Zoning Administrator determines that the person to whom a permit has been issued has failed to commence active work within 60 days of the issuance of the permit, or that work commenced it not being continued with due diligence to completion, or is not proceeding according to the detailed statement, plans, and specifications on which the permit was issued, or is proceeding in violation of law, it shall be his duty to give written notice thereof to the owner or his agent, requiring the same to be rectified within ten days of the written notice if given or within such other reasonable time as may be determined by the Zoning Administrator.

G. If the owner or his agent neglects to comply with the provisions of the notice within the specified time period, it shall be the further duty of the Zoning Administrator to revoke the permit; and written notice thereof shall be immediately given to the owner, agent, superintendent, or contractor in

charge of the work, or posted on the property.

H. After such revocation of permit any person performing any work in or about the structure, building, or premises shall be subject to the penalties set forth in §151.999.

I. Notwithstanding any of the provisions of this section requiring an application for, and issuance of, an improvement location permit prior to the erection, reconstruction, enlargement, or moving of a building or structure, the owner of the real estate on which any such building or structure is maintained without an improvement location permit having been obtained therefore, shall be in violation of this chapter. On being advised of the existence of the building or structure, the Zoning Administrator shall immediately give the owner written notice of the violation. The owner shall be required to make application for an improvement location permit, in accordance with (C) above, within ten days after the written notice is given.

J. If the Zoning Administrator determines that the building or structure so erected or maintained fails to conform with the provisions of this chapter, the owner shall be granted 30 days to complete, to the satisfaction of the Zoning Administrator, the modifications necessary to cause the building or structure to be in compliance with those provisions.

K. If the owner fails to timely apply for an improvement location permit as required hereinabove, or if at the end of the 30- day period, the building or structure is not in conformity with the provisions of this chapter, the owner of the real estate on which the building or structure is located shall be subject to the penalties set forth in §151.999.

L. For purposes of this chapter, if written notice is required to be given to any person, the requirement shall be considered satisfied of the date of deposit of same in the United States mail, postage prepaid, addressed to the owner or agent thereof, at his last known address or principal place of business, or by delivery.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80; Am. Ord. G-10-81, passed 6-9-81; Am. Ord. G-86-19, passed 9-9-86)

§151.157 CERTIFICATE OF OCCUPANCY

A. No occupancy, use, or change of use, except buildings and structures incidental to agricultural uses and public utility lines and supports, shall take place until a certificate of occupancy shall have been applied for and issued by the Zoning Administrator in the following cases.

1. Occupancy and use of a building or structure hereinafter erected or enlarged.

2. Change in use of an existing building or structure.

3. Occupancy in the use of vacant land except for the raising of crops, poultry, or livestock.

4. Change in the use of land to a use of a different classification except for the raising of crops, poultry, or livestock.

5. Any change in use of a nonconforming use.

B. If the proposed use is in conformity with the provisions of this chapter, the certificate of occupancy therefore shall be issued within three days after the application for the same has been made. Provided, however, that no certificate of occupancy shall be issued in connection with the construction, alteration, enlargement, or moving of a building or structure until the construction, alteration, enlargement, or moving shall have been completed. Each certificate of occupancy shall state that the building or proposed use of a building or land complies with all the provisions of this chapter.

C. In the event a dwelling within a Commission-approved recorded plat is occupied prior to the issuance of a certificate of occupancy by the Zoning Administrator, and the certificate of occupancy could not be issued therefore because improvements serving the dwelling as shown on the approved subdivision plans had not been installed or are not operational, the Zoning Administrator shall not issue any additional improvement location permits within the recorded plat until all subdivision improvements, as approved by the Commission, serving the occupied dwelling, are properly installed and operational and the dwelling otherwise qualifies for the certificate of occupancy.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.158 ENFORCEMENT

A. It shall be the duty of the Zoning Administrator to enforce the provisions of this chapter in the manner and form and with the powers provided by this chapter.

B. All departments, officials, and employees of the city which are vested with the duty of authority to issue permits or licenses shall conform to the provisions of this chapter and shall issue no permit or license for any use, building, or purpose if the same would be in conflict with the provisions of this chapter. Any permit or license issued in conflict with the provisions of this chapter shall be null and void.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.159 MORE RESTRICTIVE STANDARDS APPLY

A. Whenever the provisions of this chapter are more restrictive or impose higher standards than are required by any statute of the State of Indiana or of any other ordinance of this county or by any restrictions or limitations as to particular property established by deed, plat, or otherwise running with the land, the provisions of this chapter shall govern.

B. Whenever the provision of any statute or any other ordinance of this city or any restrictions or limitations established by plat or deed or otherwise running with the land, is more restrictive or imposes higher standards than are required by this chapter, the provisions of that statute, chapter, ordinance, plat deed restrictions, or limitations shall govern. Provided, nothing herein shall be construed to prevent the Plan Commission or Board of Zoning Appeals from assuming jurisdiction of a subject matter of a parcel of real estate upon, or concerning which the Plan Commission or Board of Zoning Appeals has authority to act under the provisions of this chapter, including, but without in any way being limited to, the holding of public hearings and the rendering decision thereon. Provided further, nothing contained herein shall be construed to obligate the Zoning Administrator of the city or any other official charged with the enforcement of this chapter, to enforce the more restrictive statute, ordinance, restriction, or limitation.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.160 FILING FEES

Application and petitions filed pursuant to the provisions of this chapter shall be accompanied by the filing fees hereinafter specified.

A. For each application for an improvement location permit and certificate of occupancy, the sum of $6 to be paid to and collected by the City Clerk.

B. For each petition for an appeal from the decision of the Zoning Administrator to the Board of Zoning Appeals, a fee of $25 to be paid to and collected by the City Clerk.

C. For each petition for an amendment to this chapter a fee of $25 to be paid to and collected by the City Clerk.

D. No part of any filing fee paid pursuant to this section shall be returnable to the applicant or petitioner.

E. For each application for the approval by the Commission of an RS-P, C-P or I-P development plan, a fee of $50 to be paid to and collected by the City Clerk.

(Ord. 698, passed 7-11-62; Am. Ord. G-38-80, passed 12-9-80)

§151.998 REMEDIES

A. The erection, construction, enlargement, conversion, moving, or maintenance of any building or structure and the use of any land or building which is continued, operated, or maintained contrary to any provisions of this chapter is hereby declared to be a nuisance and in violation of this chapter and unlawful. The Zoning Administrator may issue an immediate stop work order or may institute a suit for injunction in the Circuit Court or any Superior Court of Allen County to restrain any person or governmental unit from violating any provision of this chapter and to cause the issuance of a stop work order shall not be a condition precedent to the institution of an injunctive action. Injunctive action may also be instituted by any property owner who may be especially damaged by the violation of any provision of this chapter.

B. The remedies provided for in this section shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

(Ord. G-10-81, passed 6-9-81)

§151.999 PENALTY.

A. Any person, whether a principal, agent, owner, lessee, tenant, contractor, builder, architect, engineer, or otherwise who violates any provision of this chapter for which another penalty is not provided shall be guilty of a Class C infraction and upon conviction shall be punished by a fine of not more than $500 for each offense. Each day of the existence of any violation of this chapter shall be a separate offense.

B. Any person deemed in violation of §151.038(A) shall be fined in an amount not to exceed $250. The city shall have the right to bring injunctive relief requiring anyone found in violation of that division to remove the mobile home from the site of violation. The city shall also have the right to require anyone found in violation of that division to pay reasonable court costs and legal fees in the enforcement of that division.

(Ord. G-85-9, passed 4-9-85)

CHAPTER 152 - ECONOMIC REVITALIZATION AREAS

§152.01 PROCEDURE FOR DESIGNATION

Procedure for designating an economic revitalization area pursuant to IC 6-1.1-12.1 is as follows.

A. Whenever a proper owner desires that certain real estate located within the corporate limits of the city be designated as an economic revitalization area, the owner(s) shall initiate the procedure by filing an application for designation in the office of the County Plan Commission. The application shall be signed by the owner(s) of record of the real estate for which the designation is being requested. The application shall be accompanied by the fee as established in §152.03, to be paid upon submission. The Plan Commission staff shall furnish an appropriate form for such application upon request.

B. The petitioner(s) shall note on the application whether the request is being made for a designation:

   1. Limited to a deduction of assessed value on real property improvements; or

   2. Limited to a deduction of assessed value on new manufacturing equipment as defined in IC 6-1.1-12.1-1; or

   3. To include both types of deductions allowed under IC 6-1.1-12.1.

C. Upon receipt of an application for designation, the Plan Commission staff shall:

   1. Note the date of filing on the face of the application.

   2. Review the application; and, if it is found to be in complete form and to have been signed by all property owners of record within the area proposed for designation, the matter shall be submitted for consideration before the City Common Council, with no publication of notice being necessary, within 60 days of the date of acceptable submission.

   3. Provide the Council with appropriate maps and plats necessary to identify the area for which the petition requests designation, along with a simplified description of its boundaries.

D. The Council shall not consider an application for designation of real estate as an economic revitalization area if, prior to the filing of the application with the Plan Commission, any of the following actions have occurred:

1. An improvement location permit for the subject development for which a deduction is being sought has been issued by the City Zoning Administrator.

2. A structural permit for the subject rehabilitation for which a deduction is being sought has been issued by the County Building Department.

3. Manufacturing equipment for which a deduction is being sought has been installed.

E. The applicant(s) and its representative shall be present at the Council meeting at which the subject request is being considered. After review of information provided in the application by the Plan Commission staff, and by the applicant and other interested persons, the Council may:

1. Find that the real estate under consideration meets the definition and standards of an economic revitalization area, as set forth in IC 6-1.1-12.1(1) and §152.02. In such instances, the Council may adopt a declaratory resolution stating same, and cause the action set forth in division (F) of this section to occur. This declaratory resolution shall include the reasons upon which the determination is made.

2. Find that there is insufficient information, and defer action on the matter. The applicant shall be provided written notice of the reasons for deferral within 10 days of that action.

3. Determine that the real estate should not be designated as an economic revitalization area, and provide the applicant with written notice thereof.

F. Upon adoption of a declaratory resolution, the Council shall:

1. Set the date, time, and location for a public hearing at which the Council will receive and hear all comments from interested persons.

2. Cause notice of the adoption and substance of the declaratory resolution to be published in accordance with IC 6- 1.1-12.1-2.5 and IC 5-3-1. The notice shall state that a description of the affected area is available and can be inspected in the offices of the City Clerk, the County Plan Commission, the County Assessor, and the County Auditor. The notice shall also state the time, date, and location of the subsequent public hearing on the matter.

3. Cause a generalized description of the subject real estate to be attached to the declaratory resolution, and file same with the City Clerk, the County Assessor, and the County Auditor.

G. Upon considering the evidence presented at the public hearing, the Council shall take final action on the request for designation by either confirming, modifying and confirming, or rescinding the subject declaratory resolution. The applicant(s) or its representative shall be present at the public hearing to provide such information as may be needed.

H. The determination on the confirmatory resolution made pursuant to division (G) of this section shall be final, except that an appeal may be taken as provided in IC 6-1.1-12.1-2.5(d) and IC 6-1.1-12.1-2.5(e).

I. Upon confirming, or modifying and confirming, a declaratory resolution by the procedures set forth in this section, the City Clerk, the County Auditor, and the County Plan Commission shall keep a permanent record of the designation of the subject economic revitalization area. The Plan Commission staff shall also provide the Auditor with a final designation packet to be utilized in the review of applications for deduction pursuant to IC 6-1.1-12.5 and IC 6-1.1- 12.5-5.

(Ord. G-85-28, passed 12-10-85)

§152.02 STANDARDS FOR DESIGNATION

A. In its deliberations on designating an economic revitalization area, the City Common Council may, pursuant to IC 6-1.1-12.1-2(e), give consideration to the following general standards, to determine if:

1. The designation will encourage the use of vacant or under-utilized land designated as appropriate for industrial development in the city comprehensive plan, or which is currently zoned for industrial use.

2. The designation will encourage the improvement of a deteriorated structure or the replacement of an obsolete structure.

3. The designation will encourage the preservation of an historically or architecturally significant structure.

4. The designation will assist in the inducement of a project providing substantial employment opportunities relative to the value of the improvements to be made or the new manufacturing equipment to be installed.

5. The designation will assist in the inducement of a project which would provide long-term benefits to the tax base of the city warranting the granting of the annually decreasing percentage of tax abatement as provided in IC 6-1.1-12.1.

B. In all instances, the Council shall find that evidence has been provided either in the application or during the public hearing that the real estate proposed for designation is in an area which has become undesirable for, or impossible for normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property.

(Ord. G-85-28, passed 12-10-85)

§152.03 FILING FEES

In order to defray the costs incurred in processing applications for designation of economic revitalization areas, and pursuant to IC 6-1.1-12.1-2(f), the following rules shall apply.

A. In a case where the subject real estate is an owner-occupied single-family residential project, the applicant shall pay the cost of publication of the required legal notice, as provided in IC 6-1.1- 12.1-2.5.

B. In cases where the subject real estate is utilized for purposes other than as specified in division (A) of this section, the applicant shall pay a filing fee as set forth in the following schedule:

Value of Proposed Improvements for which a Deduction is being Sought	**Filing Fee**
$0 to $250,000	$100
$250,000 to $1,000,000	$150
$1,000,000 and over	$250

The filing fee shall be included along with the application at the time of filing with the Plan Commission, and shall be made payable to the County Treasurer. The applicant shall also pay the cost of publication of the required legal notice as provided in IC 6-1.1-12.1-2.5.

(Ord. G-85-28, passed 12-10-85)

§152.04 LIMITATIONS ON DESIGNATION

As part of its authority to designate economic revitalization areas, the Common Council, pursuant to IC 6-1.1-12.1-2(g), may qualify a designation by:

A. Limiting the time period of the designation to a certain number of calendar years during which the area shall be so designated.

B. Limiting the type of deductions that will be allowed within an economic revitalization area to either the deduction allowed under IC 6-1.1-12.1-3 or the deduction allowed under IC 6-1.1-12.1-4.5.

(Ord. G-85-28, passed 12-10-85)

§152.05 PROPERTY WITHIN AN ALLOCATION AREA

Notwithstanding the procedures set forth in §152.01, the City Common Council shall not designate real estate as an economic revitalization area if any portion of the subject property is located within an allocation area as defined in IC 36-7-14-39, unless the County Redevelopment Commission has first adopted a resolution consenting to the subject designation.

(Ord. G-85-28, passed 12-10-85)

§152.06 PLAN COMMISSION TO SERVE AS ADMINISTRATIVE AGENCY

A. The City Common Council designates the County Plan Commission as the administrative agency for processing applications for the designation of economic revitalization areas. The Plan Commission, in conducting its responsibilities under this delegation, may undertake the following actions.

1. Accept applications for designation and collect the required filing fee to be submitted to the County Treasurer.

2. Review applications for completeness, and provide the Council with supporting data necessary to properly consider such requests.

3. Keep permanent records of all properly filed applications and duly designated economic revitalization areas.

4. Prepare public review files as necessary to comply with IC 6-1.1-12.1-2.5(c).

5. Act in behalf of the Council in corresponding with the applicants and other interested persons regarding the status of an application for

designation.

6. Prepare and cause to be published legal notice of the Council's consideration of the application as required in IC 6-1.1-12.1-2.5(c).

7. Prepare, draft declaratory and confirmatory resolutions for the Council's review and consideration.

8. Prepare and provide the County Auditor with, final designation packets, which shall include information necessary for the review of applications for deductions pursuant to IC 601.1-12.1-5 and IC 6-1.1-12.1-5.5.

B. The Plan Commission may delegate any or all of these responsibilities to its staff.

(Ord. G-85-28, passed 12-10-85)

CHAPTER 153 - BUILDING CODE

§153.01 DESIGNATION OF COUNTY BUILDING DEPARTMENT AS BUILDING DEPARTMENT OF CITY.

A. Pursuant to IC 36-7-8-7, the Common Council of the city hereby designates the Allen County Building Department to administer and enforce the ordinances adopted pursuant to IC 36-7-8-3 and the standards imposed by IC 36-7-8-5 within the city limits.

B. The Allen County Building Department shall have all of the powers and duties which may be granted to a building department of a city as fully and as completely as if the city were to establish its own building department.

C. The city does hereby ratify, confirm, and approve all acts of the Allen County Building Department in regard to the performance of its duties as provided for hereunder.

D. The city does hereby ratify, confirm, and approve all contracts heretofore or hereafter executed by and between the city and Allen County provide for and accomplish the aforesaid stated goals, ideals, objectives, and purposes.

E. The city shall enter into such new contracts with Allen County as may be appropriate to effectuate the purposes hereof.

(Ord. G-88-7, passed 4-12-88)

§153.02 ADOPTION BY REFERENCE OF COUNTY BUILDING CODE.

The Common Council of the city does hereby adopt by reference to be effective within the city limits the building, heating, ventilating, air conditioning, electrical, plumbing, and sanitation standards adopted by Allen County for unincorporated areas of the county.

(Ord. G-88-7, passed 4-12-88)

CHAPTER 154 - FLOODPLAIN MANAGEMENT CODE

§154.01 CAUSE OF FLOOD LOSSES

Flood losses are caused by:

A. The cumulative effect of practices and obstructions in the floodplain which causes increased flood heights and velocities; and

B. The occupancy of flood hazard areas by uses vulnerable to flood damages, or by uses which create hazards to surrounding lands as a result of flood discharges caused by more intensive use of upland drainage areas in the form of residential developments, streets, parking lots, commercial building, storm drain construction and other uses and practices which promote increased storm water runoff.

(Ord. Z-92-14, Adopted 8-12-92)

§154.02 DEFINITIONS

For the purpose of this article only, the following definitions are adopted:

BASE FLOOD ELEVATION. The elevation of the regulatory flood.
BUILDING. see "structure".

CUMULATIVE EFFECT. The impact on the environment which results from the incremental impact of an action when added to other past and present action. A cumulative effect can result from individually minor, but collectively significant, actions taking place over a period of time.

DEVELOPMENT. Any change or improvement to land brought about by human activity including but not limited to:

1. Construction, reconstruction, or placement of a structure or any addition to a structure valued at more than $1,000.00, or any detached accessory structure larger than 144 square feet;

2. Installation of a manufactured home on a site, preparing a site for a manufactured home, installing a travel trailer on a site for more than 180 days, where permitted.

3. Installation of utilities, erection of walls and fences, construction of roads, or similar projects;

4. Construction of flood control structures such as levees, dikes, channel improvements, etc;

5. Mining, dredging, filling, grading, excavation, or drilling operations;

6. Construction and/or reconstruction of bridges or culverts;

7. Storage of materials; or

8. Any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include any authorized activity with respect to a regulated drain as defined in IC 36-9-27-2, as may be amended from time to time. Neither does this definition include activities such as maintenance of existing structures and facilities such as painting, re-roofing, resurfacing roads, or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavating, or constructing permanent structures.

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

FLOOD INSURANCE RATE MAP (FIRM). The latest official map as published by FEMA (August 3, 2009) of a community on which special hazard areas (floodplain) and risk premium zones applicable to the community are delineated.

FLOOD PROOF. Any combination of measures taken on a new or existing structure for reducing or eliminating flood damage.

FLOOD PROTECTION GRADE (FPG). The elevation of the regulatory flood plus two feet at any given location in the floodplain.

FLOODPLAIN. The channel proper and 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. For the purposes of this article, the floodplain is only that area covered by a "Regulatory Flood."

FLOODPLAIN FILL RETRIEVAL ZONE. Shall begin at the 100 year flood elevation of the building site, plus one foot and end at the down stream terminus of the regulated legal drain.

FLOODWAY. The channel of a river or other watercourse and the adjacent land

areas that must be reserved in order to discharge the base flood without cumulatively increasing the water-surface elevation more than .1 feet.

FLOODWAY FRINGE. That area outside of the floodway within the area of the regulatory flood that is inundated from flood flows of varying depths.

HISTORIC STRUCTURE. Any structure that is:

1. Listed individually on the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the United States secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily designated as a registered historic district;

3. Individually listed on the Register of Indiana Historic Sites and Historic Structures; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

    a) by an approved state program as determined by the Secretary of Interior; or

    b) directly by the Secretary of the Interior in states without approved programs.

IMMEDIATE WATERSHED. The portion of a watershed that lies within the City of New Haven's planning jurisdictional area.

IRREVERSIBLE. The adverse effect of actions which cannot be restored or mitigated within 60 days for herbaceous plants or 80 days for woody vegetation.

LEGAL DRAIN. Any ditch or tributary recognized and regulated by the Allen County Surveyor's Office. For the purposes of this ordinance the Maumee River shall also be considered a legal drain.

LOWEST FLOOR. The lowest of the following:

1. The basement floor;

2. The garage floor, if the garage *is* the lowest level of the structure;

3. The first floor of a building elevated on pilings or constructed on a crawl space with permanent openings; or

4. The floor level of an enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters, unless as otherwise provided by these regulations.

MANUFACTURED HOME. 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 "manufacture home" does not include a "recreational vehicle."

MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING. A development for which construction of facilities for servicing the lots on which manufactured homes are to be affixed (including, at a minimum, the installation of utilities, construction of streets, and either final site grading or pouring of concrete pads) *is* completed before the effective date of these floodplain management regulations.

MANUFACTURED HOME PARK OR SUBDIVISION, EXPANSION. The preparation of additional sites by construction of facilities for servicing lots on which manufactured homes are to be affixed (including at a minimum, installation of utilities, construction of streets, and either final site grading or pouring of concrete pads) is completed on or after the effective date of these floodplain management regulations.

MARKET VALUE. The most probable price for which the appraised property (in this case just the structure in question) will sell in a competitive market under all conditions necessary to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self interest and assuming that neither is under duress.

NEW CONSTRUCTION. For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of the initial Flood Insurance Rate Maps including any subsequent improvements to such structure. For floodplain management purposes, "new construction" means structure for which the "start of construction”: commenced on or after the effective date of these floodplain management regulations, including any subsequent improvements to such structures.

RECREATIONAL VEHICLE. A vehicle which is built on a single chassis, 400 square feet of less when measured at the largest horizontal projections, designed to be self-propelled or permanently towable by a light duty truck, and not designed primarily for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.

REGULATORY FLOOD. A flood having a one percent probability of being

equaled or exceeded in any given year, as calculated by a method and procedure approved by the Indiana Natural Resources Commission. A regulatory flood is also known by the terms base flood and a l00-year flood.

SIGNIFICANT. Any action which would increase the height of a regulatory flood by 0 feet.

START OF CONSTRUCTION. The date a building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 60 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of pilings, the construction of columns, or any work beyond excavation or filling; or placement of a manufactured home on a foundation. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other actual part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. For the purposes of this article, 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 where allowable by this ordinance.

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

SUBSTANTIAL IMPROVEMENT. 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. A structure may attain substantial improvement cumulatively over time. The term does not, however, include:

1. Any project for improvement of a structure to correct existing violations of state of local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or

2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

WATERSHED. An area which drains to a single point. In a natural basin, this is the area contributing flow to a given place or stream.

ZONE A. Shaded areas on the Flood Insurance Rate Map where no base flood elevations have been determined.

ZONE AE. Shaded areas on the Flood Insurance Rate Map where base flood elevations have been determined.

ZONE AH. Shaded areas on the Flood Insurance Rate Map depicting flood depths of one to three feet (usually areas of ponding) and where base flood elevations have been determined.

ZONE AD. Shaded areas on the Flood Insurance Rate Map depicting flood depths of one to three feet (usually sheet flow on sloping terrain) where average depths have been determined. For areas of alluvial fan flooding, velocities have also been determined.

ZONING ADMINISTRATOR. The person appointed by the New Haven Plan Commission to enforce and administer the provisions of this zoning ordinance.

ZONING DISTRICT. Portions of the territory within the jurisdiction of the New Haven Plan Commission shown on the zoning maps for New Haven to which a uniform set of regulations apply. These regulations prohibit and permit certain land uses per district, while also prescribing certain year, height, and other dimensional requirements.

(Ord. Z-92-14, Adopted 8-12-92; Am. Ord. Z-09-19, passed 1-12-10)

§154.03 PERMITTED USES IN THE FLOODPLAIN

A. FLOODWAY. The purpose of this section is to guide development away from areas identified as floodway. The floodway, as identified, is not to be considered a zoning district. The floodway is identified as such by Federal Emergency Management Agency on the most current edition of the Allen County and Incorporated Areas Flood Insurance Study and Flood Insurance Rate Maps. These maps and any subsequent revisions thereto are adopted by reference and declared to be part of this section:

1. Permitted Uses. The following uses shall be permitted by right (exclusive of enclosed structures) if permitted by the zoning district in which the property is located.

   a) Agricultural uses.

   b) Wildlife areas, nature preserves, forests, and wetlands

   c) Parks and recreational uses, such as golf courses, driving ranges, and play areas, provided no structures or fill will be located within the floodway.

   d) Public Utilities.

   e) Public transportation facilities such as roads, streets and bridges, which are located on public rights-of-way.

   f) Public works projects for flood control improvements such as levees, floodwalls, and dams.

2. Prohibited Uses.

   a) All encroachments, including structures and fill, except the fill needed for public transportation facilities and public works projects for flood control improvements.

B. FLOODWAY FRINGE. The purpose of this section is to control and minimize development in areas subject to potential flooding, but outside an identified floodway. The floodway fringe, as identified, is not to be considered a zoning district. The floodway fringe is that area identified by the Federal Emergency Management Agency on the most current edition of the Allen County and Incorporated Areas Flood Insurance Study and Flood Insurance Rate Maps as outside the floodway, but subject to inundation by the regulatory flood. These maps and any subsequent revisions thereto are adopted by reference and declared to be part of this section.

1. Permitted Uses.

   a) All uses permitted in the floodway.

   b) All structures permitted within the applicable zoning district, meeting all damage protection and building protection standards of this article.

   c) Accessory uses permitted within the applicable zoning district, meeting all damage prevention and building protection standards of this article.

2. Prohibited Uses.

   a) Fill placed for any reason other than for public and transportation facilities, utilities, flood control improvements, or approved structures as permitted in Chapter 3, Section B, Article 1 (Chapter 3-B-1).

C. NONCONFORMING USES. Any building, structure, or use that does not conform to this chapter is a non-conforming use. This use or structure may undergo substantial improvement on a one-time-only basis, whether cumulatively, or as a single at, provided it is not in the floodway, and that the new construction conforms to the floodproofing provisions and lowest floor elevations required by this article.

(Ord. Z-92-14, Adopted 8-12-92)

§154.04 ADMINISTRATION

A. DUTIES OF THE ZONING ADMINISTRATOR. The Zoning Administrator shall ensure compliance with all provisions of this article. In doing so, the Zoning Administrator shall perform the following duties:

1. Obtain the "as built" elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved structures in the floodplain, including allowed fill and required excavation.

2. Obtain, for all structures that have been flood- proofed (whether or not such structures include a basement), the elevation (in relation to mean sea level to which the structure was flood-proofed.

3. Maintain a record of all such information.

4. Ensure that all new development proposals requiring review under the terms of this article are reviewed by persons with the necessary technical expertise to correctly apply the requirement of this chapter.

5. Require any reports or technical data that are necessary to ensure compliance.

6. Place conditions on any Improvement Location Permit to ensure compliance with the intent, purpose, and regulations of this article, or any similar regulation set forth by a state of federal agency.

B. IMPROVEMENT LOCATION PERMIT. No construction or development which requires an Improvement Location Permit according to the terms of this ordinance shall commence within a floodplain without first obtaining an Improvement Location Permit. The Zoning Administrator shall not issue an Improvement Location Permit if the proposed use, structure, or development does not meet the requirements of this article.

1. Upon receipt of an Improvement Location Permit application, the Zoning Administrator shall determine if the site is located within an identified floodway, or floodplain, where the limits of the floodway have not yet been determined.

   a) If the site is within an identified floodway, the Zoning Administrator shall inform the applicant that the permit cannot be issued pursuant to Chapter 3- A- of this Ordinance. Any use in the floodway allowed by this article, but not requiring an Improvement Location Permit, must comply with the provision of IC 13-2-22.

b) If the site is located in an identified floodway fringe, the Zoning Administrator may issue an Improvement Location Permit provided there is compliance with chapter 6 of this article.

c) If the site is in an identified floodplain where the limit of the floodway and floodway fringe have not been determined (shown as Zone A on the Flood Insurance Rate Map), and the drainage areas upstream of the site is greater than one square mile, the Zoning Administrator shall require the applicant to forward plans and specifications to the Indiana Department of Natural Resources, requesting a letter of recommendation. if this review indicates the site is in the floodway, the Zoning Administrator shall not issue an Improvement Location Permit. If it is in the floodway fringe, the Improvement Location Permit may be issued in accordance with chapter 6 of this article.

d) If the site falls within an area designated as Zone A on the Flood Insurance Rate Map and the upstream drainage areas is less than one square mile, an engineering study of the site shall be completed by the applicant and submitted to the Zoning Administrator. A determination shall then be made by the Zoning Administrator, with the advice from the Allen County Surveyor's office, as to whether the site is in the floodway or floodway fringe. No permit may be issued by the Zoning Administrator if the site is determined to be within the floodway. If the site is t within the floodway fringe, the Improvement Location Permit may be issued in accordance with chapter 6 of this article.

2. In addition to complying with the requirements of this ordinance, an application for an Improvement Location Permit proposing construction or improvements within a floodway fringe shall further include all the following:

a) A plan showing the location of existing and proposed structures, and existing and proposed land grades, on the site;

b) The elevation (in relation to mean sea level) of the lowest floor (including basement) of all proposed structures;

c) A plan showing the location of existing and proposed structures in relation to any stream, drain, ditch or waterway; and

d) Any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this chapter.

C. CERTIFICATE OF OCCUPANCY. No certificate of occupancy shall be issued by the Zoning Administrator unless it has been confirmed the structure has been built in compliance with the terms of this article. The Zoning Administrator may require the applicant to submit any information which may be needed to ensure compliance.

(Ord. Z-92-14, Adopted 8-12-92)

§154.05 STANDARD OF PROTECTION

A. REGULATORY FLOOD ELEVATION. This article'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 a detailed engineering study needs to replace existing data with better data and submit it to the Indiana Department of Natural Resources for review and approval.

1. The regulatory flood elevation for the floodplain of all watercourses shall be as delineated on the flood profiles in the Flood Insurance Study of Allen County and Incorporated Areas prepared by the Federal Emergency Management Agency.

2. The regulatory flood elevation for each floodplain delineated as an "AH Zone" or "AD Zone" shall be in elevation (or depth) delineated on the Flood Insurance Rate Map for Allen County and Incorporated Areas.

3. The regulatory flood elevation for each floodplain delineated as an "A Zone" on the Flood Insurance Rate Map for Allen County and Incorporated Areas shall be determined according to the best data available as provided by the Department of Natural Resources.

4. If the floodplain is delineated as "AH Zone" or "AD Zone", the elevation (or depth) will be delineated as "Zone A" on the Allen County and Incorporated Areas Flood Insurance Rate Map. If the floodplain is delineated as "Zone A" on the Flood Insurance Rate Map, the regulatory flood elevation shall be according to the best data available as provided by the Indiana Department of Natural Resources.

(Ord. Z-92-14, Adopted 8-12-92)

§154.06 DAMAGE PREVENTION AND FLOOD PROTECTION

A. PREVENTING INCREASED DAMAGES. No development shall be allowed in the floodplain which has a significant and irreversible effect, nor shall it 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 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 of fill (including levees), the applicant shall submit a request to the Federal Emergency Management Agency to revise the regulatory flood data.

2. Within the floodway fringe identified in the Flood Insurance Rate Map, the following standards shall apply:

   a) Structures shall be constructed as far from the floodway as possible, assuring all applicable building setback and separation requirements are maintained, unless it is demonstrated that an alternative location would have less of an impact on the floodplain due to a decreased need for fill and/or excavation;

   b) The total cumulative effect of the proposed development, when combined with all other existing development, shall not increase the regulatory flood elevation nor increase real or potential flood damages;

   c) Fill material taken from within the floodplain shall offset the fill needed for an approved building project so the water storage capacity of the floodplain is not diminished; excavation of the fill shall take place in the floodplain fill retrieval zone; and excavated area within the floodplain shall provide for true storage of flood water but shall not be subject to ponding when not inundated by flood water; the fill shall not obstruct a drainage way leading to the floodplain;

   d) Fill material taken from outside of but adjacent to the floodplain shall be excavated so the finished elevation of the excavation site is below the elevation of the regulatory flood; the elevation of the regulatory flood; the capacity of an area excavated in such a manner shall offset the fill needed for an approved building project so the water storage capacity of the floodplain is not diminished; excavation of the fill

shall take place in the same immediate watershed in which the building site is located; the fill shall not obstruct a drainageway leading to the floodplain; the excavated area shall not be refilled;

e) Fill shall be of a material deemed stable enough to remain firm and in place during periods of flooding; runoff and drainage protection shall be provided to adjacent property owners; and

f) Plans depicting the areas to be excavated and filled according to (c) and/or (d) above shall be submitted by the applicant prior to the actual start of construction; once site work is complete, but prior to the actual start of construction, the applicant shall provide to the Zoning Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with that article.

g) Within the floodplain as identified on the Flood Insurance Rate Maps, the following public health standard shall apply to protect the community from nuisances and hazards:

i. No development in the floodplain 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 Chapter 3-C-l; and

ii. 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 flood protection grade are watertight.

B. STRUCTURES AFFECTED BY BUILDING PROTECTION STANDARDS. In addition to damage prevention requirements of chapter 6, all buildings to be located in the floodplain shall be protected from flood damage below the flood protection grade. These building protection standards apply to the following situations:

1. Construction or placement of any new structure which is valued at more than $1,000.00, or which is larger than 144 square feet;

2. Structural alterations made to an existing building that constitute substantial improvement;

3. Reconstruction or repairs made to a building that experienced substantial damage. Any structure receiving substantial damage immediately becomes subject to substantial improvement and must comply with all applicable requirements of this article, regardless of the level of repairs

actually made to the structure;

4. Installing a manufactured home on a new site or a new manufactured home on an existing site. This 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,

5. Installing a travel trailer on a site for more than 180 days, where allowed by this ordinance.

C. BUILDING PROTECTION METHODS. Building protection may be accomplished by one of the following methods. The Zoning Administrator shall maintain a record of compliance with these building protection standards as required in Chapter 4-A.

1. A structure may be constructed on a site within the floodway fringe which is specifically and permanently filled for the structure only, provided the fill was not placed in a floodway, in accordance with the following:

   a) The fill shall be placed in layers no greater than one foot deep before compacting to 95 percent of the maximum density obtainable with the Standard Proctor Test method;

   b) The fill shall extend at least ten feet beyond the foundation of the building before sloping below the flood protection grade;

   c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, bulkheading, or other acceptable method. If vegetative cover is used, the slopes shall be no steeper than 3 to (horizontal to vertical);

   d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties or receiving waterways; and

   e) The lowest floor shall be at or above the flood protection grade.

2. A structure may be elevated in accordance with the following:

   a) The building or improvements shall be elevated on posts, piers, columns, extended walls or other types of similar foundation provided:

      i. Walls of any enclosure below the elevated door shall be designed to automatically equalize 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 square foot for every two square feet of enclosed floor area subject to flooding. The bottom of all such openings shall be no higher than one foot above the enclosed area's floor; and

ii. Any enclosure below the elevated floor is not used for additional occupied floor space by the permitted use, excluding building access.

b) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structure so as to minimize exposure to known natural forces such as current, waves, ice, and floating debris.

c) All areas below the flood protection grade shall be constructed of materials resistant to flood damage. The lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection grade. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the flood protection grade.

3. Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following anchoring requirements.

a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the flood protection grade and securely attached 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;

i. Outside a manufactured home park or subdivision;

ii. In a new manufactured home park or subdivision;

iii. In an expansion to an existing manufactured home park or subdivision; or

iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood.

b) The manufactured home shall be elevated so that the lowest floor of the home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be a securely attached 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 manufacture home park or subdivision that has not been substantially damaged by a flood.

4. Recreational vehicles placed on a site shall either:

   a) Be on the site for less than 80 consecutive days;

   b) 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

   c) Meet the requirement for manufactured homes in Chapter 6-C-3.

5. A non-residential building may be floodproofed to the flood protection grade (in lieu of elevation) if done in accordance with the following:

   a) A registered professional engineer shall certify that the portions of the structure and attendant utility facilities located below the flood protection grade have been designed to be watertight and capable of resisting the effect of the regulatory flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impact from debris or ice.

   b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(Ord. Z-92-14, Adopted 8-12-92)

§154.07 SUBDIVISION AND DEVELOPMENT PLAN REQUIREMENTS

A. DEVELOPING IN FLOODPLAIN AREAS. The Plan Commission shall review all proposed subdivision and development plans to determine whether any or all of the proposed development lies in a floodplain. If the Plan Commission finds the subdivision or development plan, or portion thereof, to be located in an "A Zone" without regulatory flood elevations determined, the developer shall forward plans and materials to the Indiana Department of Natural Resource for review and comment. If the site is shown to contain areas within floodway, those portions within the floodway will be subject to the permitted use requirements of this article. The Plan Commission shall require appropriate changes and modifications to be made to the plat, development plan, and subsequent development, in order to assure that:

1. No structure or fill are to be located in the floodway;

2. Development activities are consistent with the need to reduce flood damages; and

3. Adequate drainage is provided so as to reduce exposure to flood hazards.

B. FLOOD ELEVATIONS. Developers shall show the regulatory flood elevation on all development plans and subdivision plats contain lands identified as within a floodplain of a regulatory flood prior to submitting the drawings for approval by the Plan Commission.

C. MANUFACTURED HOUSING DEVELOPMENTS. All owners of manufactured home parks or subdivision located within a floodplain identified as "Zone A" on the Flood Insurance Rate Map must develop an evacuation plan for those lots which are located in "Zone A." The plan must be approved by, and filed with, the Allen County Office of Emergency Preparedness. A copy of the plan shall also be filed with the Plan Commission.

(Ord. Z-92-14, Adopted 8-12-92)

§154.08 VARIANCES

A. BOARD OF ZONING APPEALS. The Board of Zoning Appeals may issue a variance from the technical provision of this article (as opposed to the permitted use provisions) provided the applicant demonstrates that:

1. There exists a good and sufficient cause for the requested variance;

2. The strict application of the terms of this article will constitute an exceptional hardship to the applicant; and

3. The granting of the requested variance will not 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.

B. GRANT OF VARIANCE. The Board of Zoning Appeals may issue a variance from the technical provisions of this article subject to the following standards and conditions:

1. All variance requests are subject to a public hearing upon complying with the notification requirements of IC 5-3-1.

2. No variance shall be granted for a use of structure in the floodway which is not otherwise permitted.

3. Prior to the granting of a variance from any part of this ordinance the applicant shall obtain a letter of comment from the Maumee River Basin Commission and submit that letter to the Zoning Administrator.

4. Variances from the Building Protection Standards of this article may be granted only when a new structure is to be located on a lot of 0.5 acres or less in size, contiguous to and surround by lots with existing structure constructed below the flood protection grade. Lots large than 0.5 acres in size may be granted a variance providing the intent of goals set out as a part of this ordinance as well as Chapter 8-A-1 are met.

5. A variance may be granted for the reconstruction or restoration of any structure listed individually on the National Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects.

6. All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction.

7. Other than as provided in this section, variances will only be granted in accordance with provisions as set out in the New Haven Zoning Ordinance. In the event of a conflict, the provisions of this section will control.

(Ord. Z-92-14, Adopted 8-12-92)

§154.09 DISCLAIMER OF LIABILITY

A. DISCLAIMER OF LIABILITY. The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can & will occur on rare occasions. Therefore, this article does not create any liability on the part of the community, the Indiana Department of Natural Resources, the State of Indiana, II the Allen County Surveyor's Office, the New Haven Plan Commission and Board of Zoning Appeals, the New Haven Zoning Administrator, or the New Haven Common Council for any flood damage that results from reliance on this article or any administrative decision made lawfully thereunder.

(Ord. Z-92-14, Adopted 8-12-92)

§154.10 VALIDITY AND EFFECTIVE DATE

A. VALIDITY. If any chapter, section, clause or portion of this article is judged to be invalid or unconstitutional, such judgment shall not affect the validity or constitutionality of the article or ordinance as a whole, or any other part thereof.

B. EFFECTIVE DATE. This article shall be in full force and effect upon final passage by the New Haven Common Council and execution by the Mayor.

(Ord. Z-92-14, Adopted 8-12-92)

§154.11 ABROGATION AND GREATER RESTRICTIONS

This ordinance repeals and replaces other ordinances adopted by the City 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 stringent restrictions shall take precedence.

(Ord. Z-92-14, Adopted 8-12-92)

CHAPTER 155 – UNSAFE BUILDING LAW

§155.01 STATE LAW ADOPTED

The provisions of the Indiana Unsafe Building Law is adopted by the City of New Haven as provide by Indiana Code §36-7-9-3.

(Ord. G-07-05, passed 6-26-07)

§155.02 ENFORCEMENT

A. Hearing Authority. The City of New Haven Board of Zoning Appeals shall act as the hearing authority of the Unsafe Building Law and shall conduct such hearings and hold such powers as are provided by the State Unsafe Building Law.

B. Enforcement Authority. Specific responsibility for enforcement of the provisions of the State Unsafe Building Law shall rest with the City's Code Enforcement Officer.

(Ord. G-07-05, passed 6-26-07)