

TITLE XV: LAND USAGE

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CHAPTER 150: BUILDING CODE

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GENERAL PROVISIONS**§ 150.01 TITLE.**

This chapter and all ordinances supplemental or amendatory hereto shall be known as the Building Code of the City of Rockport, Indiana, may be cited as such, and will be referred to herein as this code. (Ord. 445, passed 1-18-1990)

§ 150.02 PURPOSE.

The purpose of this code is to provide minimum standards for the protection of life, health, environment, public safety, and general welfare, and for the conservation of energy in the design and construction of buildings and structures. (Ord. 445, passed 1-18-1990)

§ 150.03 AUTHORITY.

The Rockport Building Inspector is hereby authorized and directed to administer and enforce all of the provisions of this code. Whenever in this code it is provided that anything must be done to the approval of or subject to the direction of the Building Inspector or any other officer of the city, this shall be construed to give that officer only the discretion of determining whether this code has been complied with; and no such provision shall be construed as giving any officer discretionary powers as to what this code shall be, or power to require conditions not prescribed by ordinances or to enforce this code in an arbitrary or discriminatory manner. (Ord. 445, passed 1-18-1990)

§ 150.04 SCOPE.

The provisions of this code apply to the construction, alterations, repair, use, occupancy, maintenance, and additions to all buildings and structures, other than fences, in the city. (Ord. 445, passed 1-18-1990)

§ 150.05 ADOPTION OF RULES BY REFERENCE.

(A) Building rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this chapter and shall include later amendments to those articles as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein:

- (1) Article 13 - Building Codes:
 - (a) Fire and Building Safety Standards;
 - (b) Indiana Building Code;
 - (c) Indiana Building Code Standards; and
 - (d) Indiana Handicapped Accessibility Code.
- (2) Article 14 - One- and Two-Family Dwelling Codes:
 - (a) Council of American Building Officials One- and Two-Family Dwelling Code;
 - (b) CABO One- and Two-Family Dwelling Code; Amendments; and
 - (c) Standard for Permanent Installation of Manufactured Homes.
- (3) Article 16 - Plumbing Codes: Indiana Plumbing Code.
- (4) Article 17 - Electrical Codes:
 - (a) Indiana Electrical Code; and
 - (b) Safety Code for Health Care Facilities.
- (5) Article 18 - Mechanical Codes: Indiana Mechanical Code.
- (6) Article 19 - Energy Conservation Codes:
 - (a) Indiana Energy Conservation Code; and
 - (b) Modifications to the Model Energy Code.

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(7) Article 20 - Swimming Pool Codes: Indiana Swimming Pool Code.

(B) Copies of adopted building rules, codes, and standards are on file in the City Hall.
(Ord. 445, passed 1-18-1990; Am. Ord. 2007-5, passed 6-21-2007)

§ 150.06 BUILDING INSPECTOR.

(A) The Building Inspector is hereby empowered to reinspect all electric, plumbing, furnaces, gas, and buildings, coming within the scope hereof. When the installation of any electric, plumbing, furnaces, gas, or buildings is found to be in a dangerous or unsafe condition, the person owning, using, operating the same shall be notified to make the necessary repairs or changes required to place the electric, plumbing, furnaces, gas, or building in a safe condition and shall have the work completed within 10 days after notification thereof or within such further reasonable time as may upon request be prescribed.

(B) (1) (a) The Inspector is hereby empowered, after reasonable notice to interested parties, to disconnect or order the discontinuance of electrical, water, or gas service to the equipment or apparatus found to be in a dangerous or unsafe condition, or to have been installed without a permit, or not in accordance with the provisions hereof.

(b) He or she shall thereupon attach a notice stating that the equipment or apparatus has been disconnected because of its having been found unsafe to life or property.

(2) It shall be unlawful for any person to remove the notice of disconnection or to reconnect the defective conductors or apparatus until the same has been placed in a safe and secure condition and has been approved for use by the Building Inspector.

(C) Bonding is required on all items comprising service entrance equipment, including troughs and main distributing panel. Also insulated bushing or on 4 or larger wire.

(D) All electric and plumbing installations in new or remodeled buildings shall be inspected before they are concealed. If not inspected, they can be condemned, if not corrected to meet these requirements after reasonable notice.

(Ord. 329, passed - -) Penalty, see § 150.99

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PERMITS

§ 150.15 APPLICATION FOR PERMITS.

(A) No building permit shall be issued for the foregoing purposes unless the application for a permit is accompanied by a plat or sketch of the proposed location showing lot boundaries, and by plans and specifications showing the work to be done.

(B) In addition, a copy of a design release, issued by the State Building Commissioner and the State Fire Marshal pursuant to I.C. 22-15-3-1, shall be provided to the Building Inspector before issuance of a permit for construction covered by the design release.

(Ord. 445, passed 1-18-1990)

§ 150.16 PERMIT REQUIRED.

A permit shall be obtained before beginning construction, alteration, or repair of any building or structure, the cost of which exceeds \$500, using forms furnished by the Building Inspector. All fees required by this code shall be paid to the Clerk-Treasurer of the city.

(Ord. 445, passed 1-18-1990)

§ 150.17 OTHER ORDINANCES.

All work done under any permit shall be in full compliance with all other ordinances pertaining thereto, and in addition to the fees for permits, there shall be paid the fees prescribed in those ordinances.

(Ord. 445, passed 1-18-1990)

§ 150.18 REVIEW OF APPLICATION.

Prior to the issuance of any building permit, the Building Inspector shall:

(A) Review all building permit applications to determine full compliance with the provisions of this code;

(B) Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding;

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(C) Review building permit applications for major repairs within the floodplain area having special flood hazards to determine that the proposed repair uses construction materials and utility equipment that are resistant to flood damage, and uses construction methods and practices that will minimize flood damage; and

(D) Review building permit applications for new construction or substantial improvements within the floodplain area having special flood hazards to assure that the proposed construction (including prefabricated and mobile homes):

(1) Is protected against flood damage;

(2) Is designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure, flood damage; and

(3) Uses construction methods and practices that will minimize flood damage.

(Ord. 445, passed 1-18-1990)

INSPECTIONS; ENFORCEMENT**§ 150.30 INSPECTIONS.**

After the issuance of any building permit, the Building Inspector shall make or shall cause to be made inspections of the work being done as are necessary to ensure full compliance with the provisions of this chapter and the terms of the permit. Reinspections of work found to be incomplete or not ready for inspection are subject to assessment of reinspection fees as prescribed in this code.

(Ord. 445, passed 1-18-1990)

§ 150.31 INSPECTION ASSISTANCE.

The Chief of the Fire Department, or his or her designated representative, shall assist the Building Inspector in the inspection of fire suppression, detection, and alarm systems and shall provide reports of the inspection to the Building Inspector.

(Ord. 445, passed 1-18-1990)

§ 150.32 ENTRY.

Upon presentation of proper credentials, the Building Inspector or his or her duly authorized representatives may enter at reasonable times any building, structure, or premises in the city to perform any duty imposed upon him or her by this code.

(Ord. 445, passed 1-18-1990)

§ 150.33 STOP ORDER.

Whenever any work is being done contrary to the provisions of this code, the Building Inspector may order the work stopped by notice in writing served on any persons engaged in the doing or causing the work to be done, and any such persons shall forthwith stop the work until authorized by the Building Inspector to proceed with the work.

(Ord. 445, passed 1-18-1990)

§ 150.34 WORKMANSHIP.

All work on the construction, alteration, and repair of buildings and other structures shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade.

(Ord. 445, passed 1-18-1990)

§ 150.35 CERTIFICATE OF OCCUPANCY.

(A) No certificate of occupancy for any building or structure erected, altered, or repaired after the adoption of this chapter shall be issued unless the building or structure was erected, altered, or repaired in compliance with the provisions of this chapter.

(B) It shall be unlawful to occupy any building or structure unless a full, partial, or temporary certificate of occupancy has been issued by the Building Inspector.

(Ord. 445, passed 1-18-1990) Penalty, see § 150.99

APPEALS; REMEDIES**§ 150.50 RIGHT OF APPEAL.**

All persons shall have the right to appeal the Building Inspector's decision first through the Plan Commission of the city, and then to the Fire Prevention and Building Safety Commission of Indiana in accordance with the provisions of I.C. 22-13-2-7 and I.C. 4-21.5-3-7.

(Ord. 445, passed 1-18-1990)

§ 150.51 REMEDIES.

(A) The Building Inspector shall, in the name of the city, bring actions in the Circuit Court of Spencer County for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders made by the Building Inspector.

(B) Any action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this chapter.

(Ord. 445, passed 1-18-1990)

FEES**§ 150.65 PERMIT AND INSPECTION FEES.**

(A) Permits required by § 150.16 shall be issued upon payment of inspection fees according to the following provisions and schedules:

(1) The minimum fee for any building permit shall be \$5, which sum shall include any cost of construction, alteration, or repair that is \$1,000.00 or less. Where the cost exceeds \$1,000, the permit fee shall be increased at the rate of \$2 for each \$1,000 of additional cost. Where the cost exceeds \$10,000, the permit fee shall be increased at the rate of \$.25 for each \$1,000 of additional cost in excess of \$10,000, up to a cost of \$500,000. Where the cost exceeds \$500,000, the permit fee shall be increased at the rate of \$.10 per \$1,000 of additional cost.

(2) In the event of the issuance of a building permit, there shall be an additional inspection fee for electrical items as follows:

(a) Lighting circuits, appliance or motor circuits, mains, feeders, or sub-feeders: 1 circuit - \$2; 2 circuits - \$3; 3 circuits - \$4; plus \$.40 for each additional circuit up to 30 circuits; plus \$.10 for each additional circuit in excess of 30 circuits; sub-feeders - \$5 per feeder.

(b) Fixtures that are connected directly to circuit wires: \$.20 for each circuit up to a total of 20 circuits, plus \$.10 for each additional circuit device over 20.

(c) Each electrical sign: \$5.

(d) When new electrical services are installed, an inspection fee of \$15 shall be paid for all ampere services up to 100 amperes, with an additional fee of \$5 for each 100 amperes over 100 amperes.

(3) In the event of the issuance of a building permit, there shall be an additional inspection fee for plumbing items as follows:

(a) Plumbing fixtures, including but not limited to bathroom fixtures, drinking fountains, traps, floor drains, laundry tubs, lavatories, showers, sinks, urinals, and water heaters, as follows: \$10 for the first rough-in, with an additional \$2 fee for each additional outlet; a fee of \$5 for each fixture, with \$1 for each additional fixture.

(b) An inspection fee of \$10 shall be assessed for each meter for water service and sewer line connection to an approved public or private water supply system.

(c) An inspection fee for plumbing alterations and repairs, including but not limited to extending and remodeling, shall apply as follows: \$10 for the first \$1,000 of cost, with an additional \$5 for each additional \$1,000 of cost.

(4) In the event of the issuance of a building permit, there shall be an additional inspection fee for gas, L.P. or natural gas outlets as follows: each L.P. or natural gas outlet shall carry an inspection fee of \$15 for the first outlet, with an additional fee of \$5 for each additional outlet.

(5) In the event of the issuance of a building permit, there shall be an additional inspection fee for heating and air conditioning items as follows:

(a) An inspection fee of \$15 shall apply to each warm air furnace for a cost up to and including \$1,500, with an additional fee at the rate of \$.40 for each \$1,000 of additional cost. A fee of

\$15 shall apply to all duct work for cost up to and including \$2,000, with an additional fee at the rate of \$.40 for each \$1,000 of additional cost above \$2,000.

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(b) A fee of \$150 shall apply to each air conditioning system up to and including a cost of \$2,000, with an additional fee at the rate of \$.50 per ton of cooling capacity for each air conditioning system which exceeds a cost of \$2,000.

(6) All electric and gas services that have been shut off shall be reinspected before service is resumed, with a fee of \$10 for the first inspection and \$5 for each additional inspection. In the event that a reinspection is required concerning electric, plumbing, gas, heating, or air conditioning, due to the construction, alteration, or repair being condemned or due to the item being inspected not being in a condition which is proper for inspection at the time specified in the application or request for inspection, an additional inspection fee of \$5 shall apply upon reinspection.

(7) All footings, electrical construction, alteration or repair; plumbing construction, alteration or repair; gas construction, alteration or repair; or heating or air conditioning construction, alteration or repair shall be inspected prior to the construction, alteration, or repair being sealed or covered. A final inspection shall be required after the sealing or covering. In the event that inspection is required following 3 previous inspections, there shall be an additional inspection fee of \$50.

(8) For unusually large or complex buildings or structures, the Building Inspector shall have the power to increase the number of required inspections and the applicable inspection fee by 50%. The Building Inspector shall in all cases designate the stage of construction when each required inspection must be requested by the permit holder. No concrete shall be placed for foundations without prior inspection. No electrical, mechanical, plumbing, or thermal insulation work shall be covered without prior inspection.

(B) All costs which are a fraction of the amount stated in this section shall be rounded up to the next full increment of cost. All fees are set at a minimum. Inspection and reinspection fees shall be paid to the city prior to the issuance of a certificate of occupancy or at such other time as the Building Inspector directs. The Building Inspector shall submit an annual report to the Common Council of the city which shall include an analysis of inspections performed, permit fees collected, costs of inspection operations, and recommendations for adjustments of required inspections and single inspection fees as necessary.

(Ord. 445, passed 1-18-1990)

(C) The city hereby imposes a fee of \$30 to be paid to an acknowledged and contracted building inspector.

(Ord. 2004-4, passed 6-22-2004)

§ 150.98 VIOLATIONS.

It shall be unlawful for any person, firm, or corporation, whether as owner, lessee, sublessee, or occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy, or maintain any building or structure, other than fences, in the city or cause or permit the same to be done, contrary to or in violation of the provisions of this code.

(Ord. 445, passed 1-18-1990) Penalty, see § 150.99

§ 150.99 PENALTY.

If any person, firm, or corporation shall violate any of the provisions of this chapter, except § 150.06, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined within the time prescribed by the Building Inspector, or shall fail, neglect or refuse to obey any lawful order given by the Building Inspector in connection with the provisions of this chapter for each violation, failure, or refusal, the person, firm, or corporation shall be fined in any sum not less than \$10 nor more than \$500. Each day of unlawful activity as is prohibited by the first sentence of this section shall constitute a separate offense.

(Ord. 445, passed 1-18-1990)

CHAPTER 151: UNSAFE BUILDING LAW

Section

- 151.01 Establishment; incorporation by reference
- 151.02 Declaration as nuisance
- 151.03 Authorized officer; limitation of power
- 151.04 Definition
- 151.05 Effective date

§ 151.01 ESTABLISHMENT; INCORPORATION BY REFERENCE.

(A) Under the provisions of I.C. 36-7-9, there is hereby established the Rockport Unsafe Building Law.

(B) The provisions of I.C. 36-7-9-1 through 36-7-9-28 are hereby incorporated by reference in the Unsafe Building Law. All proceedings within the city for the inspection, repair, and removal of unsafe buildings shall be governed by the law and the provisions of this chapter. In the event the provisions of this chapter conflict with the provisions of I.C. 36-7-9-1 through 36-7-9-28, then the provisions of the state statute shall control.

(Ord. 440, passed 3-17-1988)

§ 151.02 DECLARATION AS NUISANCE.

All buildings or portions thereof within the city which are determined after inspection by the Building Inspector to be unsafe, as defined in this chapter, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal.

(Ord. 440, passed 3-17-1988)

§ 151.03 AUTHORIZED OFFICER; LIMITATION OF POWER.

(A) The Building Inspector, as chief building administrative officer of the city, shall be authorized to administer and to proceed under the provisions of the law in ordering the repair or removal of any buildings found to be unsafe as specified therein or as specified hereafter.

(B) Wherever, in the building laws and the regulations of the city or the Unsafe Building Law, it is provided that anything must be done to the approval of or subject to the direction of the Building Inspector, this shall be construed to give the officer only the discretion of determining whether the rules and standards established by ordinance have been complied with; and no such provisions shall be construed as giving any officer discretionary powers as to what the regulations or standards shall be, power to require conditions not prescribed by ordinance, or to enforce ordinance provisions in an arbitrary or discretionary manner.

(Ord. 440, passed 3-17-1988)

§ 151.04 DEFINITION.

The description of an unsafe building contained in I.C. 36-7-9-4 is hereby supplemented to provide minimum standards for building condition or maintenance in the city by adding the following definition:

UNSAFE BUILDING. Any building or structure which has any or all of the conditions or defects hereinafter described, provided that the conditions or defects exist to the extent that life, health, property, or safety of the public or its occupants are endangered:

(1) Whenever any door, aisle, passageway, or other means of exit is not of sufficient width or size, or is not so arranged as to provide safe and adequate means of exit in case of fire or panic;

(2) Whenever the walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, loose, torn, or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic;

(3) Whenever the stress in any materials, member, or portion thereof, due to all dead and live loads, is more than 1½ times the working stress or stresses allowed for new buildings of similar structure, purpose, or location;

(4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to the extent that the structural strength or stability thereof is materially less than it was before the catastrophe and is less than the minimum requirements for new buildings of similar structure, purpose, or location;

(5) Whenever any portion, member, or appurtenance thereof is likely to fail, to become detached or dislodged, or to collapse and thereby injure persons or damage property;

(6) Whenever any portion of a building, or any member, appurtenance, or ornamentation on

the exterior thereof is not of sufficient strength or stability or is not so anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of 1/2 of that specified for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted for those buildings;

(7) Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;

(8) Whenever the building or structure, or any portion thereof, because of any of the following is likely to partially or completely collapse:

(a) Dilapidation, deterioration, or decay;

(b) Faulty construction;

(c) The removal, movement, or instability of any portion of the ground necessary for the purpose of supporting the building;

(d) The deterioration, decay, or inadequacy of its foundation; or

(e) Any other cause.

(9) Whenever, for any reason, the building or structure or any portion thereof is manifestly unsafe for the purpose for which it is being used;

(10) Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle 1/3 of the base;

(11) Whenever the building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings;

(12) Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood, or has become so dilapidated or deteriorated so as to become an attractive nuisance to children, or freely accessible to persons for the purpose of committing unlawful acts;

(13) Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to the building or structure provided by the building regulations of the city, or of any law or ordinance of this state or the city relating to the condition, location, or structure of buildings; or

(14) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances has in any nonsupporting part, member, or portion less than 66% of the

strength, fire-resisting qualities or characteristics, or weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location.

(Ord. 440, passed 3-17-1988)

§ 151.05 EFFECTIVE DATE.

This chapter will be in full force and effect on April 1, 1988, according to the laws of the state.
(Ord. 440, passed 3-17-1988)

CHAPTER 152: SUBDIVISION CODE

Section

152.01 Adoption; by reference

§ 152.01 ADOPTION; BY REFERENCE.

The Subdivision Control Ordinance dated January 14, 1999, is hereby adopted as the official subdivision control ordinance of the city. This ordinance is adopted by reference as if set out in full herein.

CHAPTER 153: FLOOD CONTROL

Section

- 153.01 Statutory authorization
- 153.02 Purpose
- 153.03 Definitions
- 153.04 Duties of Administrator
- 153.05 Regulatory flood elevation
- 153.06 Improvement location permit
- 153.07 Preventing increased damages
- 153.08 Protecting buildings
- 153.09 Other development requirements
- 153.10 Variances
- 153.11 Disclaimer of liability
- 153.12 Abrogation and greater restrictions
- 153.13 Exemptions

- 153.98 Violations
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§ 153.01 STATUTORY AUTHORIZATION.

The Indiana Legislature granted the power to local units of government (I.C. 36-7-4) to control land use within their jurisdiction in order to accomplish the following.
(Ord. 1995-8, passed 5-4-1995)

§ 153.02 PURPOSE.

(A) The purpose of this chapter is to guide development in the flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards, and to reduce the potential for extraordinary public expenditures for flood protection and relief.

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(B) Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, the Common Council hereby adopts the following floodplain management regulations in order to accomplish the following:

- (1) To prevent unwise developments from increasing flood or drainage hazards to others;
 - (2) To protect new buildings and major improvements to buildings from flood damage;
 - (3) To protect human life and health from the hazards of flooding;
 - (4) To lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;
 - (5) To maintain property values and a stable tax base by minimizing the potential for creating flood-blighted areas; and
 - (6) To make federally subsidized flood insurance available for structures and their contents in the city by fulfilling the requirements of the National Flood Insurance Program.
- (Ord. 1995-8, passed 5-4-1995)

§ 153.03 DEFINITIONS.

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

BUILDING. See ***STRUCTURE.***

DEVELOPMENT.

- (1) Any man-made change to improved or unimproved real estate, including but not limited to:
 - (a) Construction, reconstruction, or placement of a building or any addition to a building;
 - (b) Installing a manufactured home on a site, preparing a site for a manufactured home, or installing a recreational vehicle on a site for more than 180 days;
 - (c) Installing utilities, erection of walls and fences, construction of roads, or similar

projects;

(d) Construction of flood-control structures such as levees, dikes, dams, channel improvements, and the like;

- (e) Mining, dredging, filling, grading, excavation, or drilling operations;
- (f) Construction and/or reconstruction of bridges or culverts;
- (g) Storage of materials; or
- (h) Any other activity that might change the direction, height, or velocity of flood or surface waters.

(2) **DEVELOPMENT** does not include activities such as the maintenance of existing buildings and facilities such as painting, reroofing, resurfacing roads, or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent buildings.

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

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

FBFM. Flood Boundary and Floodway Map.

FEMA. Federal Emergency Management Agency.

FHBM. Flood Hazard Boundary Map.

FIRM. Flood Insurance Rate Map.

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

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

FLOOD PROTECTION GRADE or the ***FPG***. The elevation of the regulatory flood plus 2 feet at any given location in the SFHA.

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

FLOODWAY FRINGE. Those portions of the floodplain lying outside the floodway.

LETTER OF MAP AMENDMENT (LOMA). An amendment to the currently effective FEMA map that establishes that a property is not located in a Special Flood Hazard Area (SFHA). A **LOMA** is only issued by FEMA.

LETTER OF MAP REVISION (LOMR). An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

LOWEST FLOOR. The lowest of the following:

- (1) The top of the basement floor;
- (2) The top of the garage floor, if the garage is the lowest level of the building;
- (3) The top of the first floor or of buildings elevated on pilings or constructed on a crawl space with permanent openings; or
- (4) The top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters, unless:
 - (a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters, by providing a minimum of 2 openings (in addition to doorways and windows) having a total area of 1 square foot for every 2 square feet of enclosed area subject to flooding. The bottom of all these openings shall be no higher than 1 foot above grade; and
 - (b) The enclosed space shall be usable for the parking of vehicles and building access.

MANUFACTURED HOME. A structure, transportable in 1 or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term **MANUFACTURED HOME** does not include a recreational vehicle.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of

streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this chapter.

RECREATIONAL VEHICLE. A vehicle which is:

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

REGULATORY FLOOD. The flood having a 1% probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in § 153.05. The **REGULATORY FLOOD** is also known by the term **BASE FLOOD**.

SFHA or SPECIAL FLOOD HAZARD AREA. Those lands within the jurisdiction of the city that are subject to inundation by the regulatory flood. The **SFHAS** of the city are generally identified as such on the Flood Insurance Rate Map of the city prepared by the Federal Emergency Management Agency and dated July 18, 1983. The **SFHAs** of those parts of unincorporated Spencer County that are within the extraterritorial jurisdiction of the city or that may be annexed into the city are generally identified as such on the Flood Insurance Rate Map prepared for the county by the Federal Emergency Management Agency and dated May 1, 1978.

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

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

(Ord. 1995-8, passed 5-4-1995)

§ 153.04 DUTIES OF ADMINISTRATOR.

(A) The President of the Plan Commission shall implement this chapter and hereafter be referred to as the Zoning Administrator.

(B) The Zoning Administrator for the city is appointed to review all development and subdivision proposals to ensure compliance with this chapter, including but not limited to the following duties:

(1) Ensure that all development activities within the SFHAs of the jurisdiction of the city meet the requirements of this chapter;

(2) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;

(3) Ensure that construction authorization has been granted by the Indiana Natural Resources Commission for all development projects subject to § 153.07, and maintain a record of that authorization (either copy of actual permit or letter of recommendation);

(4) Maintain a record of the as-built elevation of the top of the lowest floor (including basement) of all new and/or substantially improved buildings constructed in the SFHA. Inspect before, during, and after construction;

(5) Maintain a record of the engineer's certificate and the as-built, floodproofed elevation of all buildings subject to § 153.08;

(6) Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this chapter. Submit reports as required for the National Flood Insurance Program;

(7) Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and letters of recommendation, federal permit documents, and as-built elevation and floodproofing data for all buildings constructed subject to this chapter; and

(8) Notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of these notifications to FEMA.

(Ord. 1995-8, passed 5-4-1995)

§ 153.05 REGULATORY FLOOD ELEVATION.

(A) *Standard.* This chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Department of Natural Resources for review and approval.

(B) *Designations.*

(1) The regulatory flood elevations for the SFHAs of the Ohio River, Huffman Ditch, and an unnamed tributary to Huffman Ditch shall be as designated in the Flood Insurance Study of Rockport, dated January 18, 1983 and the corresponding FIRM dated July 18, 1983, prepared by the Federal Emergency Management Agency. The regulatory floodways shall be according to the best available data as provided by the Indiana Department of Natural Resources.

(2) The regulatory flood elevation for each SFHA delineated as an AH Zone or AO Zone shall be that elevation (or depth) delineated on the Flood Insurance Rate Map of the city.

(3) The regulatory flood elevation for each of the remaining SFHAs delineated as an A Zone on the Flood Insurance Rate Map of the city shall be according to the best data available as provided by the Department of Natural Resources.

(4) The regulatory flood elevations for SFHAs of those parts of the unincorporated Spencer County that are within the extraterritorial jurisdiction of the city or that may be annexed into the city shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of Spencer County, dated November 1977, and the corresponding FIRM, dated May 1, 1978, prepared by the Federal Emergency Management Agency. The regulatory floodways shall be according to the best available data as provided by the Indiana Department of Natural Resources.

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

(Ord. 1995-8, passed 5-4-1995)

§ 153.06 IMPROVEMENT LOCATION PERMIT.

(A) No person, firm, corporation, or governmental body not exempted by state law shall commence any development in the SFHA without first obtaining an improvement location permit from

the Zoning Administrator. The Zoning Administrator shall not issue an improvement location permit if the proposed development does not meet the requirements of this chapter.

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(B) The application for an improvement location permit shall be accompanied by the following:

- (1) A description of the proposed development;
- (2) Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;
- (3) A legal description of the property site;
- (4) A site development plan showing existing and proposed development locations and existing and proposed land grades; and
- (5) Elevation of the top of the lowest floor (including basement) of all proposed development. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD) or North American Vertical Datum (NAVD). In either case the conversion formula should be included.

(C) Upon receipt of an application for an improvement location permit, the Zoning Administrator shall determine if the site is located within the identified floodway, floodway fringe, or within the floodplain where the limits of the floodway have not yet been determined.

(1) (a) If the site is in an identified floodway, the Zoning Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway.

(b) Under the provisions of I.C. 14-28-1 through 14-28-6, a permit from the Natural Resources Commission is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing, and paving, and the like undertaken before the actual start of construction of the building.

(c) No action shall be taken by the Zoning Administrator until a permit has been issued by the Natural Resources Commission granting approval for construction in the floodway. Once a permit has been issued by the Natural Resources Commission, the Building Official may issue the local improvement location permit, provided the provisions contained in §§ 153.07 and 153.08 have been met. The improvement location permit cannot be less restrictive than the permit issued by the Natural Resources Commission.

(2) If the site is located in an identified floodway fringe, then the Zoning Administrator may issue the local improvement location permit, provided the provisions contained in §§ 153.07 and 153.08 have been met. The key provision is that the top of the lowest floor of any new or substantially

improved structure shall be at or above the flood protection grade (FPG).

(3) (a) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined (shown as Zone A on the Flood Insurance Rate Map), and the drainage area upstream of the site is greater than 1 square mile, the Zoning Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources for review and comment.

(b) No action shall be taken by the Zoning Administrator until either a permit for construction in the floodway or a letter of recommendation citing the 100-year flood elevation and the recommended flood protection grade has been received from the Department of Natural Resources.

(c) Once the Zoning Administrator has received the proper permit or letter of recommendation approving the proposed development, an improvement location permit may be issued, provided the conditions of the improvement location permit are not less restrictive than the conditions received from Natural Resources and the provisions contained in §§ 153.07 and 153.08 have been met.

(4) (a) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than 1 square mile, the Zoning Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, floodway fringe, and 100-year elevation for the site.

(b) Upon receipt, the Zoning Administrator may issue the local improvement location permit, provided the provisions contained in §§ 153.07 and 153.08 have been met.
(Ord. 1995-8, passed 5-4-1995)

§ 153.07 PREVENTING INCREASED DAMAGES.

No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.

(A) *Floodways.* Within the floodway identified on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map, the following standards shall apply:

(1) No development shall be allowed which, acting alone or in combination with existing or future development, will cause any increase in the elevation of the regulatory flood; and

(2) For all projects involving channel modifications or fill (including levees), the city shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.

(B) *A Zones.* Within all SFHAs identified as A Zones (no 100-year flood elevation and/or floodway/floodway fringe delineation has been provided) the following standard shall apply: the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than 0.1 foot and will not increase flood damages or potential flood damages.

(C) *Public health standards in all SFHAs.*

(1) No development in the SFHAs shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection grade, unless the materials are stored in a floodproofed storage tank or building constructed according to the requirements of § 153.08.

(2) New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted, provided all manholes or other above ground openings are located above the FPG, or those which are located below the FPG are watertight.
(Ord. 1995-8, passed 5-4-1995)

§ 153.08 PROTECTING BUILDINGS.

In addition to the damage prevention requirements of § 153.07, all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

(A) This building protection requirement applies to the following situations:

(1) Construction or placement of any new building having a floor area greater than 400 square feet;

(2) Structural alterations made to an existing building that increase the market value of the building by more than 50% (excluding the value of the land);

(3) Any subsequent alterations;

(4) Reconstruction or repairs made to a damaged building that are valued at or more than 50% of the market value of the building (excluding the value of the land) before damage occurred;

(5) Installing a manufactured home on a new site or a new manufactured home on an existing site. This chapter 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

(6) Installing a travel trailer or recreational vehicle on a site for more than 180 days.

(B) This building protection requirement may be met by 1 of the following methods. The Zoning Administrator shall maintain a record of compliance with these building protection standards as required in § 153.04.

(1) A residential or nonresidential building may be constructed on a permanent landfill in accordance with the following:

(a) The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with the standard Proctor Test method;

(b) The fill should extend at least 10 feet beyond the foundation of the building before sloping below the FPG;

(c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical;

(d) The fill shall not adversely affect the flow of surface damage from or onto neighboring properties; and

(e) The top of the lowest floor including basements (see definition of lowest floor in § 153.03) shall be at or above the FPG.

(2) A residential or nonresidential building 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 or similar foundation, provided:

1. Walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters, through providing a minimum of 2 openings (in addition to doorways and windows) having a total area of 1 square foot for every 2 square feet of enclosed area subject to flooding. The bottom of all these openings shall be no higher than 1 foot above grade; and

2. Any enclosure below the elevated floor is used for storage of vehicles and building access.

(b) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as

buoyancy, current, waves, ice, and floating debris; and

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(c) All areas below the FPG shall be constructed of materials resistant to flood damage. The top of the lowest floor (including basement) and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

(3) Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet 1 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 FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site:

1. Outside a manufactured home park or subdivision;
2. In a new manufactured home park or subdivision;
3. In an expansion to an existing manufactured home park or subdivision; or
4. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood.

(b) This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

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

- (a) Be on the site for less than 180 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 requirements for manufactured homes in division (B)(3) of this section.

(5) A nonresidential building may be floodproofed to the FPG (in lieu of elevating) if done in accordance with the following:

(a) A registered professional engineer shall certify that the building has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice.

(b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(Ord. 1995-8, passed 5-4-1995)

§ 153.09 OTHER DEVELOPMENT REQUIREMENTS.

(A) The Zoning Administrator shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere by ordinance. If the Zoning Administrator finds the subdivision to be so located, the Zoning Administrator shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. The Zoning Administrator shall require appropriate changes and modifications in order to assure that:

(1) It is consistent with the need to minimize flood damages;

(2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;

(3) Adequate drainage is provided so as to reduce exposure to flood hazards; and

(4) Onsite waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.

(B) Developers shall record the 100-year flood elevation on all subdivision plats containing lands (identified elsewhere by this chapter) within a flood hazard area prior to submitting the plats for approval by the Plan Commission.

(C) All owners of manufactured home parks or subdivisions located within the SFHA identified as Zone A on the community's FHBM or FIRM shall develop an evacuation plan for those lots located in the SFHA and file it with the local Plan Commission, and have it filed with and approved by the appropriate community emergency management authorities.

(Ord. 1995-8, passed 5-4-1995)

§ 153.10 VARIANCES.

(A) The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this chapter, 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 chapter will constitute an exceptional hardship to the applicant; and/or
- (3) The granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

(B) The Board of Zoning Appeals may issue a variance to the terms and provisions of this chapter subject to the following standards and conditions:

- (1) No variance or exception for a residential use within a floodway subject to § 153.07(A) or (B) of this chapter may be granted;
- (2) Any variance or exception granted in a floodway subject to § 153.07(A) or (B) of this chapter will require a permit from Natural Resources;
- (3) Variances or exceptions to the Building Protection Standards of § 153.08 may be granted only when a new structure is to be located on a lot of 1/2 acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade;
- (4) Variance or exception may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects;
- (5) All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and
- (6) The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of increased flood insurance premiums.

(Ord. 1995-8, passed 5-4-1995)

§ 153.11 DISCLAIMER OF LIABILITY.

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

(Ord. 1995-8, passed 5-4-1995)

§ 153.12 ABROGATION AND GREATER RESTRICTIONS.

This chapter repeals and replaces other ordinances adopted by the Common Council of the City of Rockport to fulfill the requirements of the National Flood Insurance Program. However, this chapter does not repeal the original resolution or ordinance adopted to achieve eligibility in the program. Nor does this chapter repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this chapter and other ordinance easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall take precedence. In addition, the Common Council of the city shall assure that all National Flood Insurance Program regulations and laws (310 I.A.C. 6-1-1, I.C. 14-28-1 through 14-28-6) are met.

(Ord. 1995-8, passed 5-4-1995)

§ 153.13 EXEMPTIONS.

Nothing contained herein shall encompass, extend, broaden, or pertain to any area, dwelling, development, or structure that is exempt as per any state statute or federal regulation, as the intent of this chapter is to implement minimum federal and state requirements for floodplain development.

(Ord. 1995-8, passed 5-4-1995)

§ 153.12 VIOLATIONS.98

(A) Failure to obtain an improvement location permit in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of this chapter.

(B) All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the city.

(1) A separate offense shall be deemed to occur for each day the violation continues to exist.

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(2) The City Plan Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a standard flood insurance policy to be suspended.

(3) Nothing herein shall prevent the city from taking other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible. (Ord. 1995-8, passed 5-4-1995) Penalty, see § 153.99

§ 153.99 PENALTY.

All violations shall be punishable by a fine not exceeding \$100.
(Ord. 1995-8, passed 5-4-1995)

CHAPTER 154: MOBILE HOMES

Section

- 154.01 Lot size
- 154.02 Code regulations
- 154.03 Permit

- 154.98 Violations

§ 154.01 LOT SIZE.

All mobile homes that are located in the city must apply to the zoning ordinance. When a mobile home is placed on a single lot 50 feet by 100 feet, the mobile home shall be owned by the lot owner only, except in mobile home parks, and only 1 mobile home to a lot. If the mobile home is removed for a period of 6 months, the permit cannot be transferred to another location or party. Any future use of that land or change in use shall be in conformity with the provisions of the district in which the land is located. This does not apply to mobile home parks.

(Ord. 369, passed - -1974)

§ 154.02 CODE REGULATIONS.

(A) Gas pipes and hook-up shall comply to the rules of the National Fire Protection Association No. 54, and state and city codes.

(B) Plumbing shall comply to the rules of the Uniform Plumbing Code, state, and city codes.

(C) Electric shall comply to the rules of the National Electrical Code and city codes. Also, all present mobile homes shall be reinspected to determine if the mobile home is grounded to main service.

(D) Sewer shall comply to the rules of the state and city codes.

(Ord. 369, passed - -1974)

§ 154.03 PERMIT.

All mobile homes that are to be located in the city shall acquire a permit to locate the mobile home. The fee shall be \$20. The fee cannot be changed except by majority vote of Common Council. An inspection by the designated official shall be made on all mobile homes that are located in the city for gas, electric, water, and sewer before any person shall occupy same. The permit will be issued by the City Inspector or Clerk-Treasurer.

(Ord. 369, passed - -1974)

§ 154.98 VIOLATIONS.

Any person violating any of the provisions of this mobile home code, failing to conform to any of the provisions of this code, or failing to obey or execute any order of the Mayor or Common Council issued pursuant to the mobile home code, shall be fined not less than \$10 or more than \$300. Where the violation is of a continuing nature, the person violates any provisions, fails to conform to any order, or fails to comply with any of the provisions of the mobile home code, it shall be deemed a separate offense.

(Ord. 369, passed - -1974)

CHAPTER 155: ZONING CODE

Section

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- 155.002 Definitions

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Advisory Board of Zoning Appeals; Rules of Procedure

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GENERAL PROVISIONS**§ 155.001 ADOPTION.**

The Zoning Ordinance, City of Rockport, Indiana, dated January 14, 1999, is hereby adopted as the official zoning control ordinance of the city.
(Ord. 3, passed 5-22-1999)

§ 155.002 DEFINITIONS.

(A) *General.* Words in the present tense include the future tense; the singular number includes the plural, and the plural the singular. The word **SHALL** is always mandatory. The word **USED** includes designed, intended, or arranged to be used. Terms not defined in this zoning chapter or in the Subdivision Ordinance shall have the meanings customarily assigned to them.

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

ACCESSORY BUILDING. A building housing an accessory use, and which is located on the same lot as the principal use. Where a part of the wall of a building housing an accessory use is a part of the wall of the building housing the principal use, or where an **ACCESSORY BUILDING** is attached to the principal use building in a substantial manner as by a roof, the **ACCESSORY BUILDING** shall be counted as part of the main building.

ACCESSORY USE. A use of land which is incidental and subordinate to the principal use on the same lot or parcel, and is either in the same ownership as the principal use or is maintained and operated on the same lot substantially for the benefit or convenience of the owners, occupants, employees, customers, or visitors of the principal use.

ADULT DAYCARE. The provision of care in a home or other place for a maximum of 3 adults at any 1 time for less than 24 hours.

ADULT ENTERTAINMENT. Any form of entertainment which includes nudity or sexual conduct as defined under I.C. 35-49-1, whether in a play, motion picture, dance, or other exhibition or presentation, and whether pictured, animated, or live, in a place accessible to the public. **ADULT ENTERTAINMENT** does not include the legal rental or sale of videos or other media for private viewing in a location other than the point of purchase.

AGRICULTURAL PRODUCTION.

(a) The use of land primarily for the business of raising animals or plants for commercial gain, including but not limited to:

1. Forestry or nursery;
2. Pasturing of livestock;
3. Confined feeding operations located not closer than 1,000 feet to any occupied residence or business;
4. Planting, growing, cultivating, and harvesting of crops in the open for commercial gain or for on-site consumption by livestock;
5. Transportation operations restricted to:
 - a. The transportation of grain and livestock to the place of the agricultural use for the purpose of growing and/or raising crops and animals; or
 - b. The transportation of harvested crops and mature livestock raised at the place of the agricultural use, from the place of the agricultural use to an off-site market or point of sale.
6. Single-family dwellings which serve as the residence of the tenants who operate the agricultural business; or
7. Accessory buildings required for the production and storage of produce or keeping of livestock.

(b) The term ***AGRICULTURAL PRODUCTION*** does not include the following:

1. Home gardening or the planting, growing, cultivating, and harvesting of crops primarily for on-site consumption by people;
2. The raising of domestic pets and animals;
3. Feedlot operations;
4. Processing of meat, fish, poultry, eggs, or plants;

5. Transfer stations and concentration-point transportation operations;
6. Livestock auction, livestock dealer, sale barn, or stockyard; or

7. Equipment sales or servicing facilities.

ALLEY. A minor public right-of-way which provides secondary vehicular access to the rear or sides of lots, and access to utility lines located at the rear or sides of lots.

AMUSEMENTS, INDOOR. Recreational and sporting activities conducted primarily indoors, including but not limited to roller skating, game rooms, arcades, indoor theaters, and bowling alleys. Bars, taverns, and night clubs are not **INDOOR AMUSEMENTS**.

AMUSEMENTS, OUTDOOR. Recreational and sporting activities conducted primarily outside, including but not limited to putt-putt or miniature golf, go-cart tracks, batting cages, swimming pools, tennis, baseball, softball, golf courses, soccer, and football. Amusement parks, theme parks, drive-in theaters, campgrounds, resorts, RV parks, picnic areas, and outdoor shooting or target ranges are not **OUTDOOR AMUSEMENTS**.

ARCHITECTURAL FEATURE. Ornamentation or decorative features attached to or protruding from an exterior wall, including roof overhangs, gutters and downspouts, window and door sills, chimneys, steps, bay windows, and balconies.

AUTO STORAGE YARD. A lot or part thereof used for the temporary storage of damaged, abandoned, or impounded motor vehicles. A salvage yard is not an **AUTO STORAGE YARD**.

BED AND BREAKFAST. A dwelling having 4 or fewer rooms used for sleeping accommodations for transients, and which use is incidental and subordinate to the principal use of the building as a dwelling.

BOARD OF ZONING APPEALS. The Advisory Board of Zoning Appeals of the city, as established and regulated under I.C. 36-7-4-900 *et seq.* The terms **BOARD OF ZONING APPEALS**, **BOARD**, and **BZA** shall be interchangeable.

BOARDING HOUSE. A multi-unit dwelling not available to transients, in which meals are regularly provided for 4 or fewer residents in addition to the owner-occupants, and in which each resident is provided with individual and separate sleeping accommodations. The terms **BOARDING HOUSE** and **ROOMING HOUSE** have the same meaning.

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

BUILDING, AREA. The horizontal area covered by a building or buildings on a lot, excluding unenclosed porches, decks and patios, and architectural features.

BUILDING, ATTACHED. Two or more buildings combined to form a single structure in which at least 1 part is separated from the rest by a common division wall without openings.

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BUILDING, DETACHED. A building having no wall in common with another building.

CAMPGROUND. A lot with facilities designed for short-term accommodation of recreational vehicles and other camping activities, but not including siting of mobile homes.

CHILD CARE CENTER. A building in which at least 17 children receive care for at least 4 hours but less than 24 hours pursuant to I.C. 12-7-2-28.4 and 12-17.2 *et seq.*, except as otherwise permitted in those statutes. The terms ***CHILD CARE CENTER*** and ***DAYCARE CENTER*** shall have the same meaning.

CHILD CARE HOME. A dwelling which, pursuant to I.C. 12-7-2-28.6, 12-7-2-33.7, 12-7-2-33.8 and 12-17.2-5 *et seq.* provides child care services at any 1 time for 6 or more nonresident children for more than 4 hours but less than 24 hours. Pursuant to I.C. 36-7-4-1108, a ***CHILD CARE HOME*** may not be excluded from a residential district solely because of its status as a ***CHILD CARE HOME***.

CHURCH. A nonprofit institution organized for religious purposes and incorporated under I.C. 23-17-1 *et seq.*

CITY. The City of Rockport, Indiana.

CLASS 1 BUILDING. Any building, except a 1- or 2-family dwelling, which is used as a multi-unit dwelling, and/or used by the public, and/or used for business, manufacturing, or processing. Class 1 construction is regulated by the Indiana Department of Fire and Building Services.

CLASS 2 BUILDING. Any building housing only a 1- or 2-family dwelling.

COMMERCIAL USE. The use of land primarily for business purposes, including but not limited to offices, wholesale and retail sales, storage and warehousing, and service businesses. Secondary and incidental uses include manufacturing, assembly, and processing that is required to support the primary activity, and required for the maintenance and repair of the facility.

COMMISSION. See ***PLAN COMMISSION.***

COMPREHENSIVE PLAN. The comprehensive plan of the city, as amended, as adopted pursuant to I.C. 36-7-4-500 *et seq.* The terms ***COMPREHENSIVE PLAN*** and ***MASTER PLAN*** shall have the same meaning.

COUNTY. Spencer County, Indiana.

DAYCARE CENTER, CHILD. See ***CHILD CARE CENTER.***

DOMESTIC ANIMALS. Dogs, cats, non-work horses, birds, and other animals which are intended to be used for pleasure riding or companionship, and which are not intended to be raised for slaughter or other commercial gain, or to be used as working animals. Buffalo, working horses, ostriches, deer, rabbits, cattle, pigs, sheep, ducks, turkeys, and chickens shall not be kept or housed as domestic animals.

DRIVE-IN FACILITY. Any place or premises used for sale, dispensing, or serving of food, refreshments, beverages, or services in automobiles, including self-service establishments, for consumption on- or off-premises.

DRIVEWAY. A right-of-way which is wholly within private property, except where it intersects with a public or private street, and which does not serve as an easement for access to adjoining property. The terms **DRIVE** and **DRIVEWAY** are interchangeable.

DWELLING, DUPLEX. A single building designed for 2 separate but attached dwelling units.

DWELLING, MULTI-FAMILY. A single building designed for more than 2 separate but attached dwelling units.

DWELLING, SINGLE-FAMILY. A single building designed as a single dwelling unit.

DWELLING UNIT.

(a) A permanent structure or part thereof used primarily for residential habitation, having more than 1 room for cooking, living, sanitary and sleeping purposes, characterized by but not limited to:

1. A unique and single numeric street address for the purpose of locating the dwelling;
2. A single kitchen adequate for the preparation of meals;
3. At least 1 separate room providing sanitary toilet and bathing facilities;
4. A tenancy based upon a legal relationship of a unitary nature, i.e., a single lease, single mortgage or contractual sales agreement for the entire premises; and
5. Occupancy by not more than 1 primary family.

(b) The term *DWELLING* shall not include rooming and boarding houses, hotels, motels, and mobile homes.

Rockport - Land Usage

EASEMENT. A grant by the owner of land for full or restricted use of the land or a part of the land by the public or by specified persons, and which has been recorded in the office of the Spencer County Recorder.

FENCE. A structure which utilizes vertical posts of wood or metal together with wire, fence rails, wood or plastic boards, or chain-link to enclose an area or provide a barrier, and which is not used as a sign or retaining wall or as a part of another structure. In areas zoned for or used for agricultural production, vegetative **FENCES** may be used where permitted under state law.

FLOOR AREA. The total number of square feet of floor space within the surrounding walls of a building or structure or portion thereof, exclusive of vents, shafts, and courts.

GARAGE. An attached or detached accessory building which is used primarily to house vehicles belonging to the occupants of the associated dwelling or the occupants of the related business buildings. A **GARAGE** is not a parking facility.

GROUP HOME. Residential accommodations for the developmentally disabled and the mentally ill. Pursuant to I.C. 12-28-4 *et seq.*, a **GROUP HOME** may not be excluded from a residential district solely because of its status as a **GROUP HOME**.

HOME OCCUPATION. The incidental and secondary use of part of a dwelling for business of a personal service nature.

IMPROVEMENT. Any building, structure, work of art or other object, or improvement of land, constituting a physical betterment of real property, or any part of that betterment.

INDUSTRIAL USE. The use of land primarily for manufacturing, assembly, processing, storage, or warehousing activities, but not agricultural or commercial uses. Secondary and incidental uses include wholesale and retail sales and services that are required to support the primary use. Residential and agricultural uses are strongly discouraged and are prohibited except as permitted by law or these codes.

INSTITUTIONAL USE. The use of land for public or quasi-public purposes, including but not limited to government offices, medical facilities, and schools.

JURISDICTION. The incorporated city and the contiguous and noncontiguous unincorporated areas which together form the planning and zoning jurisdiction of the City Plan Commission, and which are shown together on a map entitled Official Zoning Map, City of Rockport, Indiana dated December 15, 1998, and amendments thereto, as recorded with the County Recorder. The terms **TERRITORIAL JURISDICTION**, **JURISDICTION** and **PLANNING AND ZONING**

JURISDICTION shall have the same meaning.

KENNEL. Land or a structure that, pursuant to I.C. 15-5-9 *et seq.* and other state laws, is used as a place for the breeding, boarding, training, or selling of any number of dogs, cats or other small animals that are normally kept as domestic pets. **KENNELS** shall be licensed and regulated pursuant to local and state law.

LIVESTOCK. Farm animals, including but not limited to buffalo, horses, cattle, pigs, sheep, ducks, turkeys, chickens, and any other animals which are intended to be raised for slaughter or other commercial gain, and also including working farm animals such as horses and oxen. **LIVESTOCK** shall not include domestic animals.

LOT. A parcel or tract of land defined by metes and bounds in a recorded deed or by boundary lines on a recorded plat. Two or more parcels or tracts described by metes and bounds which are contiguous and held in common ownership shall not be considered to be individual lots of record, unless having been previously approved as such by a Plan Commission or in accordance with the then-prevailing subdivision regulations. The words **PLOT** and **PARCEL** shall have the same meaning as **LOT**.

LOT AREA. The horizontal area covered by a lot, excluding therefrom that area which lies within the right-of-way limits of any street or alley which has been dedicated for public use or defined by prescriptive use.

LOT, CORNER. A lot at the junction of and fronting on 2 or more intersecting streets.

LOT OF RECORD. A lot, the deed for which has been recorded in the office of the County Recorder at the time of adoption of this zoning chapter, and which was either:

(a) Part of a subdivision, the plat of which is recorded in the office of the County Recorder; or

(b) A lot described by metes and bounds which was:

1. Approved by a Plan Commission;

2. Created in accordance with a subdivision control ordinance; or

3. Created prior to the existence of a Plan Commission or subdivision control ordinance.

LOT WIDTH. The shortest distance between the side yard lot lines as measured along a line that is parallel to the front yard lot line.

Rockport - Land Usage

MANUFACTURED HOME. A dwelling built primarily in a factory, which is transported to a building site in more than 1 section, and which complies with the following additional requirements:

- (a) Has a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law of 1974 together with the required state and/or U.S. Department of Housing and Urban Development (HUD) certificates for residential use in the state;
- (b) Was constructed after January 1, 1981;
- (c) Exceeds 950 square feet of occupied space;
- (d) When assembled, measures not less than 23 feet in any overall dimension of length or width enclosing occupied space. Attached accessory structures including add-a-rooms (tip-outs), decks, porches, patios, steps, fences, roof overhangs, architectural features and towing devices shall not be included when making this calculation;
- (e) Has the wheels, axles, and other devices used only for transporting the structures to the site removed; and
- (f) Is site-assembled on a permanent perimeter foundation.

MANUFACTURING AND PROCESSING OPERATION. An industrial use of land for molding, stamping, machining, cutting, and otherwise making and processing raw or unfinished materials into the next step of refinement of value-added products. Storage, wholesale sales and retail sales are incidental to ***MANUFACTURING AND PROCESSING OPERATIONS.***

MANUFACTURING, HEAVY. Those manufacturing and processing operations which require environmental permits, or in which hazardous or flammable materials are processed, or where manufacturing or processing produces noxious smoke, fumes, or noise, or where delivery or shipping of material by rail or barge is necessary. ***HEAVY MANUFACTURING*** includes but is not limited to chemical, pharmaceutical, tanning, boiler, petroleum, asphalt, cement mixing, clay, textiles, forging, milling, foundry, metals, smelting, ammonia, bleach, paint, coal and coke, brick, dye, fertilizer, glue and bonding agents, plating, steel and iron ore, gypsum, asbestos, alcohol brewing and distilling, rubber, tires, dairy, paper and cardboard, and furniture manufacturing or processing.

MANUFACTURING, LIGHT. Those manufacturing and processing operations which do not meet 1 or more of the stipulations and/or are not listed under ***MANUFACTURING, HEAVY.***

MOBILE CONSTRUCTION OFFICE. A vehicle with or without motive power that was constructed as a transportable office with axles, wheels, and other equipment permitting its conveyance on roads, and which utilizes the wheels and axles or other temporary supports for occupancy, and which is:

- (a) Certified by the state as an Indiana Mobile Off-Site Fabricated Structure; and
- (b) Used as an on-site construction management office for the duration of a construction project.

MOBILE HOME.

(a) A vehicle without motive power that was constructed in a factory as a transportable dwelling with axles, wheels, and other equipment permitting both its conveyance on roads and occupancy as a dwelling, and which complies with the following additional requirements:

1. Has a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law of 1974;
2. Has required state and/or U.S. Department of Housing and Urban Development (HUD) certificates for residential use in the state;
3. Was constructed after January 1, 1981; and
4. Exceeds 920 square feet of occupied space.

(b) A **MOBILE HOME** is not a manufactured home, recreational vehicle, or mobile construction office.

MOBILE HOME PARK (MHP). Land with accommodations for the placement of 5 or more mobile homes on temporary supports for occupancy, and including any structure, device, or vehicle used or intended to be used as a part of the equipment of the **MOBILE HOME PARK**, and which is regulated by the Indiana Department of Health pursuant to I.C. 16-41-27. Recreational vehicles, mobile construction offices and other nonpermanent structures shall not be used as dwellings in a **MOBILE HOME PARK**.

NONCOMPLYING STRUCTURE. A structure which does not comply with 1 or more of the terms of this chapter with respect to size, bulk, density, or setback.

NONCONFORMING USE. A legally existing use of land or structures which does not conform with the permitted uses and provisions applicable to the zoning district in which the use is located on the date of adoption of this chapter.

OCCUPIED SPACE. The total area of earth horizontally covered by an enclosed dwelling, excluding attached or detached accessory structures, patios, porches, decks, add-a-rooms (tip-outs), fences and architectural features, and any attachments or devices required solely for the construction or movement of a structure. See also **BUILDING, AREA.**

ONE- AND TWO-FAMILY DWELLING CODE. The codes prepared by the Council of Building Officials which, together with the Indiana Amendments, have been adopted by the state as the official construction standards for 1- and 2-family dwellings (Class 2 buildings).

OPEN SPACE. The total horizontal area on a lot, which is not covered by structures.

OWNER. Any person, group of persons, firm or firms, corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

PARKING FACILITY. A lot or structure intended to be used for the temporary parking of vehicles, exclusive of any part of a street or alley. The term **PARKING FACILITY** shall not include a private garage or driveway, auto storage yard, salvage yard, or any area used for vehicle repair or servicing.

PARKING SPACE. The actual area available for parking 1 automobile exclusive of any maneuvering areas or driveways.

PASTURAGE. The keeping of livestock where they have routine access to open pasture land for feeding. **PASTURAGE** shall be characterized by a nexus between the livestock and the land and shall not include various business uses in which livestock which are in the stream of commerce are quartered in confined storage and feeding situations.

PERMANENT FOUNDATION. A structural support system which:

- (a) Transfers loads imposed by a building to the earth;
- (b) Has a lower surface placed below the frost line;
- (c) Secures the building to the foundation such that the building becomes part of the real property; and
- (d) Is assessed for taxation as an improvement to the real property.

PERSON. An individual, agency, partnership, corporation, group, or organization.

PERSONAL SERVICE. The provision of service on an individual basis, including but not restricted to the services available in a professional office, instruction in music and dance, beauty and barber shops, and tailoring.

PLAN COMMISSION. The Advisory Plan Commission of the city, as established and regulated under I.C. 36-7-4-200 *et seq.* The terms **PLAN COMMISSION** and **COMMISSION** shall have the same meaning.

PRIMARY FAMILY. Two or more persons related by blood, adoption, or marriage, or a group of not more than 3 persons, living and cooking together as a single housekeeping unit, exclusive of domestic help. The terms **PRIMARY FAMILY** and **FAMILY** shall be interchangeable.

PROFESSIONAL OFFICE. An office used by members of a recognized profession, including but not limited to accountants, architects, artists, attorneys, brokers, dentists, engineers, insurance agents, musicians, pharmacists, photographers, physicians, and realtors.

RECREATIONAL VEHICLE.

(a) A mobile/portable structure designed to be used for temporary sleeping and human habitation purposes, and which is either:

1. A vehicle licensed for travel on roads and identified by the manufacturer as a travel trailer or motor home; or
2. A structure designed to be mounted on a licensed vehicle for travel on roads.

(b) The terms **RECREATIONAL VEHICLE** and **RV** have the same meaning.

RECREATIONAL VEHICLE PARK. A place, either alone or within a larger park, providing accommodation for recreational vehicles, including but not limited to electrical, sanitary sewer, and water facilities designed to be used by recreational vehicles.

RESIDENTIAL USE. The use of land primarily for siting of 1-, 2-, and multi-family dwellings. All other uses are secondary and incidental to the **RESIDENTIAL USE**, except for home occupations and those uses permitted by law or these codes.

RETAIL SALES. The principal use of a structure and/or land for the sale of commodities or goods to the final consumer for personal or household use. Assembly, processing, and repair are incidental and subordinate to the merchandising and sales operations.

RETAINING WALL. A wall made of concrete, stone, masonry, or wood, which is not part of another structure, and which serves to prevent or control the shifting of the earth which the wall was designed to retain. A **RETAINING WALL** is not a fence.

ROOMING HOUSE. See ***BOARDING HOUSE.***

RULES OF PROCEDURE. The officially adopted rules which govern the conduct of applications, hearings, meetings, and the decision-making and voting processes for the Board of Zoning Appeals and the Plan Commission.

SALVAGE YARD.

(a) The use of land for:

1. Storage, abandonment, processing, disassembly, reuse and/or resale of discarded matter, including metal, wood, glass, paper, or other similar materials;
2. Possession of 2 or more inoperable vehicles for more than 30 days;
3. Selling of a used major component part of a vehicle;
4. Dismantling of a vehicle for resale of the major component parts of the vehicle;
5. Rebuilding a wrecked or dismantled vehicle; or
6. Engaging in the business of storing, disposing, salvaging, or recycling of vehicles, vehicle hulks, or the parts of vehicles except for a bona fide auto repair or auto sales facility.

(b) The terms **SALVAGE YARD**, **JUNK YARD** and **WRECKING YARD** shall be interchangeable.

SCHOOL. Any public, parochial, or private institution which offers courses of instruction at least substantially equivalent to the courses offered in public primary, grammar, middle, or high schools, or substantially equivalent to the courses offered by a preparatory school, academy, trade or business school, college, or university, and which is intended to provide students with a certificate of completion or academic degree recognized as such by the state. **SCHOOL** shall not include child and adult daycare homes and centers.

SETBACK LINE. A line parallel to and equidistant from the relevant lot line (front, rear, side) and which delineates a yard.

SIGN. Any placard, wall, banner, balloon, or other device or structure or part thereof which forms, or on which are located graphics, symbols, lights, words, and/or numbers intended to convey information to the public, and which announces, notifies, or advertises a person, organization, company, church, club, lodge, group, establishment, structure, product, goods or services, or which offers an opinion or other message. For additional definitions, refer to the subchapter on **SIGNS**.

SPECIAL EXCEPTION. An exception from the terms of the zoning ordinance granted by the Board of Zoning Appeals in the classes of cases or in the particular situations specified in this chapter. Granting of a ***SPECIAL EXCEPTION*** shall be in accordance with laws of the state and this chapter.

STORY. That portion of a structure included between the upper surface of any floor and the upper surface of the floor next above; 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 except when the average elevation of the finished lot grade around the walls of the structure is 50% or more above the distance between the floor of the basement and the floor of the first **STORY** above the basement.

STREET.

(a) A right-of-way used primarily as a thoroughfare for vehicular traffic, which is used for or provides the principal means of access to more than 1 lot. The term **STREET** shall include road, thoroughfare, highway, avenue, and cul-de-sac. A driveway is not a **STREET**.

(b) **STREETS** are classified as follows:

1. **ARTERIAL.** Intended to carry relatively high traffic volumes; access to adjacent properties is secondary to the need to move traffic at a high level of service. There are 2 types of **ARTERIAL STREETS**: primary (large traffic volumes); and secondary (low to medium traffic volumes).

2. **COLLECTOR.** Distribute traffic from local streets to the arterial street network. Functions are divided equally between mobility and access.

3. **INDUSTRIAL.** Used primarily for access to industrial districts, but also for commercial developments with heavy truck traffic and no requirement for on-street parking.

4. **LOCAL.** Serve to provide access primarily to residential properties, and distribute traffic to collector and arterial streets. **LOCAL STREETS** often serve to provide overflow residential parking as a secondary function.

STREET, PUBLIC. A street which is dedicated to the public use and publicly maintained.

STRUCTURAL CHANGE, MAJOR. The erection, strengthening, removal, or other change in any supporting element of a building or other structure. These elements shall include but shall not be limited to footings, walls, partitions, columns, beams, girders, and joists, but shall not include installation or replacement of siding, roofing, windows or doors, painting, or other work required for normal maintenance.

STRUCTURE. Anything constructed, installed, or erected which requires location on the ground or attachment on something having location on the ground.

SUBDIVISION CODE. The official subdivision control regulations of the city, as amended, adopted pursuant to I.C. 36-7-4-700 *et seq.* The ***SUBDIVISION CODE*** shall apply to all zoning districts within the territorial jurisdiction of the Plan Commission.

Rockport - Land Usage

SUBSTANTIAL MODIFICATION. Shall include any of the following:

- (a) Enlargement of, extension of, or addition to any existing structure;
- (b) Change in use of a structure;
- (c) Alteration in an electrical, plumbing, or gas system; or
- (d) Conversion of any room or part of a room for use as a kitchen or area for the preparation of food.

TEMPORARY SUPPORT. A structural support system which:

- (a) Transfers loads imposed by a structure to the earth; and
- (b) Has a lower surface placed above the frost line.

TEMPORARY USE. A use specified in this chapter, as distinguished from the same use when permitted in full compliance with all applicable zoning, site plan, construction, and permit requirements. ***TEMPORARY USES*** shall include on-permanent signs, and uses conducted from or within tents, trailers, mobile homes, mobile construction offices, and other temporary structures not erected under the state and local permit processes for permanent buildings.

TOWER, COMMUNICATIONS. A structure intended primarily to house commercial communications and telecommunications antennas and related equipment.

UNDERFLOOR SPACE. The space between the bottom of the floor joists and the earth.

USE.

- (a) The purpose or activity for which a structure or land is occupied or maintained at the time of adoption of this chapter, and as permitted after the adoption.
- (b) A ***CHANGE OF USE*** shall have occurred under but not limited to the following circumstances:
 1. Change from any dwelling classification (1-, 2-, or multi-family) to any other dwelling classification; or
 2. Change from 1 major zoning classification (agricultural, commercial, industrial,

or residential) to any other major classification.

UTILITY DISTRIBUTION FACILITIES. The distribution underground or overhead of liquids, gases, electricity, and communications services to the final consumer of the product or service. Pumps, meters, pipes, wires, cables, poles, and other devices required at the point of service are considered incidental to the delivery of the service.

UTILITY TRANSMISSION FACILITIES. The transmission underground, aboveground, or overhead of liquids, gases, electricity, and communications by pipeline, wire, or antenna between points in the transmission system, but not primarily to end-users of the services. Incidental uses include filtering and pumping stations, master meters, monitoring equipment, transmission/reception towers, and other facilities not required.

VARIANCE. A granting by the Board of Zoning Appeals to a petitioner of the right to deviate from the terms of this chapter where literal compliance would cause undue hardship and/or practical difficulties. Granting of a ***VARIANCE*** shall be in accordance with the laws of the state and this chapter.

WAREHOUSE. A building with 1 or more storage spaces each of which is more than 200 square feet in area, used primarily for the storage of goods, equipment, food, and materials, and in which there is no manufacturing or processing except as required to maintain and repair the warehouse.

WAREHOUSE, MINI.

(a) A facility which provides multiple individual storage spaces, each of which is 200 square feet or less in area, separated by full interior partitions, with individual access to each storage space, and used only for storage by individuals or businesses which are not otherwise normally resident at the storage facility.

(b) The following are prohibited in ***MINI WAREHOUSES***:

1. Manufacturing or processing;
2. Use as a residence; and
3. Storage of food, combustible, explosive or hazardous materials.

WHOLESALE SALES. The large-scale sale of commodities to a retailer, manufacturer, or processor for resale, rather than to the final consumer.

WORK. Changes made to or on improved or unimproved property, including but not limited to construction, alteration, repair, grading, and clearing activities.

YARD. An open space on the same lot with a structure, which space is unoccupied and unobstructed by any part of any structure from the ground to the sky except as otherwise provided in this title.

(a) **YARD, FRONT.** The yard extending across the full width of a lot, between the foremost part of the nearest building and the lot line which runs adjacent to the right-of-way which the building faces, or in the case of a lot which is not adjacent to a right-of-way, the lot line which lies in front of the nearest building. The depth of the **FRONT YARD** shall be measured as the least distance between the lot line so described and the foremost portion of the nearest building. There shall be only 1 **FRONT YARD**.

(b) **YARD, REAR.** The yard extending across the full width of the lot between the rearmost part of the nearest building and the lot line behind the building, the depth of which shall be measured as the least distance between the rear lot line and the rearmost portion of the nearest building. There shall be only 1 **REAR YARD**.

(c) **YARD, SIDE.** The yard extending between the front yard and the rear yard, and between the nearest building and the side lot line or, in the absence of a side lot line, the right-of-way line nearest the side of the principal building.

ZONING ADMINISTRATOR. The person appointed by the Mayor of the city to administer the city's zoning and subdivision regulations.

ZONING CODE. The official zoning ordinance of the city, including amendments thereto, adopted and amended pursuant to I.C. 36-7-4-600 *et seq.*, with regulations, requirements, and procedures for the establishment of land use controls.

ZONING DISTRICTS MAP. The map which shows the zoning districts within the territorial jurisdiction of the Plan Commission.
(Ord. 3, passed 5-22-1999)

GENERAL REGULATIONS AND ADMINISTRATION

§ 155.015 GOVERNMENT AGENCY EXEMPTION.

Any work proposed on property within the territorial jurisdiction of the city which is owned by a government agency shall be exempt from any requirement to secure a city building permit prior to

beginning the work. This shall not be construed as waiving any requirements for the approval of or compliance with the rules and regulations contained herein concerning land use and required

improvements, the approval of and compliance with the rules and regulations of other agencies, or the requirement herein to demonstrate ownership and/or control of the property on which the work is to be accomplished.

(Ord. 3, passed 5-22-1999)

§ 155.016 BUILDING PERMITS.

(A) Pursuant to I.C. 36-7-4-801, a local building permit for any improvement or structure to be built or located on land within the corporate limits of the city shall be issued only if the structure or improvement conforms with the requirements of this chapter.

(B) Any landowner intending to make an alteration in an existing structure must apply for, pay all fees with respect to, and be issued an Improvement Location Permit before erecting, altering or repairing any structure on platted or unplatted land, before making any change in the use or in the condition of the land.

(1) Applications for Improvement Location Permits shall be made on forms provided by the Zoning Administrator. All applicable fees shall be paid to the Clerk-Treasurer.

(2) A structure may not be relocated, erected, repaired, altered or expanded, and an Improvement Location Permit may not be issued, unless the use, character and location of the structure are in conformity with the provisions of this section.

(C) Every application for an Improvement Location Permit shall be accompanied by a site plan, drawn to scale, showing:

- (1) The location of the structure.
- (2) The improvements or use to be altered, changed, placed, erected, or located.
- (3) The dimensions of the lot to be improved.
- (4) The size of the yards and open spaces.
- (5) Existing streets, alleys, and easements adjoining or contained within the lot.

(D) A fee of \$30 shall be assessed to the applicant for all Improvement Location Permits.
(Ord. 3, passed 5-22-1999; Am. Ord. 2007-6, passed 7-25-2007)

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§ 155.017 PLAN COMMISSION JURISDICTION.

The geographic area over which the Plan Commission shall have jurisdiction is the incorporated area of the city and those contiguous and noncontiguous unincorporated areas which together form the planning and zoning jurisdiction of the city, as recorded in the office of the County Recorder.
(Ord. 3, passed 5-22-1999)

§ 155.018 ZONING ADMINISTRATOR.

The designated Zoning Administrator of the city is hereby vested with the duty to administer and enforce the regulations of this chapter and related regulations as are assigned under the zoning code.
(Ord. 3, passed 5-22-1999)

§ 155.019 VETO POWER.

Pursuant to I.C. 36-7-4-609, zoning ordinances adopted by the Common Council of the city shall be subject to a veto by the Mayor of the city.
(Ord. 3, passed 5-22-1999)

§ 155.020 ZONING MAPS; ADOPTED BY REFERENCE.

The official Zoning Map, City of Rockport, Indiana, dated December 15, 1998, as amended, is hereby adopted by reference as the official zoning districts map for this chapter.
(Ord. 3, passed 5-22-1999)

§ 155.021 APPEALS TO BOARD OF ZONING APPEALS.

The Board of Zoning Appeals shall have jurisdiction to hear appeals as outlined under the subchapter in this chapter entitled Advisory Board of Zoning Appeals; Rules of Procedure (§§ 155.085 through 155.093).
(Ord. 3, passed 5-22-1999)

§ 155.022 CONFLICT WITH OTHER STATUTES.

Where the requirements under this chapter are in conflict with the requirements of any other

statute or law that is effective within the city's territorial jurisdiction, the more restrictive requirement shall prevail.

(Ord. 3, passed 5-22-1999)

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§ 155.023 SEPARABILITY; PROPERTY PROVISIONS.

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

(Ord. 3, passed 5-22-1999)

§ 155.024 AMENDMENTS.

Prior to the amendment of any part of this chapter, the Plan Commission shall give notice and hold a public hearing on the proposed amendment pursuant to I.C. 36-7-4-602(b). Prior to repealing and replacing this chapter in its entirety, the Plan Commission shall give notice and hold a public hearing on the proposal pursuant to I.C. 36-7-4-602(a).

(Ord. 3, passed 5-22-1999)

ZONING DISTRICTS

§ 155.035 AGRICULTURAL DISTRICTS.

The primary purpose of the agricultural district is the business of agricultural production. An essential goal is the preservation and protection of farmland from infringement by unguided nonagricultural development that threatens the pursuit of the business of agricultural production. In pursuit of that goal, residential development should be restricted to

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large-tract single-family homes, which will leave the undeveloped areas of the residential parcel for agricultural production. As essential public facilities such as centralized wastewater collection and treatment, properly designed and constructed roads, and public water can be extended at reasonable cost, together with the ability to provide adequate police and fire protection services, areas which can accommodate nonagricultural development in an orderly and efficient manner should be considered for that development, on a not-to-interfere basis with the interest of farmers who want to pursue the business of agricultural production. Nonresidential development should be restricted to those uses that need large tracts of open space and those uses which are best located in undeveloped areas. (Ord. 3, passed 5-22-1999)

§ 155.036 COMMERCIAL DISTRICTS.

(A) *C-1 Light Commercial District.* The primary purpose of the Light Commercial District is the support of retail and service businesses in the downtown area and in areas that are not located primarily along heavily traveled streets or highways. The C-1 district may be located adjacent to the more restrictive residential uses (R-1 and R-2), thereby offering a transitional area between the residential and more intense nonresidential uses. Location on or near collector or minor arterial streets is important. Floor space per individual commercial use should not exceed 5,000 square feet, and no outside storage or display of goods or materials should be permitted.

(B) *C-2 Medium Commercial District.* The C-2 district is situated primarily to support the residents of the city and nonresident travelers. The C-2 district should be located generally along the arterial roads, S.R. 66 and U.S. 231, as they run through the city, where lodging, auto service, fuel, and similar services may best be positioned for the support of the traveling public. Beginning with the C-2 district, residential uses should be discouraged, since they tend to be incompatible uses. Storage and display of goods and materials outside should not exceed 20% of the floor area of the main building, and should not be permitted within 10 feet of the right-of-way lines.

(C) *C-3 Heavy Commercial District.* The Heavy Commercial District is meant to offer locations for a spectrum of uses including large, land-intensive retail uses such as department stores, and commercial/light industrial combination uses. The C-3 district also serves as a transitional district between the lighter commercial and industrial uses. Location along a collector or arterial street is recommended; location on local streets must be avoided. Residential uses should be strongly discouraged. Outside display of goods and materials should not be permitted within 10 feet of the right-of-way lines. (Ord. 3, passed 5-22-1999)

§ 155.037 FLOODPLAIN OVERLAY DISTRICT.

The Floodplain Overlay District is not a land use district; rather, it designates areas that are flood-prone and designated as floodplains on the city's Flood Insurance Rate Map (FIRM), and as updated by Letters of Map Revision (LOMR) and Amendment (LOMA). Floodplain designation places additional demands on all development that is proposed in any district which is covered by the Floodplain Overlay District. Floodplain regulations protect both proposed structures and existing structures from flood damage. Development in any floodplain overlay district may require approval by several agencies, and precise, certified engineering plans are required for approval. Open land uses which do not substantially alter the rate of movement of flood waters or the elevation of flood waters, such as agricultural production, golf courses, and parking lots, are encouraged. Refer to Chapter 153, Flood Control, for additional information and guidance on development of land in a floodplain. (Ord. 3, passed 5-22-1999)

§ 155.038 INDUSTRIAL DISTRICTS.

(A) *I-1 Light Industrial District.* The Light Industrial District provides locations for manufacturing, processing, and assembly operations that produce very little or no smoke, dust, noise, or other environmentally objectionable byproducts. In addition to the manufacturing and processing activities, warehousing and distribution are acceptable uses in the I-1 district. Requirements for truck, rail, and barge services are less than in the Heavy Industrial District. Location along a well-constructed collector with access to a principal arterial is important. Residential uses are prohibited, and all but heavy commercial uses should be discouraged.

(B) *I-2 Heavy Industrial District.* The purpose of the Heavy Industrial District is to provide locations for manufacturing, processing, and assembly operations that require access to truck routes or rail or barge services. Storage and warehousing should be incidental to the uses in the I-2 district. Location along a well-constructed collector with access to a principal arterial is important. Residential uses are prohibited, and most commercial uses should be discouraged. (Ord. 3, passed 5-22-1999)

§ 155.039 MOBILE HOME PARK OVERLAY DISTRICT.

The Mobile Home Park Overlay District regulates the siting of mobile home parks within the R-3, C-1, C-2, and C-3 districts. Reduced lot size and modified lot dimensional ratios accommodate mobile homes while retaining the character of a residential setting. Refer to the regulations under this chapter and the subdivision control ordinance for design requirements for mobile home parks. (Ord. 3, passed 5-22-1999)

§ 155.040 RESIDENTIAL DISTRICTS.

(A) *R-1 Single-Family District.* The primary purpose of the Single-Family District is to provide a stable and supportive environment for raising families in single-family homes on lots with ample open space for the enjoyment of privacy and family recreation. The preservation of single-family housing stock, the preservation of property values, and protection from encroachment by nonresidential uses other than those which support single-family housing are key to promoting a stable and safe single-family environment.

(B) *R-2 Two-Family District.* The purpose of the 2-Family District is to provide the essential qualities of the Single-Family District with slightly greater density and lower cost of living. Uses in the R-2 district should be limited to single- and 2-family dwellings, and to neighborhood-serving nonresidential uses. Protection from nonresidential uses is desirable.

(C) *R-3 Multi-Family District.* The Multi-Family District provides affordable medium- to high-density housing, as well as provisions for mixing of the multi-family with single-family and 2-family dwellings. This type of housing is essential for a growing workforce, as well as for young families and as senior citizen accommodations. The R-3 district also serves as a transitional district which permits placement of housing closer to zoning districts devoted to commercial and industrial uses. Proximity to collector or arterial streets with high traffic capacity is important. Location should be on local streets or collectors, and possibly along minor arterials, but primary arterial locations should be avoided. Nonresidential uses should be discouraged except those that are neighborhood-serving. (Ord. 3, passed 5-22-1999)

LAND USE AND DEVELOPMENT REGULATIONS**§ 155.050 APPLICATION OF REGULATIONS**

Except as provided herein, the following regulations apply in all zoning districts:

(A) No building shall be erected or structurally altered, and no building or premises may be used for any purpose other than as permitted in the zoning district in which the building or premises is located.

(B) No land or lot area shall be so reduced or diminished such that the yards or open spaces shall be smaller than as prescribed herein, nor shall the lot area per family or other specified use be reduced in any manner except in conformity with the area regulations hereby established for the district in

which the use lies, unless approved by action of a Plan Commission or Board of Zoning Appeals.

(C) No yard, parking area, or open space provided for any building for the purpose of complying with these regulations shall be considered as providing yard, parking, or open space for any other building.

(Ord. 3, passed 5-22-1999)

§ 155.051 MISCELLANEOUS LAND USE REQUIREMENTS.

(A) *Accessory buildings.* An accessory building may be constructed or installed on a lot only after or in conjunction with the construction or installation of the building that will be/house the principal use of the land on the same lot. An accessory building shall not be located forward of the front setback line of the principal structure.

(B) *Covenants and restrictions.* Private covenants and restrictions in plats and deeds do not have the force of law and are not enforceable as laws by a unit of government. Where private covenants and restrictions are in conflict with the regulations set out in this chapter or any other ordinance of the city or with any other law, that ordinance or law shall prevail over the covenants and restrictions.

(C) *Easements.* No structure, building, fence, sign or tree, whether temporary or permanent, may be placed in an easement.

(D) *Fences.* A fence installed on agricultural-use land pursuant to I.C. 32-26-2 is permitted to be located on a property line under the terms of that statute. In all other cases, a fence may be located on a property line only by mutual agreement of the owners of the properties that are contiguous to the line.

(E) *Home occupations.* Unless otherwise approved by action of the Board of Zoning Appeals, nonresidential uses are permitted in dwellings only under the following conditions:

- (1) The primary use of the building and land shall be as a dwelling;
- (2) All business shall be conducted entirely within the dwelling or a part thereof, but shall not be conducted in an accessory structure, whether or not that accessory structure is attached or detached;
- (3) The use is limited to a business of a personal service nature;
- (4) The home occupation is conducted by not more than 2 residents of the dwelling, and in addition to the residents, by not more than 1 nonresident employee;
- (5) Pick-up and delivery services shall be no more frequent than is average in a residential

zoning district;

(6) Parking shall be accommodated on-site or in the street directly in front of the residence, and additional parking accommodations shall not be constructed solely for the purpose of supporting the home occupation;

(7) No sales, manufacturing, or assembly may take place except as incidental to the service provided;

(8) There shall be no noise, smoke, or smell detected outside the dwelling which is a result of the conduct of the business;

(9) There shall be no storage of materials or goods outside of the dwelling;

(10) Signage shall not be other than as permitted in the zoning district in which the use is located; and

(11) The residential character of the outside of the structure shall not be changed to accommodate the nonresidential use of the structure.

(F) *Noncomplying or nonconforming structure not to expand.* No work may be accomplished on a noncomplying or nonconforming structure which will increase the degree of noncompliance or nonconformance with these regulations. Subject to the requirements of division (G) below, owners of noncomplying or nonconforming structures shall have the right to perform routine or preventive maintenance on those structures.

(G) *Noncomplying or nonconforming structure not to rebuild.* A noncomplying or nonconforming structure which is damaged to the degree that the cost of rebuilding the structure shall be equal to or greater than 50% of the material value of the structure prior to the damage occurring shall not be rebuilt except in conformance with these regulations.

(H) *Nonconforming use not to continue.* A nonconforming use which is not an agricultural use as defined herein and which ceases for a period of 1 year or longer shall be considered to have ceased permanently, and the nonconforming use shall not be permitted to resume except as otherwise permitted by state law or these regulations. A nonconforming use which is an agricultural use as defined herein and which ceases for a period of more than 3 consecutive years shall be considered to have ceased permanently, and the nonconforming use shall not be permitted to resume except as otherwise permitted by state law or these regulations.

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(I) *Proof of ownership; right to use of property.* In order to guarantee the right of persons to the exclusive use of their property, the following regulations shall apply in all districts:

(1) It shall be the responsibility of the person who proposes work on or to property to demonstrate and guarantee that the proposed work shall be accomplished only on property owned by or under the control of the person proposing the work. This guarantee shall be required whether or not any permit is required for the proposed work. The Zoning Administrator shall require, at the expense of the person proposing the work, that a physical survey be conducted and shall require evidence in the form of deeds and/or other documents which demonstrate ownership and/or control of property whenever evidence of that ownership or control is in dispute or is not certain.

(2) No work on or to property owned by or under the control of another person or subject to the approval of a government agency shall be started unless by the written permission of the person who owns and/or controls the property, and, as required, by the additional approval of those government agencies which have oversight authority.

(J) *Public property, use of.* No temporary or permanent improvements, including signs, shall be installed or constructed on public property except those permitted by regulation.

(K) *Salvage license.* The operation of a salvage yard shall not be permitted except in compliance with the terms and permitting requirements under I.C. 9-22-4 *et seq.*, and by compliance with these regulations.

(L) *Septic systems.* Septic systems shall meet the most recent State Department of Health and local sanitation regulations. Where any expansion of or change of use is proposed for an existing structure, a septic system test shall be conducted to verify the proper functioning of the existing system, and the system shall be modified as required to bring it into compliance with the requirements for the changed or expanded use. A new system shall be installed for any new construction or when a field test fails to confirm the functioning of an existing system. No lot upon which a septic system is to be installed shall be less than 1 acre in lot area.

(M) *Visibility at intersections.* At the intersection of any street, alley, driveway, or railroad with any other street, alley, driveway, or railroad, no improvements shall be installed or constructed, nor may anything be planted at a height between 2½ feet and 9 feet above the crown of the involved streets, alleys, driveways, or rights-of-way, or the top of the rails, in a triangle formed by the intersecting lines of the rights-of-way and a line connecting the intersecting lines at a distance of 20 feet as measured along each intersecting line from the point of intersection. In determining whether or not an improvement or plant is blocking the visibility of pedestrians or drivers of vehicles at the intersection, the determination of the Zoning Administrator shall be final, subject to an appeal to the Board of Zoning Appeals.

(N) *Well water and potable water.* Where a lot is supplied by both well water and potable water, backflow protection shall be provided in the potable water system, whether or not the well and potable water systems are connected together.

(O) *Zoning district boundaries.* These regulations apply to situations where zoning boundaries do not readily identify permitted land uses on particular parcels:

(1) Where the boundary lines of a zoning district divide a lot having frontage on a street in a less-restricted zone, the provisions of this chapter covering the less-restricted portion of the lot may extend into the lot, but in no case more than 30 feet.

(2) Where the boundary lines of a zoning district divide a lot having frontage on a street in a more-restrictive zone, the provisions of this chapter covering the more-restricted portion of the lot may extend to the entire lot.

(3) Where the street layout actually on the ground varies from the layout as shown on the zoning map, the city's Zoning Administrator shall interpret the map according to the reasonable intent of this chapter.

(Ord. 3, passed 5-22-1999)

§ 155.052 BUILDING STANDARDS.

(A) *Minimum occupied space of dwellings.* Dwellings shall have minimum occupied space as follows:

(1) Single-family dwelling: 1,000 square feet; except, however, that a mobile home located in an approved or legally nonconforming mobile home park shall have not less than 920 square feet.

(2) Two-family and multi-unit dwellings: 650 square feet per dwelling unit.

(B) *Minimum dimensions of dwellings.* Any structure housing a dwelling shall measure not less than 23 feet in any dimension of width or length enclosing occupied space; except, however, that a mobile home which is located in an approved or legally nonconforming mobile home park shall measure not less than 14 feet in any dimension of width or length enclosing occupied space.

(C) *Foundations of dwellings; enclosure of underfloor space.* Each dwelling shall have a foundation and shall enclose underfloor space as follows:

(1) *Permanent foundation.* Except for a mobile home located in a mobile home park, each structure housing a dwelling shall have a solid and permanent perimeter foundation of concrete block, stone, masonry, or wood that extends from the frost line to the bottom of the perimeter wall sill plate, completely enclosing all underfloor space, which shall be constructed in accordance with the One- and Two-Family Dwelling Code.

(2) *Mobile homes.* A mobile home set on temporary supports in a mobile home park shall utilize industry-standard skirting to completely enclose all underfloor space.

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(3) *Floodplain.* A dwelling located in a floodplain may utilize a permanent foundation other than that specified above; provided, that it is required as a condition of approval for construction in a floodplain.

(D) *Gutters and downspouts.* Gutters and downspouts which control rainwater runoff from the roof of each structure shall be installed on all residential structures except for a mobile home located in an approved or legally nonconforming mobile home park. Where a downspout is directing the flow of water across the adjoining property, the downspout shall be located not closer than 5 feet to the adjoining property line. Downspouts shall not direct water into any sanitary sewer system.

(E) *Temporary dwellings.* No structure or vehicle may be used as a temporary dwelling. This does not preclude the use of tents or campers as temporary accommodation in recreational areas for sleeping and habitation, or the use of a recreational vehicle as temporary accommodation for sleeping and habitation in an approved RV park.

(F) *Minimum standards for Class 1 buildings.* All buildings which are not regulated as 1- or 2-family dwellings (Class 2 buildings) are subject to the regulations of the Indiana Department of Fire and Building Services for Class 1 structures.

(G) *Height of buildings and structures.* The maximum height of buildings and structures, except signs, as measured from the average grade of the land around the structure before any grading or development begins shall not exceed:

(1) Agricultural districts: 50 feet;

(2) Commercial districts: 40 feet;

(3) Industrial districts: 90 feet;

(4) Residential districts: 40 feet; and

(5) Signs: as specified under the regulations for signs in this chapter.

(Ord. 3, passed 5-22-1999)

§ 155.053 LOT IMPROVEMENT STANDARDS.

(A) *Miscellaneous lot requirements.*

(1) *Number of residential buildings on a lot.* Not more than 1 principal detached single-

family or attached 2-family residential building shall be located on a lot in any zoning district, nor located on the same lot with any other principal building, except as authorized by Plan Commission approval.

(2) *Number of nonresidential buildings on a lot.* More than 1 principal building, other than single-family detached or 2-family attached residential building, may be located on a lot in any zoning district, provided the requirements of this chapter are met separately for each individual use.

(3) *Two uses on 1 lot.* Where 2 or more permitted or special uses, each requiring a minimum lot area, are provided in the same building or on the same lot, the required lot area shall be the sum of the areas required for each use individually.

(4) *Lot area and dimensional exclusions.* Lot area and lot dimensions, or other criteria, used to satisfy one use cannot be counted again and used to satisfy a separate use.

(5) *Open use of lot.* Where a lot is to be occupied for a permitted use without buildings, the site and structure provisions applicable for the lot shall be provided and maintained unless otherwise stipulated in this chapter, except that side and rear yards shall not be required on lots used for garden purposes without buildings or structures, nor on lots used for public recreation areas.

(6) *Access across residential property.* No land which is located in a residential zoning district shall be used for driveway, walkway, or access purposes to any land which is located in a commercial or industrial district, or used for any purpose not permitted in a residential zoning district.

(B) *Frontage.* Each lot in any zoning district shall front on and abut a publicly maintained street.

(C) *Ratio of lot length to width.* Except for a lot created in an agricultural district for agricultural production, each lot created after the adoption of this chapter shall have a ratio of lot length to lot width that does not exceed 3:1.

(D) *Minimum lot area.* The minimum net lot area measured in square feet shall be as follows:

(1) *Septic systems:* On any lot where a septic system is used for sanitary sewage, the minimum lot area shall be not less than 1 acre in any zoning district.

(2) *A-1 District:* 10 acres.

(3) *C-1, C-2, and C-3 Districts:* There are no minimum lot area requirements except that the minimum lot area for residential uses shall be that of the R-3 district.

(4) *I-1 and I-2 Districts:* There are no minimum lot area requirements except that the minimum lot area for residential uses shall be that of the R-3 district.

(5) *MHP Overlay District:* 3,500 square feet per mobile home.

(6) R-1 District: 7,200 square feet for each single-family residential use, and 20,000 square feet for a use other than single-family residential.

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(7) R-2 District: 7,200 square feet for each 1- or 2-family residential use, and 20,000 square feet for any nonresidential use.

(8) R-3 District: 11,000 square feet for the first 2 units of a multi-dwelling building, and an additional 2,000 square feet for each additional dwelling unit. Nonresidential uses shall have not less than 20,000 square feet of lot for each use. One- and 2-family uses shall follow the R-2 requirements.

(E) *Minimum lot dimensions.* Minimum lot dimensions of length or width measured in feet at the building setback line shall be:

(1) A-1 District: Width shall be not less than 150 feet at any point in the lot.

(2) C-1, C-2, and C-3 Districts: For nonresidential uses, width shall be not less than 60 feet, except that a corner lot shall measure not less than 100 feet along either right-of-way. All other uses shall meet the minimum requirements for their respective zoning districts.

(3) I-1 and I-2 Districts: For nonresidential uses, width shall be not less than 60 feet, except that a corner lot shall measure not less than 100 feet along either right-of-way. All other uses shall meet the minimum requirements for their respective zoning districts.

(4) MHP Overlay District: Each space shall be not less than 26 feet in width and 125 feet in depth.

(5) R-1 and R-2 Districts: Width shall be not less than 60 feet, except that a corner lot shall measure not less than 100 feet along either right-of-way.

(6) R-3 District: Width shall be not less than 70 feet, except that a corner lot shall measure not less than 100 feet along either right-of-way.

(F) *Maximum lot coverage.* The percentage of the net area of a lot which may be covered by buildings shall not exceed:

(1) A-1 District: No coverage limits where the primary use is agricultural production. All residential uses shall follow the requirements for their respective zoning districts. All other uses shall not exceed 1 acre or 30%, whichever is less.

(2) C-1, C-2, and C-3 Districts: No coverage limits, except that residential uses shall follow the requirements of their respective zoning districts.

(3) I-1 and I-2 Districts: Coverage shall not exceed 80%.

(4) MHP Overlay District: Coverage shall not exceed 50%.

(5) R-1 and R-2 Districts: Coverage shall not exceed 30%. Accessory uses shall not exceed 20% of the rear yard.

(6) R-3 District: Coverage shall not exceed 40%. Accessory uses shall not exceed 30% of the rear yard.

(G) *Minimum yards (setbacks)*. Where pursuant to state or federal law a greater yard (setback) than that specified below is required as a condition of a specified land use, the greater requirement shall be utilized.

(1) *Front yard.*

(a) *All districts.* Twenty-five feet if on a platted street having a right-of-way width of 50 feet or greater; otherwise, 50 feet from the centerline of the right-of-way or street easement.

(b) *Setback averaging - reduced front setback.* A building may have a front yard that is equal to the average front yard for all other buildings in the block, but not less than 10 feet in any residential district. Vacant lots shall be computed as having front yards 25 feet in depth.

(c) *Setback averaging - increased setbacks.* A greater front yard is required when the average front yard for all other buildings in the block exceeds the requirements above. The front yard shall equal the average, but shall not be required to exceed 50 feet except by choice. Vacant lots shall be computed as having front yards 25 feet in depth.

(d) *Double frontage.* Lots with frontage on 2 or more streets shall maintain a front yard setback from each street.

(2) *Side yard.* Five feet per side in residential, agricultural, and commercial districts. Ten feet per side in industrial districts. On corner lots, the side yard facing the street shall conform with the requirements for a front yard; 1 of the yards not fronting on a street may be other as the rear yard.

(3) *Rear yard.* In residential, agricultural, and commercial districts, accessory structures which are separated from the principal structure by at least 15 feet may have a rear yard of 6 feet. On corner lots, either of the yards not fronting on a street may be selected as the rear yard, and the other as a side yard.

(4) *Reduced yards for dwellings on a lot of record.* Where a lot of record has insufficient width or length to accommodate the minimum dimensions of a dwelling as specified herein, and provided that the size of the lot was approved by a Plan Commission or created pursuant to a subdivision control ordinance, 1 or more yards (setbacks) may be reduced as necessary to

accommodate the minimum dwelling dimensions herein, but in no event to have a front yard of less than 10 feet, rear yard of less than 6 feet, or side yard of less than 3 feet.

(5) *Architectural features.* May extend up to 5 feet into a required yard or setback, but in no event closer than 5 feet to a property line or right-of-way line. Architectural features may not be converted to living or storage space, nor enclosed.

(H) *Driveways.*

(1) *Separation.* Driveways shall have the following minimum separation distances:

- (a) Not closer than 25 feet to the intersection of any streets or alleys;
- (b) Not closer than 4 feet to any other curb opening; and
- (c) Not closer than 2 feet to a property line.

(2) *Length.* Driveways intersecting a street that is hard-surfaced must have a surface of concrete or asphalt that extends from the edge of the street pavement for a distance of not less than 10 feet, and not less than 5 feet past a sidewalk.

(3) *Width.* The width shall be from 12 to 25 feet.

(4) *Construction.* The driveway surface shall be constructed using 4 inches of asphalt or 6 inches of concrete on a 6-inch base of compacted aggregate.

(Ord. 3, passed 5-22-1999)

§ 155.054 PARKING AND LOADING REQUIREMENTS.

(A) *General requirements.* The following regulations are applicable in all districts, except as otherwise provided herein:

(1) All off-street parking and loading facilities shall be provided on private property.

(2) Parking shall be provided on the same lot as the building or use to be served. A variance for parking in another location within 300 feet of the use may be granted by the Board of Zoning Appeals, provided that as a condition of approval the petitioner records a deed restriction which specifies that the land so approved shall be used only for the parking of vehicles.

(3) Where more than 4 parking spaces are required for any structure or use, back-out parking from spaces into a public street shall be prohibited.

(4) Truck turning and maneuvering areas shall be provided on private property.

(5) Required off-street parking spaces may not include space in any garage, carport, or other parking facility.

(6) No parking space may be accessible by first driving through another parking space.

(B) *Parking space requirements.* The following regulations are applicable to cars and light trucks in all districts:

(1) *Parallel (on-street) parking.* Each space shall be a rectangle, the minimum dimensions of which shall be 9 feet in width and 22 feet in length;

(2) *Angle parking.* Each space shall have minimum dimensions of 9 feet in width and 20 feet in length as measured along the centerline of the space; and

(3) *Nonparallel (side-by-side) parking.* Each space shall have minimum dimensions of 9 feet in width and 18 feet in length.

(C) *Minimum off-street parking requirements.*

(1) *Single-family residential and mobile home parks.* Two off-street parking spaces per dwelling unit. Parking spaces may be stacked, meaning that parking for 1 vehicle may be provided in front of the parking space provided for another vehicle.

(2) *All residential uses other than single-family.* Requirements based on the number of bedrooms per dwelling:

(a) Two or fewer bedrooms per dwelling unit: 2 spaces per dwelling unit;

(b) Three or 4 bedrooms per dwelling unit: 3 spaces per dwelling unit;

(c) More than 4 bedrooms per dwelling unit: 4 spaces per dwelling unit;

(d) Hotel and motel: 6 spaces for every 5 guest sleeping rooms or fewer;

(e) Restaurants, delis, micro-breweries and other eateries: 1 space per 3 patron seats.

Where bench seating is used, each 18 inches of length of the bench shall count as 1 patron seat;

(f) Hospitals and sanatoriums: 1 space for every 3 patients that can be accommodated;

(g) Convalescent and nursing homes, clinics: 1 space for every 4 patients that can be accommodated;

(h) Laundromats: 1 space for every 3 washing machines;

- (i) Funeral homes: 2 spaces for every 100 square feet available to the public;
- (j) Auto and light truck repair facility: 3 spaces for each work bay;

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(k) Offices, financial institutions, service and retail businesses: 1 per 300 square feet of floor area used in the conduct of business;

(l) Manufacturing, processing, and warehousing facilities: 1 space per employee per shift;

(m) Places of public assembly with fixed seating (government meeting facilities, churches, lodges, clubs, and theaters): 1 space per 3 patron seats. Where bench seating is used, each 18 inches of length of a bench shall count as 1 patron seat; and

(n) Places of public assembly without fixed seating (stadiums, sports fields, gyms, airports and auction barns): 1 seat for every 100 square feet used by the public.
(Ord. 3, passed 5-22-1999)

§ 155.055 USES PERMITTED BY ZONING DISTRICT.

The Land Uses chart attached as Appendix A to this chapter lists permitted land uses in each zoning district. Uses not listed shall be permitted only upon an approval at a public hearing by the Board of Zoning Appeals, or following the rezoning of land to an appropriate zoning district by the Plan Commission and Common Council. Notes on additional requirements for specific uses follow the chart.

(Ord. 3, passed 5-22-1999)

SIGNS**§ 155.070 PURPOSE.**

These sign regulations are designed to reduce visual clutter and thereby promote effective use of signs for the purposes of:

(A) Informing the public of activities which may be of interest to them;

(B) Promoting motorist and pedestrian safety by removing or reducing unnecessary distractions;

(C) Promoting motorist and pedestrian safety by requiring signs within the entry and exit areas of lots and at the intersections of streets to be so positioned as to provide for adequate visibility; and

(D) Restricting nonresidential uses of land within residential districts.
(Ord. 3, passed 5-22-1999)

§ 155.071 DEFINITIONS.

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

ADDRESS AND NAME SIGN. An unlighted, permanent wall sign which displays the names of residents and the address of the building.

ADVERTISING. The use of any structure, placard, wall, banner, balloon, or other device or structure or part thereof which forms or on which are located graphics, symbols, lights, words and/or numbers intended to convey information to the public, and which announces, notifies, or promotes a person, organization, company, church, club, lodge, group, establishment, structure, product, goods, or services. The expression of an opinion which does not announce, notify, or promote as outlined above, and which otherwise does not break any laws, is not **ADVERTISING**.

BANNER. A nonpermanent sign of lightweight fabric, plastic, or similar material, which is not more than 9 square feet in sign face area and which is mounted to a pole or building by a permanent frame at 1 or more edges or by use of ropes or lines. National, state or municipal flags, or official flags of any institution or business are not **BANNERS**.

FASCIA SIGN. A sign which is an integral part of a fascia, and which forms or is a part of the boundary of the intersection of a wall and roof.

FLAG. Fabric, banner or bunting of not more than 18 square feet in area, containing distinctive colors, patterns, symbols, and words used as an identifying symbol of a unit of government or other organization, or which is purely decorative in nature, but which does not otherwise advertise products or services.

FREESTANDING SIGN. A permanent sign that is anchored to or into the ground, and which is not supported by or attached to any structure other than its own support structure. A **FREESTANDING SIGN** shall not be used as a fence.

GATEWAY SIGN. An unlighted, permanent wall sign which is located on private property at the entrance to and identifies a named and platted residential subdivision or development, and which carries only the name of the subdivision or development but no other advertising or personal message.

HOME OCCUPATION SIGN. An unlighted, permanent wall sign which identifies the home occupation within the dwelling to which the sign is attached.

INFORMATION SIGN. A permanent sign which provides information necessary for routing of

pedestrian and vehicular traffic, and similar information required for on-premises traffic control.

OFF-PREMISES ADVERTISING SIGN. A permanent sign which announces, notifies, or advertises a person, organization, company, church, club, lodge, group, establishment, structure, product, goods or services which are not located on the same property on which the sign is located. Each **OFF-PREMISES ADVERTISING SIGN** not covered by a restriction below in a specific zoning district shall have not more than 32 square feet of sign face area.

ON-PREMISES ADVERTISING SIGN. A permanent sign located on the property on which the organization, company, church, club, lodge, group, establishment, structure, product, goods or service identified by the sign is located. Each organization, company, church, lodge, group, or establishment located on a lot shall be entitled to 1 **ON-PREMISES ADVERTISING SIGN**. Except as permitted in this chapter, total sign face for each sign shall be not more than 32 square feet.

PERSONAL MESSAGE SIGN. An unlighted sign of not more than 6 square feet in sign face area which states only an opinion or point of view, but which does not advertise as defined in this chapter, and does not break any law. **PERSONAL MESSAGE SIGNS** shall be anchored into the ground or to a building.

PORTABLE SIGN. A moveable nonpermanent sign that is not securely anchored into the ground or to a building or sign support structure.

PROJECTING SIGN. A permanent sign which is attached only to a building and projects at least 12 inches but not more than 6 feet from the face of the building. The lowest part of a **PROJECTING SIGN** shall be not less than 9 feet above the ground, and no part of the sign shall be closer than 2 feet to a street, alley, or back of a curb. A **PROJECTING SIGN** shall not be supported by any posts or other support structure other than those which connect the sign to the building.

READ BOARD. A part of a permanent, freestanding sign structure, which uses changeable copy (symbols, words, and numbers) to display information about future events, special offerings, opinions, or other on-premises advertising information that changes with reasonable frequency. To qualify as a **READ BOARD**, the symbols and copy must be changed at least once every 2 weeks, and no message may be used more often than 4 times per 12-month period. Except as permitted in this chapter, each activity qualifying for a freestanding, on-premises advertising sign shall also be permitted 1 **READ BOARD**.

ROOF SIGN. A sign which extends above the lowest part of the roof of a structure, which protrudes from a roof, which is painted on a roof, or which is created on and attached to a roof by the use of shingles or other material which also serves as the roofing material. **ROOF SIGNS** which have a supporting structure on Class 1 structures require an approved state construction design release, in addition to any local approvals.

SIGN. Any placard, wall, banner, balloon or other device, or structure or part thereof which forms or on which are located graphics, symbols, lights, words, and/or numbers, intended to convey information to the public, and which announces, notifies, or advertises a person, organization, company, church, club, lodge, group, establishment, structure, product, goods or services, or which offers an opinion or other message.

SIGN FACE AREA. The area of the sign used for displaying the symbols, words, or numbers used to convey a message. In determining the area of the sign face, the smallest area described by a rectangle that completely encloses the message and symbols shall be used. A 2-faced sign where the faces are parallel, or where the faces diverge at an angle of 45 degrees or less, and where the back of each face is separated from the back of the other by not more than 12 inches at their closest point, shall be treated as 1 sign face for purposes of calculating **SIGN FACE AREA**.

TEMPORARY SIGN. A nonpermanent sign or banner that is attached to a structure or anchored into the ground, which describes 1-time or infrequent activity or advertising. The following temporary signs are permitted:

(a) **CONSTRUCTION** and **CONTRACTOR SIGNS.** During the length of time that a construction project is in progress or that repairs are being made to a structure or land, a contractor may display in any zoning district 1 freestanding sign of not more than 9 square feet in sign face area on the property under construction, which advertises the company's business, for a period not to exceed 45 days.

(b) **CROP IDENTIFICATION SIGNS.** Used to identify different varieties and types of crops during the growing and harvesting of crops. Permitted only where the crops so identified are planted, and not to exceed 6 square feet in area per sign nor more frequently than 1 sign where a crop type changes, and otherwise not more than every 200 feet.

(c) **FOR SALE SIGNS.** Permitted only on the property that is for sale, or on the property on which an item of personal property is for sale. Personal property advertised for sale must belong to the owner of the property on which it is offered, and the owner cannot be in the business of selling property for commercial gain. **FOR SALE SIGNS** are limited to 6 square feet in area, and may be used only for the duration of the sale, but not to exceed 1 year.

(d) **GARAGE SALE, YARD SALE, and OPEN HOUSE SIGNS.** A maximum of 3 free-standing signs are permitted per event, for 3 days prior to the event, and shall be removed immediately following the event. They may be placed only on private property. Each sign shall not exceed 6 square feet in area.

(e) **POLITICAL** and **ELECTION.** For a period of 30 days before a public primary, regular

or special election, each candidate may display in any zoning district 1 freestanding sign of not more than 9 square feet in area on each parcel of property, which advertises the candidate's qualifications for office and states the candidate's party, group, or organizational affiliation. Signs shall be removed not more than 15 days following the advertised date of the election.

(f) **ORGANIZATIONAL ACTIVITIES.** Used to identify a scheduled event of a school or nonprofit organization. The sign shall not exceed 12 square feet in area, and may not be used for a total of more than 30 days per calendar year.

(g) **SPECIAL OCCASION.** Announcements and decorations for weddings, birthdays, nationally recognized holidays, and other infrequent special events. These announcements and decorations shall not carry advertising.

WALL SIGN. A sign attached parallel to a wall or painted on a wall, with no point on the sign extending more than 6 inches from the face of the wall, nor extending beyond the edge or top of the wall to which the sign is attached. Windows are not calculated into the total area of a wall for purposes of calculating total sign face area. **WALL SIGNS** where permitted shall only be on walls which are at least 50% visible from a public street that is located within 100 feet of the building.

WINDOW SIGN. A sign attached to a window, but not projecting from or exceeding the frame limits of the window. **WINDOW SIGNS** where permitted shall only be on walls which are at least 50% visible from a public street that is located within 100 feet of the building.
(Ord. 3, passed 5-22-1999)

§ 155.072 GENERAL REGULATIONS.

(A) *Exempt signs.* The following signs with conditions are permitted in all zoning districts:

(1) *Flags.* As defined in this chapter.

(2) *Government.* All signs installed by units of government on the land which the unit owns or controls.

(3) *Legal notices.* No Trespassing, No Hunting, survey markers and monuments, and similar informational and warning signs; provided, that they are used only to the degree necessary to adequately convey the intended message to an average person.

(4) *Markers.* Memorial plaques and historic markers installed by a unit of government.

(5) *Personal message.* As defined in this chapter.

(B) *Prohibited signs.* Any sign not covered by this chapter and any sign which, due to size or other characteristic, does not conform with the regulations in this chapter is prohibited, except upon the granting of a variance by the Board of Zoning Appeals (BZA). The following signs and structures are

prohibited in all zoning districts:

- (1) *Animated.* Any signs which have moving or rotating parts.

(2) *Balloons.*

(3) *Fences.* Fences shall not be used as signs or supports for signs.

(4) *Lights.* Lights which are flashing, strobing, or blinking, and beacons or other lights which are not used to illuminate the face of a sign.

(5) *Pennants.*

(6) *Portable signs.* Any sign which lacks anchorage to either the ground, a sign structure, or a building, except as a temporary sign.

(7) *Vehicles.* No vehicle, whether or not operational or licensed, shall be used as a temporary or permanent sign. This does not preclude the painting or placement of signs on vehicles which are licensed for and operated on streets for the purpose of providing mobile advertisement, provided the vehicle so equipped is otherwise in compliance with all local, state, and federal laws pertaining to the operation of vehicles on streets.

(8) *Miscellaneous.* Any sign which, in the opinion of the Administrator, is intended to or designed for the purpose of distracting the attention of motorists or pedestrians, whether by color, lights, or other feature.

(C) *Height, width, and ground clearance.* Except as otherwise provided in this chapter, a sign located within 15 feet of the edge of a street, alley, or curblin shall have not less than 9 feet of open clearance between the bottom of any part of the sign and the highest point of the surface of the street or alley. A sign located within 15 feet of the edge of a street, alley, or curblin shall be supported by not more than 2 supporting structures below the sign face, each of which shall be not more than 12 inches in width, and have not less than 36 inches of open space between the supports. Except as otherwise provided in this chapter, no part of a sign shall be more than 20 feet above the highest point on the surface of the street adjacent to the sign, or in the absence of an adjacent street, not more than 20 feet above the average elevation of the ground for a radius of 50 feet around the sign, and no sign face shall exceed 8 feet in width.

(D) *Lights and lighted signs.* Lights shall not be of greater intensity than is necessary to provide minimal illumination of the sign face. Lamp bulbs and reflectors shall not be visible from any location adjacent to the sign or lamps.

(E) *Public property.* No sign shall be placed in a public right-of-way or on public property except signs so placed by units of government on rights-of-way or other property under the unit's control. Signs shall not be attached to utility poles or sign posts located on public property or in easements on

private property.

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(F) *Public safety/visibility.* Any sign, whether on public or private property, which does not meet the requirements of this subchapter for clear vision at intersections or which otherwise creates or causes a public safety concern or problem shall be removed by the city without the owner thereof being first advised by the city. The Zoning Administrator or any police officer may make the determination that public safety is compromised and may remove the sign.

(G) *Removal.* Signs which do not display any advertising or other message for a period of 6 months are to be removed.

(H) *Variance from the standards in this chapter.*

(1) The Board of Zoning Appeals may grant a variance from the terms of this chapter in accordance with the Board's rules of procedure and state law governing appeals to the Board. The Board may grant a variance for an increase in the area of a sign face by not more than 10% over the required height or width, provided in all cases that there is a hardship which renders the property unusable on which the sign is to be located, as proven by the petitioner at the public hearing.

(2) The Board of Zoning Appeals shall not have the authority to grant a variance for the use of signs specifically listed as prohibited signs.
(Ord. 3, passed 5-22-1999)

§ 155.073 PERMITTED BY ZONING DISTRICT.

(A) *General.* The following signs are permitted in the designated zoning districts subject to the conditions in this chapter. Signs not listed are not permitted.

(B) *Agricultural (A) districts.* The following signs are permitted, subject to the conditions under this chapter. Signs not listed are not permitted.

(1) *Total signage.* The total of all sign face area, temporary and permanent, on any 1 lot shall not be more than 100 square feet.

(2) *Address and name.* One unlighted address and name sign face area with not more than 2 square feet of sign face area is permitted per address.

(3) *Advertising.* Each approved or legally nonconforming business nonprofit organization, but not a home occupation, may have 1 of the following unlighted, on-premises advertising signs: a freestanding sign, projecting sign, or wall sign, but not more than 1 per business or organization. If the selected sign is a freestanding or wall sign, the sign face area shall be no more than 32 square feet.

(a) A freestanding sign shall have a maximum overall height of not more than 20 feet above the highest point on the surface of the street adjacent to the sign, and maximum overall width of not more than 8 feet.

(b) If the selected sign is a projecting sign, the sign face area shall be not more than 20 square feet.

(4) *Fascia.* A nonlighted fascia sign may not exceed 24 inches in height and 10 feet in width, and may not extend more than 24 inches above the lowest part of a roof. They may carry only on-premises advertising.

(5) *Gateway.* One unlighted gateway sign permitted at each entrance to a residential development, not to exceed 3 gateway signs total. Dimensions of overall height and width shall not be more than 5 feet each, and the sign face shall be not more than 20 square feet.

(6) *Home occupation.* One unlighted home occupation sign with not more than 4 square feet of sign face is permitted per dwelling unit in which a home occupation is conducted.

(7) *Information.* Each information sign shall be not more than 4 square feet in sign face area, and not to exceed 3 feet in height or 2 feet in width. Use and placement should be limited to the minimum necessary to ensure safety.

(8) *Read board.* Each activity which qualifies for and uses a freestanding, on-premises advertising sign shall also be entitled to an unlighted read board attached to the same support structure which holds the freestanding sign. The sign face area shall be not more than 20 square feet. The freestanding sign support structure to which the read board is also attached cannot exceed the height and width limits outlined above in this division (B) for the freestanding sign.

(9) *Roof.* Permitted only on buildings located within 100 feet on a public street, and used for approved or legally nonconforming businesses, public organizations, or nonprofit organizations, and on barns used as accessories to agricultural production. Can be used for on- and off-premises advertising. Maximum sign face area shall be not more than 25% of total roof area. Roof signs which extend above or protrude from the roof of a structure are not permitted. They shall be located not more than 100 feet from a public street.

(10) *Temporary signs.* The following unlighted temporary signs, as defined in this chapter, are permitted: crop identification, for sale, open house, political, construction, contractor, garage sale, yard sale, and special occasion.

(11) *Window.* Each approved or legally nonconforming business, public organization, or nonprofit organization, but not a home occupation, may have window signs that cover not more than 25% of all windows visible from public streets. In structures used predominantly as dwellings, window signs shall cover not more than 10% of all windows visible from public streets, and shall not announce or advertise an organization, company, church, club, lodge, group, establishment, structure,

product, goods or services, nor break any law.

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(C) *Commercial (C) and Industrial (I) districts.* The following signs are permitted subject to the conditions under this chapter. Signs not listed are not permitted.

(1) *Total signage.* The total of all sign face area, temporary and permanent, on any 1 lot shall be not more than 100 square feet.

(2) *Address and name.* One unlighted address and name sign with not more than 2 square feet of sign face area is permitted per address.

(3) *Banners.* As defined in this chapter. A maximum of 2 banners is permitted at each business location.

(4) *Fascia.* A fascia sign may not exceed 24 inches in height and 10 feet in width, and may not extend more than 24 inches above the lowest part of a roof. They may carry only on-premises advertising.

(5) *Gateway.* One unlighted gateway sign permitted at each entrance to a residential development, not to exceed 3 gateway signs total. Dimensions of overall height and width shall be not more than 5 feet each, and the sign face area shall be not more than 20 square feet.

(6) *Home occupation.* One unlighted home occupation sign with not more than 4 square feet of sign face area is permitted per dwelling unit in which a home occupation is conducted.

(7) *Information.* As defined in this chapter. Each information sign shall be not more than 4 square feet in sign face area, and not exceed 3 feet in height or 2 feet in width. Use and placement should be limited to the minimum necessary to ensure safety.

(8) *Off-premises advertising.* Each lot having frontage along S.R. 66 or U.S. 231 may have 1 freestanding, off-premises advertising sign; provided, however, that an off-premises advertising sign may not be placed less than 1,000 feet from an existing off-premises sign, whether or not on the same lot, as measured along the street frontage adjacent to the signs. Off-premises signs shall be located as close as practicable to the street but not more than 50 feet from the edge of the pavement, and otherwise consistent with these regulations. The sign face area shall be not more than 32 square feet, with maximum overall height of not more 20 feet above the highest point on the surface of the street adjacent to the sign, and maximum overall width of not more than 8 feet.

(9) *On-premises advertising.* Each approved or legally nonconforming business, public organization, or nonprofit organization, but not a home occupation, may have freestanding, on-premises advertising signs and projecting on-premises advertising signs. The sign face area of a freestanding sign shall be not more than 32 square feet.

(a) A freestanding sign shall have a maximum overall height of not more than 20 feet above the highest point on the surface of the street adjacent to the sign, and maximum overall width of not more than 8 feet.

(b) A projecting sign shall have not more than 20 square feet of sign face area.

(10) *Read board.* Each activity which qualifies for and uses a freestanding on-premises advertising sign shall also be entitled to an unlighted read board attached to the same support structure which holds the freestanding sign. The sign face area shall be not more than 20 square feet. The freestanding sign support structure to which the read board is also attached cannot exceed the height and width limits outlined above in this division (C) for the freestanding sign.

(11) *Roof.* Permitted only on buildings located within 100 feet on a public street, used for approved or legally nonconforming businesses, public organizations or nonprofit organizations, and on barns used as accessories to agricultural production. Can be used for on- or off-premises advertising. Maximum sign face area shall be not be more than 50% of total roof area.

(12) *Temporary signs.* All unlighted temporary signs, as defined in this chapter, are permitted.

(13) *Wall.* Each approved or legally nonconforming business, public organization or nonprofit organization, but not a home occupation, may have wall signs for on-premises advertising that total not more than 50% of the wall area as defined in this chapter.

(14) *Window.* Each approved or legally nonconforming business, public organization, or nonprofit organization, but not a home occupation, may have window signs that cover not more than 25% of all windows visible from public streets. In structures used predominantly as dwellings, window signs shall cover not more than 10% of all windows visible from public streets, and shall not announce or advertise an organization, company, church, club, lodge, group, establishment, structure, product, goods or services, nor break any law.

(D) *Residential (R) districts.* The following signs are permitted subject to the conditions under this chapter. Signs not listed are not permitted.

(1) *Total signage in a residential district.* The total of all sign face area, temporary and permanent, on any 1 lot shall be not more than 40 square feet.

(2) *Address and name.* One unlighted address and name sign with not more than 2 square feet of sign face area is permitted per address.

(3) *Gateway.* One unlighted gateway sign permitted at each entrance to the development, not to exceed 3 gateway signs total. Dimensions of overall height and width shall be not more than 5 feet each, and the sign face area shall be not more than 20 square feet.

(4) *Home occupation.* One unlighted home occupation sign with not more than 4 square feet

of sign face area is permitted per dwelling unit in which a home occupation is conducted.

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(5) *Advertising.* Each approved or legally nonconforming business, public organization, or nonprofit organization, but not a home occupation, may have 1 of the following unlighted, on-premises advertising signs: freestanding sign, projecting sign, or wall sign, but not more than 1 per business or organization. The selected sign shall have a sign face area of not more than 12 square feet. A freestanding sign shall have a maximum overall height of not more than 6 feet above the highest point on the surface of the street adjacent to the sign, and maximum overall width of not more than 4 feet.

(6) *Information.* Each sign shall be not more than 2 square feet of sign face area, and not exceed 3 feet in height or 2 feet in width. Use and placement should be limited to the minimum necessary to ensure safety.

(7) *Read board.* Each activity which qualifies for and uses a freestanding, on-premises advertising sign shall also be entitled to an unlighted read board attached to the same support structure which holds the freestanding sign. The sign face area shall be not more than 12 square feet. The support structure cannot exceed the height and width limits for the freestanding sign structure to which it is attached.

(8) *Temporary signs.* The following unlighted temporary signs as defined in this chapter are permitted: crop identification, for sale, open house, political, construction, contractor, garage sale, yard sale, and special occasion.

(9) *Window.* Window signs shall cover not more than 10% of all windows visible from public streets, and shall not announce or advertise an organization, company, church, club, lodge, group, establishment, structure, product, goods or services, nor break any law.
(Ord. 3, passed 5-22-1999)

ADVISORY BOARD OF ZONING APPEALS; RULES OF PROCEDURE**§ 155.085 MISCELLANEOUS PROVISIONS.**

(A) *Establishment.* The Board of Zoning Appeals of the city (hereinafter Board) is established. The Board is officially known as the Advisory Board of Zoning Appeals pursuant to I.C. 36-7-4-901(d).

(B) *Application.* These rules of procedure shall apply to all proceedings, meetings, and hearings of the Board.

(C) *Amendments.* Recommendations for amendments to these rules of procedure shall be made by the Board in the form of a resolution upon the affirmative vote of a quorum. The resolution shall be transmitted to the Common Council for its consideration in adopting an ordinance amending these rules of procedure.

(D) *Suspension of rules.* The suspension of any of these rules of procedure may be ordered at any meeting by a unanimous vote of those present; however, no decisions shall be made under a suspension of these rules.

(Ord. 3, passed 5-22-1999)

§ 155.086 OFFICERS; APPOINTMENTS AND DUTIES.

(A) *Election and appointment of officers.* The Board shall, at its first meeting each year, elect from among its members a Chairperson and Vice-Chairperson, and appoint a Secretary who is not required to be a member of the Board.

(B) *Legal counsel.* The Board shall request that the City Attorney provide counsel.

(C) *Duties of the Chairperson.* The Chairperson shall act as presiding officer over meetings, determine points of order and procedure at meetings, and sign all official documents.

(D) *Duties of the Vice-Chairperson.* The Vice-Chairperson shall act as Chairperson during the absence or disability of the elected Chairperson. In the case of the permanent absence of the Chairperson, the Vice-Chairperson shall succeed to the chair, and a new Vice-Chairperson shall be elected from among the membership.

(E) *Duties of the Secretary.* The Secretary shall, on behalf of the Board:

(1) Keep an accurate and complete record of all proceedings, meetings, and hearings, and shall record at all meetings:

- (a) The date, time, and place of the meeting or hearing;
- (b) A roster of members of the Board as either present or absent;
- (c) The general substance of all matters proposed, discussed, or decided;
- (d) Findings of fact in all cases;
- (e) Each motion and second, and the action so moved;
- (f) A roster of votes taken, by name of the individual members and their vote; and
- (g) All other information considered pertinent to the proceedings.

- (2) Record, transmit, and file all documents as required;
- (3) Supervise the preservation and storage of documents and papers;

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(4) Assign case numbers to petitions for hearings, numbered consecutively by year in the format BZA 97-01, BZA 97-02, and the like; and

(5) Post agendas and notices of meetings, and provide required notification and legal notice of pending hearings to media.

(F) *Absence of officers.* In the absence of both the Chairperson and Vice-Chairperson from any meeting, that member in attendance with the most time served as a member of the Board shall preside; provided, however, that the first and only item of business to be presented by such presiding officer shall be the election of a presiding officer pro tempore.

(G) *Conflict of interest/alternate appointments.* No member of the Board shall participate in a hearing or decision of the Board concerning a zoning matter in which that member has direct or indirect financial interest. In the event that any member is disqualified or any member's eligibility is challenged by a member of the public or the Board, that fact shall be entered on the records of the Board and shall appear in the minutes of the meeting. An alternate member may be appointed by the original appointing authority to replace a disqualified member and may participate in the hearing or decision with full voting rights in place of the regular member; provided, however, that the makeup of the Board is not altered by the appointment of the alternate member.
(Ord. 3, passed 5-22-1999)

§ 155.087 JURISDICTION.

(A) *Appeals.*

(1) The Board shall hear and determine appeals from and review:

(a) Any order, requirement, decision, or determination made by an administrative official, hearing officer, or staff member under the zoning ordinance;

(b) Any order, requirement, decision, or determination made by an administrative board or other body except a Plan Commission in relation to the enforcement of the zoning ordinance;

(c) Any order, requirement, decision, or determination made by an administrative board or other body except a Plan Commission in relation to the enforcement of a requirement to procure an improvement location or occupancy permit adopted under the zoning ordinance;

(d) Any appeal by the Plan Commission or Zoning Administrator under the zoning

ordinance for a decision on any matter presented to the Plan Commission or Administrator in which the Plan Commission or Administrator is unable to make a determination as to a permitted use or development standard requirement; or

- (e) Any appeal as required by any other ordinance in effect in the city.

(2) Pursuant to I.C. 36-7-3-1 *et seq.* and I.C. 36-7-4-1 *et seq.*, the Board shall not have jurisdiction to hear appeals concerning requirements of the Plan Commission with respect to:

- (a) Vacation of land;
- (b) Subdivision of land;
- (c) Platting and replatting of land;
- (d) Development plans; or
- (e) Planned unit developments.

(B) *Variance of uses or variance from standards.* The Board shall hear and approve or deny:

(1) Any request for a variance of use from the specified uses by zoning district of any land covered under the zoning ordinance, provided that the Board has made a positive finding for each of the criteria under I.C. 36-7-4-918.4.

(2) Any request for a variance from the development standards of the zoning ordinance concerning height, bulk, density, or setbacks, provided that the Board has made a positive finding for each of the criteria under I.C. 36-7-4-918.5.

(C) *Special exceptions.* The Board shall hear and approve or deny any request for a special exception from the terms of the zoning ordinance, but only in the classes of cases or in the particular situations specified in the zoning ordinance. In addition to the findings and requirements under state law and these rules, the Board shall be required to make the additional findings outlined below for each special exception. The Board shall not have the authority to grant a use variance or a special, contingent, or conditional use instead of a special exception in these cases:

(1) *Excess-height towers.* For any tower or windmill which will exceed the height limits in a zoning district, satisfactory evidence shall be presented that:

- (a) All possible alternate locations which would permit a lesser height have been exhausted;
- (b) Alternative arrangements for shared use of an existing tower have been exhausted;
- (c) The height is not more than sufficient to meet the needs of the user;

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(d) Land area in the fall radius around the tower equal to the height of the tower has been set aside to protect public health, safety, and welfare, and that a deed restriction will be recorded for each parcel of involved land stating that no habitable improvement shall be placed upon any land within the fall radius of the tower, and that the deed restriction can only be modified or removed upon the approval of the Board;

(e) Aviation safety requirements have been satisfied;

(f) The granting of this special exception shall not in any part be based upon financial hardship;

(g) The granting of this special exception shall not in any part be based upon mere convenience; and

(h) A special exception, if granted, shall conform with the zoning and subdivision ordinances.

(2) *Power-generating windmills.* For a windmill in any zoning district, satisfactory evidence shall be presented that:

(a) The height is not more than sufficient to meet the needs of the user;

(b) Land area in the fall radius around the tower equal to the height of the tower has been set aside to protect public health, safety, and welfare, and that a deed restriction will be recorded for each parcel of involved land stating that no habitable improvement shall be placed upon any land within the fall radius of the tower, and that the deed restriction can only be modified or removed upon the approval of the Board;

(c) Aviation safety requirements have been satisfied;

(d) Satisfactory evidence is presented to demonstrate that the noise when operating is not greater than the background ambient noise at any time at any residence within 1 mile of the site of the windmill;

(e) The granting of this special exception shall not in any part be based upon financial hardship;

(f) The granting of this special exception shall not in any part be based upon mere convenience; and

(g) A special exception, if granted, shall conform with the zoning and subdivision ordinances.

(3) *Correctional institution.* Satisfactory evidence shall be presented that:

(a) All requirements under federal and state law governing the operation and siting of correctional facilities have been satisfied;

(b) No part of the proposed site shall be closer than 1 mile to the corporate limits of the city or to the limits of a platted residential subdivision outside the corporate limits of the city;

(c) The facility shall not have access from streets that traverse a residential area;

(d) The granting of this special exception shall not in any part be based upon financial hardship;

(e) The granting of this special exception shall not in any part be based upon mere convenience; and

(f) A special exception, if granted, shall conform with the zoning and subdivision ordinances.

(4) *Halfway house.* Satisfactory evidence shall be presented that:

(a) The facility complies with all federal and state laws;

(b) Persons to be housed in the facility shall not have been convicted of violent crimes;

(c) Primary access to the facility shall not be from the streets that traverse a residential area;

(d) The granting of this special exception shall not in any part be based upon financial hardship;

(e) The granting of this special exception shall not in any part be based upon mere convenience; and

(f) A special exception, if granted, shall conform with the zoning and subdivision ordinances.

(5) *Adult entertainment establishment.* Satisfactory evidence shall be presented that:

(a) The establishment is located not closer than 1,000 feet to any school or church

property;

(b) All activity conducted on the premises shall be able to be seen only from within the structure, and in no case shall observation from any location outside the establishment be permitted;

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(c) All activity within the establishment shall at all times be conducted within visual line-of-sight of the site manager;

(d) Nudity and sexual conduct shall not be permitted at any time in any live exhibition, dance, show, or other live presentation;

(e) Nudity and sexual conduct shall not be permitted at any time by any person on the premises;

(f) Where alcohol is served, no one under the age of 21 shall be permitted in the establishment; otherwise, no one under the age of 18 shall be permitted;

(g) The granting of this special exception shall not in any part be based upon financial hardship;

(h) The granting of this special exception shall not in any part be based upon mere convenience; and

(i) A special exception, if granted, shall conform with the zoning and subdivision ordinances.

(6) *Solid waste landfill, sorting facility, or recycling facility.* Satisfactory evidence shall be presented that:

(a) All requirements under state law governing landfills and/or sorting facilities are satisfied;

(b) The site shall be in no part located within a floodplain;

(c) No part of a proposed landfill site shall be closer than 1 mile to the corporate limits of the city or to the limits of a platted residential subdivision located outside the corporate limits of the city;

(d) Neither a sorting or recycling facility shall not be used for other than temporary storage of refuse, for up to 20 days;

(e) The plans contain provisions to prevent any increase in the population of animals and birds in the vicinity of the site, and to prevent their migration into habitable areas adjacent to the proposed site;

(f) The proposal contains plans to upgrade all access streets in capacity and construction such that they will support the maximum permissible weight of trucks under state law;

(g) The granting of this special exception shall not in any part be based upon financial hardship;

(h) The granting of this special exception shall not in any part be based upon mere convenience; and

(i) A special exception, if granted, shall conform with the zoning and subdivision ordinances.

(7) *Salvage and wrecking facility.* Satisfactory evidence shall be presented that:

(a) A salvage permit has been obtained pursuant to state law;

(b) No part of a proposed site shall be closer than 1 mile to the corporate limits of the city or to the limits of a platted residential subdivision located outside the corporate limits of the city;

(c) The proposal contains plans to upgrade all public roads in capacity and construction such that they will support the maximum permissible weight of trucks under state law;

(d) A screen of solid fencing will be installed completely isolating the view of any salvage materials from any public place;

(e) The granting of this special exception shall not in any part be based upon financial hardship;

(f) The granting of this special exception shall not in any part be based upon mere convenience; and

(g) A special exception, if granted, shall conform with the zoning and subdivision ordinances.

(8) *Livestock auction or dealer.* Satisfactory evidence shall be presented that:

(a) The proposal contains plans to upgrade all public roads in capacity and construction such that they will support the maximum permissible weight of trucks under state law;

(b) No part of the proposed site shall be closer than 1 mile to the corporate limits of the city or to the limits of a platted residential subdivision outside the corporate limits of the city;

(c) No breeding or raising of livestock or other animals shall be permitted on-site;

(d) The facility shall not have access from streets that traverse a residential area;

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(e) The granting of this special exception shall not in any part be based upon financial hardship;

(f) The granting of this special exception shall not in any part be based upon mere convenience; and

(g) A special exception, if granted, shall conform with the zoning and subdivision ordinances.

(9) *Livestock feed yard.* Satisfactory evidence shall be presented that:

(a) The proposal contains plans to upgrade all public roads in capacity and construction such that they will support the maximum permissible weight of trucks under state law;

(b) No part of the proposed site shall be closer than 1 mile to the corporate limits of the city or to the limits of a platted residential subdivision outside the corporate limits of the city;

(c) The plan for the operation shall conform with the requirements of state law;

(d) The facility shall not have access from that traverse a residential area;

(e) The granting of this special exception shall not in any part be based upon financial hardship;

(f) The granting of this special exception shall not in any part be based upon mere convenience; and

(g) A special exception, if granted, shall conform with the zoning and subdivision ordinances.

(Ord. 3, passed 5-22-1999)

§ 155.088 MEETINGS.

(A) *Meetings.* Except as provided under state law, any assembly at which a majority of the membership of the Board is present shall constitute a meeting.

(B) *Location.* Except as otherwise announced, all meetings shall be held at City Hall.

(C) *Meeting schedule.* At the last regular meeting in each year, the Board shall fix the time for

holding regular meetings in the following year.

(D) *Special meetings.* Special meetings may be called by the Secretary for the purpose of conducting a hearing. The Secretary shall send to all members, at least 7 days before the special meeting, a written notice fixing the time and place of the meeting. Written notice is not required when the date, time, and place of the special meeting were fixed at a previous meeting, and when all members of the Board were present at that meeting. At special meetings, no business shall be considered other than as outlined in the agenda and order of business for the special meeting.

(E) *Recess.* During the course of any meeting the Board may declare recess; provided, however, that no Board member may discuss or otherwise conduct Board business during recess.

(F) *Order of business.* The order of business at all meetings shall be:

- (1) Call to order;
- (2) Roll call;
- (3) Approval of minutes;
- (4) Unfinished business;
- (5) New business;
- (6) Public discussion;
- (7) Date of next meeting; and
- (8) Adjournment.

(G) *Voting.* Except as otherwise provided by law or by these rules of procedure, voting procedures shall be as follows:

- (1) Each member of the Board shall have the right at all meetings of the Board to 1 vote on any matter presented for a vote;
- (2) All voting shall be by voice vote;
- (3) Voting in secret or by ballot shall be prohibited;
- (4) Assignment of voting rights by a member to another person shall be prohibited; and

(5) Voting by proxy shall be prohibited, except for the assignment of an alternate member in the event of a conflict of interest as that term is defined in these rules.

(H) *Quorum*. A majority of the entire voting membership of the board constitutes a quorum. Action by the Board is not official unless authorized by a quorum.
(Ord. 3, passed 5-22-1999)

§ 155.089 HEARINGS.

(A) *Scheduling of hearings*. The Secretary shall fix a reasonable time for hearing all appeals, exceptions, uses, and variances; provided, however, that a hearing will be scheduled only when the petitioner has complied with all of the requirements for filing a petition. The Secretary shall inform the petitioner in writing of the scheduled date for a public hearing.

(B) *Presence of petitioner*. The petitioner(s) or his, her, or their designated representative shall attend the meeting(s) during which the matter included in the petition is given a public hearing.

(C) *Communication with the Board*. A person may not communicate with any member of the Board before a hearing with intent to influence the member's action on a matter pending before the Board. Not less than 5 days before the hearing, however, the Board staff, as defined in the zoning ordinance, may file with the Board a written statement setting forth any facts or opinions related to the matter.

(D) *Petitions for hearings*. Hearings shall be requested by written petition submitted to the Secretary not less than 28 days prior to the date of the scheduled hearing.

(1) The petition shall be on forms provided by the Board and shall include the following information:

(a) The name(s) of the petitioner(s);

(b) A fully-detailed description of what is being requested;

(c) Any and all evidence available at the time of filing of the petition that should be available for the public hearing;

(d) The names and addresses of any other persons known by the petitioner to be interested in the matter covered by the petition; and

(e) Signature(s) of the petitioner(s) or person(s) representing the petitioner, and the date on which the petition is filed with the Secretary.

(2) In those cases in which real property is included in the petition, the following shall also be provided:

(a) A plat or drawing showing the existing and proposed conditions;

(b) The name(s) of the owner(s) of property, any part of which is in the area included in the petition;

(c) An individual affidavit of property ownership for each owner of property, any part of which is in the area included in the petition, and who is not a party to the petition;

(d) A deed for each parcel of land, any part of which is in the area included in the petition; and

(e) The address, general location, and other identifiable geographic characteristics of the property involved in the request.

(E) *Conduct of hearings.* The general points of order for hearings shall be as follows:

- (1) Report by the Board's staff;
- (2) Presentation by proponents;
- (3) Presentation by opponents;
- (4) Discussion by the Board; and
- (5) Vote by the Board.

(Ord. 3, passed 5-22-1999)

§ 155.090 DISPOSITION OF CASES.

(A) *Final decision.*

(1) A final decision on any request, petition, or resolution before the Board shall be made at the meeting at which that matter is first presented, or at the conclusion of the hearing on that matter if it is continued or tabled. The call for a decision on any matter shall be in the form of a motion by a member of the Board to approve, continue, or table the petitioner's request. A second is required for any motion in order for the matter to proceed to a vote. The presiding officer shall order the vote.

(2) The following pertains to motions:

(a) A motion to approve the request shall mean that the matter is intended to be put to a vote. A motion to approve a request shall be as follows:

1. If there is no second, then the motion is dead and the matter is not approved.
2. If there is a second and a tie vote, then the matter is not decided.

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3. If there is a second followed by the vote of a quorum in support of the motion, then the request, including approved modifications, is approved.

4. If there is a second followed by the vote of a quorum which does not support the motion, then the request is denied.

(b) A motion to approve a request may be followed at any time by 1 or more motions to amend the preceding motion. A motion to amend shall not be phrased so as to defeat the main motion. Each motion to amend shall be voted on prior to voting on the main motion.

(c) A motion to approve the request may have attached to it as many conditions of approval as the Board deems necessary for the furtherance of the public health, safety, or convenience, or to achieve consistency with the city's comprehensive plan or municipal code.

(d) A motion to continue the request shall include the date and time upon which the Board will again consider the petition.

(e) A motion to table the request shall mean that the matter shall not be reconsidered by the Board except by vote of the quorum to again place the matter on the docket.

(B) *Recorded commitments.* As part of any approval, the Board may require the owner of a parcel of property to make written commitments concerning the use or development of that property, and may require that the commitments be recorded with the County Recorder before the approval becomes effective.

(C) *Rejected petitions.* No petition which has been finally disapproved by the Board shall be again placed on the docket for a hearing by the Board within a period of 6 months from the date of the Board's disapproval, unless by an affirmative vote of a quorum of the Board to redocket the request.

(D) *Dismissal of petitions.* The Board may dismiss a case as follows:

(1) For lack of jurisdiction; or

(2) When the petitioner or the petitioner's representative has failed to appear at 2 consecutive meetings.

(E) *Request to continue or table a petition.* No case may be continued or tabled at the request of the petitioner unless the request has been made not less than 7 days before the scheduled hearing. However, the Board may, at its discretion, continue or table a hearing on the basis of new information or concerns brought to the Board's attention after the above deadline.

(Ord. 3, passed 5-22-1999)

§ 155.091 NOTICES.

(A) *Posting of notices.* The date, time, and place scheduled for holding any new, rescheduled or reconvened meeting shall be posted not less than 48 hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. This notice shall be posted at the principal office of the Board and at the location of the meeting, and shall be delivered to all news media and other parties which have requested delivery of such notices pursuant to I.C. 5-14-1.5-5(b)(2).

(B) *Posting of agenda.* The agenda for any meeting of the Board shall be posted at the entrance to the meeting location prior to the meeting.

(C) *Newspaper notification.* Pursuant to I.C. 5-3-1-2(a), whenever a public hearing is required on any matter, the Secretary shall cause to be published a legal notice in those publications identified by the Common Council pursuant to I.C. 5-3-1-4(a)(2). This notice shall be published not less than 10 days prior to the date fixed for the public hearing. This notice shall serve as legal notice for the initial hearing and any subsequent hearing on the same matter; provided, however, that the matter was continued at the earlier hearing to a specific date and time for a future hearing.

(D) *Notices to interested parties.* The petitioner shall provide notice of a pending hearing directly to interested parties, as defined herein, not less than 10 days before the hearing. Notices shall be mailed to those parties via First Mass U.S. Postal Service and shall be postmarked not less 14 days prior to the date of the hearing. This notice shall be on the forms and in the manner provided by the Board and shall contain:

- (1) A copy of the entire petition and all supporting documentation submitted to the Board;
- (2) The date, time, and location of the hearing;
- (3) Any additional information required by the Secretary or Board; and
- (4) Any and all other information known by the petitioner to be pertinent to the case.

(E) *Interested parties.* For purposes of notification, the term **PROPERTY INCLUDED IN THE PETITION** shall mean all parcels of real property, as described by deed, any part of which is included in the area described in the petition. Interested parties shall include:

- (1) All owners of property included in the petition who are not party to the petition;
- (2) All owners of real property which is adjacent to and contiguous to the property included in the petition, subject to the following:

(a) Intervening rights-of-way shall not be considered in determining adjacent and contiguous lands; however, the owners of the rights-of-way shall also be notified;

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(b) Property which is adjacent and contiguous as defined herein and which is in any part owned by any owner of property included in the petition shall not be considered in determining adjacent and contiguous lands; however, the owners of that property shall also be notified; and

(c) Property, the boundary of which is more than 1/4 mile from the boundary of the property included in the petition, shall not be considered as adjacent and contiguous.

(3) Any other person or organization not party to the petition and who is known to have a direct pecuniary interest in the property described in the petition.

(F) *Addresses of interested parties.* The most recently bound volumes of the real estate assessment of the Auditor and Treasurer of the county shall be used to determine the names and addresses of property owners. The addresses of other interested parties shall be determined by all available means which are based on good faith effort.

(G) *Proof of notification.* Not less than 2 days prior to the hearing, the petitioner shall provide the Secretary with the names and last known addresses of all interested parties, together with a notarized affidavit stating that all parties have been notified as required by these rules; however, notarized waivers of notification shall be accepted by the Board. Any mail returned undeliverable to the petitioner shall be delivered to the Secretary and filed in the Board's records.

(Ord. 3, passed 5-22-1999)

§ 155.092 FEES.

(A) *Filing fees.* The filing fee for each hearing shall be \$35, payable to the City of Rockport, and shall be paid at the time of the filing of the petition. No filing fee shall be required for any petition by a unit of government.

(B) *Notification fees.* The petitioner shall reimburse the city for the actual cost of newspaper legal notices. All expenses of mailing notification to interested parties shall be paid by the petitioner.

(C) *Refunds.* No refunds shall be permitted after a petition has received a hearing before the Board, whether or not the Board has taken action on the petition.

(Ord. 3, passed 5-22-1999)

§ 155.093 APPEALS.

(A) *Review by certiorari.* Each decision of the Board is subject to review by certiorari, pursuant

to I.C. 36-7-4-1003.

(B) *Stay of work pending appeal.* When an appeal from the decision of an official or board has been filed with the Board of Zoning Appeals, proceedings and work on the premises affected shall be stayed unless the official or board certifies to the Board of Zoning Appeals that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In that case, proceedings or work may not be stayed except by a restraining order, pursuant to I.C. 36-7-4-1001 *et seq.* (Ord. 3, passed 5-22-1999)

PLAN COMMISSION; RULES OF PROCEDURE

§ 155.110 MISCELLANEOUS PROVISIONS.

(A) *Establishment.* The Advisory Plan Commission (hereinafter Commission) is established as authorized by and in accordance with I.C. 36-7-4-100 *et seq.* and all subsequent amendments thereto.

(B) *Application.* These rules of procedure (rules) shall apply to all proceedings, meetings and hearings of the Commission.

(C) *Amendments.* These rules may be amended by the Commission at any regular or special meeting upon the affirmative vote of a quorum; provided, however, that the amendments shall not conflict with the requirements of any state or federal rules or regulations.

(D) *Suspension of rules.* The suspension of any of these rules may be ordered at any meeting by a unanimous vote of those present; provided, however, that no decisions shall be made under suspension of these rules.

(Ord. 3, passed 5-22-1999)

§ 155.111 OFFICERS; APPOINTMENTS AND DUTIES.

(A) *Election of officers.* The Commission shall at its first regular meeting each year elect from among its members a President and Vice-President, and appoint a Secretary who is not required to be a member of the Commission.

(B) *Legal counsel.* The Commission shall request that the City Attorney provide counsel.

(C) *Administrative assistance.* The city's designated Zoning Administrator shall file, record, and store official documents. The Zoning Administrator shall assist the Commission with administrative

matters, which shall be limited to:

- (1) Providing forms and assisting petitioners in the filing of petitions;

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- (2) Setting the date for hearings;
- (3) Posting of agendas and notices of meetings; and
- (4) Providing notification to the media concerning pending meetings.

(D) *Duties of the President.* The President shall act as presiding officer over meetings, determine points of order and procedure at meetings, and sign and certify all official documents.

(E) *Duties of the Vice-President.* The Vice-President shall act as President of the Commission during the absence or disability of the President. In the case of the permanent absence of the President, the Vice-President shall succeed to the presidency, and a new Vice-President shall be elected from among the membership.

(F) *Duties of the Secretary.* The Secretary shall, on behalf of the Commission:

(1) Keep an accurate and complete record of all proceedings, meetings, and hearings, and shall record at a minimum:

- (a) The date, time, and place of the meeting or hearing;
- (b) A roster of members of the Commission as either present or absent;
- (c) The general substance of all matters proposed, discussed, or decided;
- (d) Findings of fact in all cases;
- (e) Each motion and second, and the action so moved;
- (f) A roster of votes taken, by name of the individual members and their vote; and
- (g) All other information considered pertinent to the proceedings.

(2) Record, transmit, and file financial instruments, bonds, contracts, and documents;

(3) Supervise the preservation and storage of documents and papers;

(4) Assign case numbers to petitions for hearings, numbered consecutively by year in the format PC 97-01, PC 97-02, and the like; and

(5) Assign street numbers to lots and structures, and provide notifications pursuant to I.C. 36-7-4-405(h).

(G) *Absence of officers.* In the absence of both the President and Vice-President from any meeting, that member in attendance with the most time served as member of the Commission shall preside; provided, however, that the first and only item of business to be presented by such presiding officer shall be the election of a presiding officer pro tempore.
(Ord. 3, passed 5-22-1999)

§ 155.112 JURISDICTION.

(A) *Subdivisions and plats.* The Commission shall exercise control over and approve subdivisions, plats, replats, vacation of plats, and amendments to plats, subject to I.C. 36-7-3-1 *et seq.* and I.C. 36-7-4-700 *et seq.*

(B) *Comprehensive plan.* The Commission shall exercise control over the comprehensive planning process and all matters related thereto, subject to I.C. 36-7-4-405 and I.C. 36-7-4-500 *et seq.*

(C) *Zoning.* The Commission shall exercise control over the zoning ordinance, including the zoning maps, subject to I.C. 36-7-4-405 and I.C. 36-7-4-600 *et seq.*

(D) *Development plans and planned unit developments.* The Commission shall exercise control over development planning and planned unit developments, subject to I.C. 36-7-4-1400 *et seq.* and I.C. 36-7-4-1500 *et seq.*
(Ord. 3, passed 5-22-1999)

§ 155.113 MEETINGS.

(A) *Meetings.* Except as provided under state law, any assembly at which a majority of the membership of the Commission is present shall constitute a meeting.

(B) *Location.* Except as otherwise announced, all meetings shall be held at City Hall.

(C) *Regular meetings.* The Commission shall fix the time for holding regular meetings each month or as necessary.

(D) *Special meetings.* Special meetings may be called by the President or by 2 members of the Commission upon written request to the Secretary. The Secretary shall send to all members, at least 3 days before the special meeting, a written notice fixing the time and place of the meeting. Written notice is not required when the date, time, and place of the special meeting were fixed at a regular meeting; and when all members of the Commission were present at that regular meeting. At special

meetings, no business shall be considered, other than as outlined in the agenda and order of business for the special meeting.

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(E) *Recess.* During the course of any meeting the Commission may declare recess; provided, however, that no Commissioner may discuss or otherwise conduct Commission business during recess.

(F) *Order of business.* The order of business at meetings shall be as follows:

- (1) Call to order;
- (2) Roll call;
- (3) Approval of minutes;
- (4) Unfinished business;
- (5) New business;
- (6) Public discussion;
- (7) Date of next meeting; and
- (8) Adjournment.

(G) *Voting.* Except as otherwise provided by law or by these rules of procedure, voting procedures shall be as follows:

- (1) Each member of the Commission shall have the right at all meetings of the Commission to 1 vote on any matter presented for a vote;
- (2) All voting shall be by voice vote;
- (3) Voting in secret or by ballot shall be prohibited;
- (4) Assignment of voting rights by a member to another person shall be prohibited; and
- (5) Voting by proxy shall be prohibited.

(H) *Quorum.* A majority of the entire voting membership of the Commission constitutes a quorum. However, action by the Commission is not official unless authorized at a regular or special meeting by a majority of the entire membership of the Commission.

(Ord. 3, passed 5-22-1999)

§ 155.114 HEARINGS.

(A) *Scheduling of public hearings.* The Zoning Administrator shall schedule all petitions for hearings on the next available regular or special meeting date, and shall inform the petitioner in writing of the scheduled date for a public hearing.

(B) *Preliminary and final hearings.* In all cases involving the subdivision or platting of land, both a preliminary and final hearing shall be required. The Commission shall not waive the final hearing unless a request for waiver of the final hearing was announced in both the legal advertisement and in the notification to interested parties for the initial hearing.

(C) *Conflict of interest.* Except for the preparation or adoption of a comprehensive plan, a member of the Commission or a legislative body may not participate as a member of the Commission or the legislative body in a hearing or decision of the Commission or body concerning a zoning matter in which the member has a direct or indirect financial interest; nor may a member of the Commission or a legislative body directly or personally represent another person in a hearing before that Commission or body concerning a zoning matter.

(D) *Petitions for hearings.* Hearings shall be requested by written petition submitted to the Zoning Administrator not less than 28 days prior to the date of the requested hearing. The petition shall be on forms provided by the Commission, and shall include the following information:

- (1) The name(s) of the petitioner(s);
- (2) A fully-detailed description of what is being requested;
- (3) Any and all evidence available at the time of filing of the petition that should be available for the public hearing;
- (4) The names and addresses of any other persons known by the petitioner to be interested in the matter covered by the petition; and
- (5) Signature(s) of the petitioner(s) or person(s) representing the petitioner, and the date on which the petition is filed with the Secretary;
- (6) A plat or drawing showing the existing and proposed conditions;
- (7) The name(s) of the owner(s) of property, any part of which is in the area included in the petition;

(8) An individual affidavit of property ownership for each owner of property, any part of which is in the area included in the petition, and who is not a party to the petition;

(9) A deed for each parcel of land, any part of which is in the area included in the petition;

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(10) The address, general location, and other identifiable geographic characteristics of the property involved in the request;

(11) Proof that a legal ad was placed in the required newspapers; and

(12) Proof of notification of interested parties as defined in these rules.

(E) *Presence of petitioner.* The petitioner(s) or his, her, or their designated representative shall attend the meeting(s) during which the matter in the petition is given a public hearing.

(F) *Conduct of hearings.* The general points of order for hearings shall be as follows:

(1) Report by the Commission's staff;

(2) Presentation by proponents;

(3) Presentation by opponents;

(4) Discussion by the Commission; and

(5) Vote by the Commission.

(Ord. 3, passed 5-22-1999)

§ 155.115 DISPOSITION OF CASES.

(A) *Final decision.*

(1) A final decision on any request, petition, or resolution before the Commission shall be made at the meeting at which that matter is first presented, or at the conclusion of the hearing on that matter if it is continued. The call for a decision shall be in the form of a motion by a member of the Commission to approve, continue, or table the petitioner's request. A second is required for each motion in order for the matter to proceed to a vote. The presiding officer shall order the vote.

(2) The following pertains to motions:

(a) A motion to approve the request shall mean that the matter is intended to be put to a vote. A motion to approve shall be resolved as follows:

1. If there is no second, then the motion is dead, and the matter is neither approved

nor disapproved.

2. If there is a second and a tie vote, then the matter is not decided.

3. If there is a second followed by the vote of a quorum in support of the motion, then the request, including approved modifications, is approved.

4. If there is a second followed by the vote of a quorum which does not support the motion, then the request is denied.

(b) A motion to approve a request may be followed at any time by 1 or more motions to amend the preceding motion. A motion to amend shall not be phrased so as to defeat the main motion. Each motion to amend shall be voted on prior to voting on the main motion.

(c) A motion to approve the request may have attached to it as many conditions of approval as the Commission deems necessary for the furtherance of the public health, safety, or convenience, or to achieve consistency with the city's comprehensive plan or municipal code.

(d) A motion to continue the request shall include the date and time upon which the Commission will again consider the petition.

(e) A motion to table the request shall mean that the matter shall not be reconsidered by the Commission except by vote of the quorum to again place the matter on the docket.

(B) *Recorded commitments.* As part of any approval, the Commission may require the owner of a parcel of property to make written commitments concerning the use or development of that property, and may require that the commitments be recorded with the County Recorder before the approval becomes effective.

(C) *Rejected petitions.* No petition which has been finally disapproved by the Commission, or in the case of a rezoning request which has been finally disapproved by the Commission and the Common Council, shall be again placed on the docket for a hearing by the Commission within a period of 6 months from the date of the disapproval, unless by an affirmative vote of a quorum of the Commission to redocket the request.

(D) *Dismissal of petitions.* The Commission may dismiss a case as follows:

- (1) For lack of jurisdiction;
- (2) Incomplete application; or
- (3) When the petitioner or the petitioner's representative has failed to appear at 2 consecutive meetings.

(E) *Request to continue or table a petition.* No case may be continued or tabled at the request of the petitioner unless the request has been made not less than 7 days before the scheduled hearing. However, the Commission may, at its discretion, continue or table a hearing on the basis of new information or concerns brought to the Commission's attention after the above deadline. (Ord. 3, passed 5-22-1999)

§ 155.116 NOTICES.

(A) *Posting of notices.* The date, time, and place scheduled for holding any new, rescheduled, or reconvened meeting shall be posted not less than 48 hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. This notice shall be posted at the principal office of the Commission and at the location of the meeting, and shall be delivered to all news media and other parties which have requested delivery of such notices pursuant to I.C. 5-14-1.5-5(b)(2).

(B) *Posting of agenda.* The agenda for any meeting of the Commission shall be posted at the entrance to the meeting location prior to the meeting.

(C) *Newspaper notification.* Pursuant to I.C. 5-3-1-2(a), whenever a public hearing is required on any matter and whenever a hearing is reconvened after having been tabled, the petitioner shall cause to be published a legal notice in those publications identified by the Common Council pursuant to I.C. 5-3-1-4(a)(2). The notice shall be published not less than 10 days prior to the date fixed for the public hearing.

(D) *Notices to interested parties.* Except for a petition initiated by the Commission or the Common Council to repeal and replace the zoning maps for the entire planning and zoning jurisdiction, the petitioner shall provide notice of a new hearing or previously tabled hearing directly to interested parties, as defined herein, not less than 10 days before the hearing. Notices shall be mailed to the parties via First Class U.S. Postal Service and shall be postmarked not less than 14 days prior to the date of the hearing. The notice shall be on the forms and in the manner provided by the Commission and shall contain:

(1) A copy of the entire petition and all supporting documentation submitted to the Commission;

(2) The date, time, and location of the hearing;

(3) Any additional information required by the Commission; and

(4) Any and all other information known by the petitioner to be pertinent to the case.

(E) *Interested parties.* For purposes of notification, the term ***PROPERTY INCLUDED IN THE PETITION*** shall mean all parcels of real property, as described by deed, any part of which is included in the area described in the petition. Interested parties shall include:

(1) All owners of property included in the petition who are not party to the petition;

(2) All owners of real property which is adjacent and contiguous to the property included in the petition, subject to the following:

(a) Intervening rights-of-way shall not be considered in determining adjacent and contiguous lands; however, the owners of the rights-of-way shall also be notified;

(b) Property which is adjacent and contiguous as defined herein and which is in any part owned by any owner of property included in the petition shall not be considered in determining adjacent and contiguous lands; however, the owners of the property shall also be notified; and

(c) Property, the boundary of which is more than 1/4 mile from the boundary of the property included in the petition, shall not be considered as adjacent and contiguous.

(3) Any other person or organization not party to the petition and who is known to have a direct pecuniary interest in the property described in the petition.

(F) *Addresses of interested parties.* The most recently bound volumes of the real estate assessment of the Auditor and Treasurer of the county shall be used to determine the names and addresses of property owners. The addresses of other interested parties shall be determined by all available means which are based on good faith effort.

(G) *Proof of notification.* Not less than 2 days prior to the hearing, the petitioner shall provide the Zoning Administrator with:

(1) A drawing or plat showing the parcel(s) included in the petition and all surrounding parcels, marked by parcel with the names of the owners who are required to be notified as interested parties;

(2) The names and last known addresses of all interested parties;

(3) A notarized affidavit stating that all parties have been notified as required by these rules; however, notarized waivers of notification shall be accepted by the Commission; and

(4) Any mail returned undeliverable to the petitioner shall be delivered to the Zoning

Administrator to be filed in the Commission's records.
(Ord. 3, passed 5-22-1999)

§ 155.117 FEES.

(A) *Filing fees.* The filing fee for each hearing shall be \$50, payable to the City of Rockport, and shall be paid at the time of the filing of the petition. No filing fee shall be required for any petition by a unit of government.

(B) *Notification fees.* All expenses of providing legal notification and mailing notification to interested parties shall be paid by the petitioner.

(C) *Refunds.* No refunds shall be permitted after a petition has received a hearing before the Commission, whether or not the Commission has taken action on the petition.
(Ord. 3, passed 5-22-1999)

§ 155.118 APPEALS.

(A) *Appeals to the Board of Zoning Appeals.*

(1) Pursuant to I.C. 36-7-4-918.1, the Advisory Board of Zoning Appeals shall not have jurisdiction to hear appeals concerning any order, requirement, decision, or determination made by the Commission in relation to:

(a) The enforcement of the zoning ordinance; or

(b) The enforcement of a requirement to procure an improvement location or occupancy permit adopted under the zoning ordinance.

(2) Pursuant to I.C. 36-7-3-1 *et seq.* and I.C. 36-7-4-1 *et seq.*, the Advisory Board of Zoning Appeals shall not have jurisdiction to hear appeals concerning requirements of the Commission with respect to:

(a) Vacation of land;

(b) Subdivision of land;

(c) Platting and replatting of land;

(d) Development plans; or

(e) Planned unit developments.

(B) *Review by certiorari.* Decisions of the Commission are subject to review by certiorari pursuant to I.C. 36-7-4-1016 and I.C. 36-7-4-1003.
(Ord. 3, passed 5-22-1999)

§ 155.999 PENALTY.

Any person, firm, or corporation violating any of the provisions of this chapter for which there is no penalty shall be subject to § 10.99. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. 3, passed 5-22-1999)

Zoning Code

<i>PERMITTED USES</i>	<i>A-1</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>I-1</i>	<i>I-2</i>
<i>MANUFACTURING, PROCESSING, DISTRIBUTION</i>									
Distribution center							1	X	X
Gas and oil – distribution and storage						S	S	S	S
Gas and oil – refining and processing									X
Ice plant and locker							X	X	X
Machine shop, tool and die								X	X
Manufacturing and processing – heavy (not otherwise listed)									X
Manufacturing and processing – light (not otherwise listed)								X	X
Packing, canning, and bottling (food and beverage)								M	M
Research facility and laboratory						X	X	X	X
Warehouse – mini-storage							X	X	X
Warehouse – wholesale, commercial and distribution							X	X	X
Welding shop								X	X
Wholesale sales (not listed)							X	X	X
<i>FOOD AND BEVERAGE</i>									
Bakery					X	X	X		
Catering service					X	X	X		
Groceries					S	S	S		
Micro-brewery (including food service)							X		
Restaurant – with drive-through service						X	X		
Restaurant, delicatessen and café – inside service only					X	X	X		
<i>MEDICAL</i>									

<i>PERMITTED USES</i>	<i>A-1</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>I-1</i>	<i>I-2</i>
Medical – healthcare clinics and offices (out-patient)				X	X	X	X		
Medical – hospitals and sanitariums (in-patient)					X	X	X		

Zoning Code

<i>PERMITTED USES</i>	<i>A-1</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>I-1</i>	<i>I-2</i>
<i>PUBLIC UTILITIES AND WASTE MANAGEMENT</i>									
Electric and gas substation	X	15	15	15	15	X	X	X	X
Wastewater treatment facility	X	15	15	15	15	15	15	15	X
Water storage tower	X	15	15	15	15	15	X	X	X
Utility – distribution facilities	X	X	X	X	X	X	X	X	X
Utility – equipment service and storage								X	X
Utility – transmission facilities (without towers)	X					X	X	X	X
Utility – transmission towers	SE					SE	SE	SE	SE
Utility – power generating windmills	SE								
<i>RETAIL SALES</i>									
Department store							X		
Furnishings – home and office					S	S	S		
Garden center							X		
Leather goods (light tooling, not tannery)					S	S	M, S		
Liquor store					14	14	14		
Retail sales (not otherwise listed)					X	X	X		
<i>SERVICE INDUSTRY</i>									
Ambulance service						X	X		
Auction house, sale barn (nonagricultural)							X		
Bait and tackle						S	S		
Bank, financial institution					X	X	X		
Barber shop					X	X	X		
Beauty salon					X	X	X		

<i>PERMITTED USES</i>	<i>A-1</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>I-1</i>	<i>I-2</i>
Bus terminal						X	X		
Car wash						X	X		
Convenience store					X	X	X		

Rockport - Land Usage

<i>PERMITTED USES</i>	<i>A-1</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>I-1</i>	<i>I-2</i>
<i>SERVICE INDUSTRY</i>									
Design studio – architectural and interior					X	X	X		
Funeral home and mortuary							X		
Janitorial service					X	X	X		
Landscaping and gardening (not gardening center)	X						X		
Laundry – dry cleaner and commercial					X	X	X		
Laundry – self-service (laundromat)					X	X	X		
Office – business and professional					X	X	X		
Office – radio, television (no transmission facility)					X	X	X		
Physical fitness facility					X	X	X		
Printing and reproduction services					X	X	X		
Repair service – nonindustrial (not otherwise listed)							X		
Service business (not otherwise listed)					X	X	X		
Signs – off-premises advertising						16	16	16	16
Sign painting							X	X	X
Suntan salon					X	X	X		
Tattoo salon					X	X	X		
Taxi and limousine stands						X	X		
<i>VEHICLES, MANUFACTURED HOUSING, HEAVY EQUIPMENT</i>									
Auto body repair and painting							X	X	
Auto, boat, motorcycle, light truck and light equipment						S	S	S	M, S
Auto, truck and farm vehicle parts and supplies (new)					X	X	X	X	

<i>PERMITTED USES</i>	<i>A-1</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>I-1</i>	<i>I-2</i>
Equipment – large, nonvehicle, nonagriculture						S	S	S	M, S

Zoning Code

<i>PERMITTED USES</i>	<i>A-1</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>I-1</i>	<i>I-2</i>
<i>VEHICLES, MANUFACTURED HOUSING, HEAVY EQUIPMENT</i>									
Gasoline service station (including light repair services)						X	X	X	
Heavy truck and farm equipment, heavy equipment						S	S	S	M, S
Manufactured housing and mobile homes						S	S	S	M, S
Recreational vehicle (RV)						S	S	S	M, S
Tire service						S	S	S	M, S
Vehicle rental						X	X	X	
Vehicle storage (not temporary parking facility)								X	X
<p>NOTES:</p> <p>(A) <i>Permitted uses.</i> The following letter codes as they appear on the Land Uses chart indicate permitted and limited uses:</p> <p style="margin-left: 20px;">M Primary use is for manufacturing, processing, and/or assembly.</p> <p style="margin-left: 20px;">S Primary use is for retail or wholesale sales.</p> <p style="margin-left: 20px;">SE A special exception from the Board of Zoning Appeals is required in order for the proposed use to be approved in the specified zoning district.</p> <p style="margin-left: 20px;">X A permitted use without conditions.</p>									

<i>PERMITTED USES</i>	<i>A - 1</i>	<i>R - 1</i>	<i>R - 2</i>	<i>R - 3</i>	<i>C - 1</i>	<i>C - 2</i>	<i>C - 3</i>	<i>I - 1</i>	<i>I - 2</i>
<p>(B) <i>Conditions.</i> Where a number listed below is found on the Land Uses chart, the conditions with that number apply to the proposed use:</p> <ol style="list-style-type: none"> 1. Transportation facilities and infrastructure shall be designed for and capable of supporting the heaviest permissible loads on Indiana streets. 2. Nonresidential facilities only. 3. Traffic capacity analysis and street improvements required for peak projected traffic flow. 4. In accordance with the development standards for mobile home parks under this chapter. 5. Temporary use not to exceed 30 days. 6. Permitted only in incorporated areas of the city. 7. Pursuant to federal and state regulations, and no flight path over dwellings within the city's planning and zoning jurisdiction. 8. Roadside sales by the owner of the property, selling only produce cultivated on-site, and for the duration of the growing season. 10. Only where agricultural production as defined in this chapter has taken place for a continuous period of 3 years or more in the past 5 years. 11. Subject to federal and state mining regulations. 									

(B) *Conditions.* (Cont'd)

9. Temporary use only for the duration of construction.
12. In an approved or legally nonconforming mobile home park existing on the date of adoption of this chapter.
13. Ponds and lakes shall conform with the requirements of the Indiana Department of Natural Resources requirements for their design and construction.
14. Shall observe the requirements under state law for location in proximity to churches and schools.
15. For use by a public utility only.
16. Minimum 1,000-foot spacing, measured along the centerline of the adjacent street, between freestanding off-premises signs.

(Ord. 3, passed 5-22-1999)