

Other Zoning Ordinances of Indianapolis-Marion County

Chapter 735 of the Indianapolis Code

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- Article II Central Business Districts
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- Article V Historic Preservation
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Historical Reference

Article I Airport

Original:	61-AO-4	January 7, 1963
Amended:	63-AO-3	September 4, 1963
	72-AO-1	G.O. 165, 1972, September 25, 1972 (<i>airspace added</i>)
	94-AO-2	G.O. 58, 1994, adopted Mar. 16, 1994
	98-AO-2	G.O. 53, 1998, adopted Apr. 6, 1998 (<i>airspace maps amended</i>)
		G.O. 31, 2001
		G.O. 2, 2002

Article II CBD

Original:	64-AO-1	April 7, 1964
Amended:	81-AO-4	G.O. 70, 1981, August 3, 1981
	93-AO-1	G.O. 67, 1993, June 7, 1993 (<i>add residential uses</i>)
	94-AO-1	G.O. 57, 1994, adopted Apr. 25, 1994 (<i>combined CBD-S into CBD</i>)
	95-AO-4	G.O. 29, 1995, adopted Feb. 27, 1995
	96-AO-4	G.O. 173, 1996, adopted Nov. 25, 1996;
	97-AO-6	G.O. 86, 1997, adopted June 9, 1997 (<i>Under-21 establishments, other amusements</i>)
	97-AO-13	G.O. 1, 1998, adopted Jan. 12, 1998
	98-AO-4	G.O. 112, 1998, adopted Aug. 3, 1998

CBD-S

Original:	68-AO-7	
Amended:	81-AO-8	
	85-AO-1	
	94-AO-1	G.O. 57, 1994, adopted Apr. 25, 1994 (<i>repealed</i>)

Article III Flood

Original:	70-AO-04	G.O. No. 206, 1970 on September 21, 1970 (<i>All zoning maps</i>)
	71-AO-03	G.O. No. 206, 1971 on October 4, 1971
Amended:	82-AO-02	G.O. No. 84, 1982 on August 2, 1982
	84-AO-03	G.O. No. 28, 1984 on May 10, 1984
	84-AO-05	G.O. No. 30, 1984 on May 6, 1985 (<i>maps</i>)
	92-AO-06	G.O. No. 64, 1992 on August 24, 1992
	92-AO-07	G.O. No. 68, 1992 on September 21, 1992 (<i>maps</i>)
	00-AO-03	G.O. No. 130, 2000 on November 3, 2000 (<i>maps</i>)
	05-AO-03	G.O. No. 64, 2005 on July 11, 2005 (<i>maps</i>)
	2009-AO-01	G.O. 96, 2009 (<i>agency name change</i>)

Article IV GSB

Original:	65-AO-3	adopted Feb. 8, 1966
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Article V Historic Preservation

Original:		Dec. 3, 1968
Amended:		G.O. 31, 2001

Article VI Regional Center

Original:	70-AO-3	
Amended:	70-AO-5	
	81-AO-7	(<i>food/flower carts exempt</i>)
	82-AO-3	G.O. 13, 1983, adopted Jan. 31, 1983 (<i>North Meridian Corridor added</i>)
	92-AO-2	(<i>food/flower carts deleted</i>)
	93-AO-2	(<i>ILP requirement deleted for change of use</i>)
	96-AO-4	G.O. 173, 1996, adopted Dec. 2, 1996 (<i>Legally Established Non-Conforming Uses</i>)
		G.O. 31, 2001, (<i>Legally Established Non-Conforming Uses</i>)
		G.O. 2, 2002, (<i>Legally Established Non-Conforming Uses</i>)

Article VII Special Districts

Original: 94-AO-3 G.O. 59, 1994, April 25, 1994 (*combined SU, PK, HD, UQ districts*)
Amended: 95-AO-3 G.O. 28, 1995
95-AO-12 G.O. 203, 1995
96-AO-1 G.O. 68, 1996
96-AO-4 G.O. 173, 1996
97-AO-13 G.O. 1, 1998
98-AO-4 G.O. 112, 1998
98-AO-5 G.O. 101, 1998
2007-AO-01 G.O. 3, 2008 (*Religious Uses*)
2007-AO-02 G.O. 4, 2008, adopted April 14, 2008 (*Sidewalks*)
2008-AO-02 G.O. 13, 2009, adopted February 4, 2009 (*Speedway SZ-1 & SZ-2 Districts*)

Park Districts

Original: 68-AO-2 June 4, 1968
69-AO-2 May 7, 1969 (*established PK-II*)
94-AO-3 G.O. 59, 1994, April 25, 1994 (*combined SU, PK, HD, UQ districts*)

Hospital Districts

Original: 68-AO-8 August 1, 1968
Amended: 73-AO-3 June 18, 1973 (*approval petition requirement*)
94-AO-3 G.O. 59, 1994, April 25, 1994 (*combined SU, PK, HD, UQ districts*)

University Quarter Districts

Original: 66-AO-6 March 16, 1967
Amended: 73-AO-5 G.O. 4, 1974, January 21, 1974 (*UQ-2(B) for Butler University*)
94-AO-3 G.O. 59, 1994, April 25, 1994 (*combined SU, PK, HD, UQ districts*)

Special Use Districts

Original: 66-AO-3 Adopted July 6, 1966
Amended: 67-AO-5 May 10, 1967 (*sanitary landfill stds*)
68-AO-13 November 13, 1968 (*sanitary landfill stds*)
78-AO-1 July 17, 1978 (*added no expansion clause*)
94-AO-3 G.O. 59, 1994, April 25, 1994 (*combined SU, PK, HD, UQ districts*)
94-AO-4 G.O. 60, 1994 (*deleted SU-14, SU-15, Su-29 districts*)
94-AO-7 G.O. 92, 1994, July 11, 1994 (*SU-44 pari-mutuel wagering facilities*)
2009-AO-01 G.O. 96, 2009 (*agency name change*)

Article VIII Wellfield Protection Districts

Original: 95-AO-6 G.O. 57, 1995
Amended: 95-AO-13A G.O. 204, 1995 (*Special Exceptions by HOV*)
95-AO-13B G.O. 205, 1995 (*expiration date extension*)
96-AO-6 G.O. 178, 1996, adopted Dec. 16, 1996
97-AO-1 G.O. 34, 1997, adopted Mar. 17, 1997 (*expiration date extension*)
97-AO-10 G.O. 76, 1998 (*TQP process*)
98-AO-3 G.O. 54, 1998, adopted Apr. 6, 1998 (*remove requirement to follow lot or ROW lines*)
2003-AO-03 G.O. 91, 2003 (*clarifies process & dept roles*)
2009-AO-01 G.O. 96, 2009 (*agency name change*)
2009-AO-05 G.O. 21, 2010 (*TQP definition, OES to DMD*)

Article IX Wireless Communications

Original: 98-AO-1
Amended: 98-AO-6 G.O. 111, 1998, adopted Aug. 3, 1998 (*PK-II application & other stds*)
99-AO-1 G.O. 100, 1999, adopted August 2, 1999 (*height & landscape approval*)
G.O. 100, 2000
G.O. 2, 2002

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Chapter 735 ZONING -- OTHER DISTRICTS *

ARTICLE I. AIRPORT *

** Editor's note: This article consists of G.O. 58, 1994, adopted Mar. 16, 1994, as amended by G.O. 53, 1998, and adopted Apr. 6, 1998. Future amendments will be indicated by parenthetical history notes following the sections amended.*

Sec. 735-100. Establishment of official zoning map; establishment of Airport Special Use District.

(a) Establishment of the official zoning map.

- (1) The county is divided into zoning districts, as shown on the official zoning map, which together with all explanatory matter thereon, is adopted by reference and declared to be a part of all zoning ordinances for Marion County, Indiana.
- (2) The official zoning map shall be maintained in electronic form, and depicted in various formats and scales as appropriate to the need. The Director of the Department of Metropolitan Development shall be the custodian of the official zoning map.
- (3) When changes are made in zoning district boundaries, such changes shall be made on the official zoning map promptly after the amendment has been adopted in accordance with IC 36-7-4-600 Series.
- (4) No changes shall be made to the official zoning map except in conformity with the requirements and procedures set forth in the zoning ordinance and state law.

(b) An Airport Special Use District is hereby established as a primary zoning district, and shall permit the following uses:

Public airports municipally owned or operated, including all necessary navigation and flight operation facilities, and accessory uses including, but not limited to, terminal, storage and servicing facilities for airplanes or other aircraft, air research laboratories and other accessory uses directly related to the operation of such airport and an integral part thereof, including but not limited to, transportation, restaurant, hotel or motel facilities and similar related services for the comfort and accommodation of air passengers and the public, subject to the requirements of section 735-101.

(G.O. 31, 2001, § 4)

Sec. 735-101. Airport Special Use District regulations.

(a) No use permitted in the Airport Special Use District shall cause injury or damage to adjacent land uses, property or the public health, safety or welfare. Provided, however, that compliance by such public airport with all applicable safety and operational standards and regulations of the Federal Aviation Agency and other applicable federal aviation regulatory authorities shall be deemed compliance with this subsection's requirements, as applied to navigation and flight operational uses.

(b) All uses within the Airport Special Use District shall be served by and have access only from interior access roads located within such district to carry vehicular traffic to and from major entrances and exits serving the airport, and designated and constructed in accordance with street standards as specified by the "Standard Specification," Indiana Department of Transportation (8-17-1-39), 1988 Edition, the Indiana Department of Transportation Supplemental Specifications, and the Indianapolis Department of Public Works (DPW) Standards for Street and Bridge Design and Construction. In the event DPW specifications conflict with the Indiana Department of Transportation Standard Specifications, the most stringent specifications shall govern. The "Standard Specifications" of the Indiana Department of Transportation

(IDOT) are incorporated into this article by reference. Two (2) copies of the "Standard Specifications" are on file and available for public inspection in the office of the division of planning.

(c) For each use permitted within the Airport Special Use District, adequate off-street parking area with concrete or bituminous paved surface shall be provided. Such parking area shall not be located within one hundred (100) feet of any boundary of the Airport Special Use District, unless a compact hedge or row of shrubbery of at least four (4) feet in height is provided between such parking area and district boundary. In no case shall such parking area be located closer to a district boundary than ten (10) feet.

(d) No building or structure, or part thereof, shall be located within one hundred (100) feet of any boundary of the Airport Special Use District, and such one hundred-foot buffer area shall be maintained in turf, plant material or as off-street parking area, as provided in subsection (c) above.

(e) Prior to Improvement Location Permit issuance for any building or structure within the Airport Special Use District, the plat or site plan for such building or structure, in conformity with all applicable zoning requirements, shall be filed with the Department of Metropolitan Development of Marion County, Indiana.

(G.O. 2, 2002, § 19)

Sec. 735-102. Airport Special Use District designation.

All land within the Airport Special Use District shall be designated upon the official zoning map by the symbol "A" superimposed in the approximate geographic center of such district, the boundaries of which district to be designated and outlined.

(G.O. 31, 2001, § 5)

Sec. 735-103. Establishment of airspace district.

An airspace district, a secondary zoning district, is hereby established for Marion County, Indiana, and land within Marion County, Indiana, as designated on the official zoning map, is hereby zoned and classified as the airspace district. The airspace district shall consist of airport instrument and noninstrument approach surface areas, airport transitional surface areas, airport horizontal surface areas and conical surface areas, heliport approach surface areas and heliport transitional surface areas as defined in section 735-105 and indicated on the official zoning map.

(G.O. 31, 2001, § 5)

Sec. 735-104. Airspace district regulations.

The following regulations shall apply to all land within the airspace district. These regulations shall be in addition to all other primary or secondary zoning district regulations applicable to such land; in case of conflict, the more restrictive regulations shall control.

(a) Use.

- (1) Prohibited uses--Airport.** Within that part of the airport instrument and airport noninstrument approach surface areas and airport transitional surface areas of the official zoning map, which extend within ten thousand (10,000) feet from each end of a runway measured horizontally along the extended centerline of such runway, no building, structure or premises shall be erected, relocated or converted for use as a school, church, child caring institution, hospital, stadium, sports arena, public swimming pool, picnic grounds, public auditorium, theatre, assembly hall, carnival, amusement park, correctional institution or any other public assembly use.

- (2) **Prohibited uses--Heliport.** Within that part of the heliport surface areas and heliport transitional surface areas of the airspace district, as defined in section 735-105 and designated on the official zoning map, which extend four thousand (4,000) feet from the designated landing and takeoff area of the heliport, no building, structure or premises shall be erected, relocated or converted for use as a school, church, child caring institution, hospital, stadium, sports arena, public swimming pool, picnic grounds, public auditorium, assembly hall, carnival, amusement park, correctional institution or any other public assembly use.

(b) Height limits--Airports. Except as otherwise provided herein, no structure or tree shall be erected, altered, allowed to grow or maintain within the airspace district to a height in excess of the following height limits herein established for the applicable airport instrument approach surface area, airport noninstrument approach surface area, airport transitional surface area, airport horizontal surface area and airport conical surface area, as defined in section 735-105 and designated on the official zoning map. (Such height limits shall be computed from the applicable runway elevation or airport elevation as designated on the official zoning map).

- (1) Height limits for the airport instrument approach surface area shall be: One (1) foot in height for each one hundred (100) feet in horizontal distance beginning at a point two hundred (200) feet from the end of the instrument runway and extending to a distance of ten thousand two hundred (10,200) feet from the end of the runway; thence one (1) foot in height for each fifty (50) feet in horizontal distance to a point fifty thousand two hundred (50,200) feet from the end of the runway.
- (2) Height limits for the airport noninstrument approach surface area shall be: One (1) foot in height for each fifty (50) feet in horizontal distance beginning at a point two hundred (200) feet from the end of the noninstrument runway and extending to a point five thousand two hundred (5,200) feet from the end of the runway; thence one (1) foot in height for each sixteen (16) feet in horizontal distance to a horizontal distance of ten thousand two hundred (10,200) feet from the end of the runway.
- (3) Height limits for the airport transitional surface area shall be: One (1) foot in height for each seven (7) feet in horizontal distance beginning at a point two hundred fifty (250) feet from the centerline of noninstrument runways, measured at right angles to the longitudinal centerline of the runway, extending upward to a maximum height of one hundred fifty (150) feet above the established airport elevation as indicated on the official zoning map; one (1) foot vertical height for each seven (7) feet of horizontal distance measured from the outer lines of all instrument and noninstrument approach surface areas for the entire length of such approach surface areas, extending to their intersection with the outer line of the conical surface area; and, beyond such points of intersection, beginning at the outer lines of all instrument approach surface areas and extending a horizontal distance to five thousand (5,000) feet therefrom, measured at right angles to the continuation of the runway centerline, one (1) foot vertical height for each seven (7) feet of horizontal distance.
- (4) Height limit for the airport horizontal surface area shall be: One hundred fifty (150) feet above the established airport elevation as indicated on the official zoning map.
- (5) Height limit for the airport conical surface area shall be: One (1) foot in height for each twenty (20) feet of horizontal distance beginning at the periphery of the horizontal surface area and measured perpendicularly to the periphery of the horizontal surface area to a height of three hundred fifty (350) feet above the airport elevation. Provided, however, if any area is subject to more than one (1) of the above height limitations, the more restrictive limitation shall control. Provided, further, however, nothing in this article shall be construed as prohibiting the erection, construction, growth or maintenance of any structure or tree to a height of fifty (50) feet or less above the surface of the land.

(c) Height limits--Heliports. Except as otherwise provided herein, no structure or tree shall be erected, altered, allowed to grow or maintained within the airspace district to a height in excess of the following height limits herein established for the applicable heliport approach surface area and heliport transitional surface area, as defined in section 735-105 and designated on the official zoning map. (Such height limits shall be computed from the applicable heliport landing and takeoff area elevation as designated on the official zoning map).

- (1) Height limit for the heliport approach surface area shall be: One (1) foot in height for each eight (8) feet in horizontal distance beginning at the end of the heliport primary surface (such primary surface coinciding in size and shape with the designated takeoff and landing area of the heliport) with the same width as the primary surface and extending outward and upward from a horizontal distance of four thousand (4,000) feet where its width is five hundred (500) feet.
- (2) Height limit for the heliport transitional surface area shall be: One (1) foot in height for each two (2) feet in horizontal distance extending outward and upward from the lateral boundaries of the heliport primary surface and from the approach surface for a distance of two hundred fifty (250) feet measured horizontally from the centerline of the primary and approach surfaces. Provided, however, if any area is subject to more than one (1) of the above height limitations, the more restrictive limitation shall control. Provided further, however, nothing in this article shall be construed as prohibiting the erection, construction, growth or maintenance of any structure or tree to a height of fifty (50) feet or less above the surface of the land.

(d) Performance standards. The following performance standards shall apply to all land within the perimeter of the airport conical surface area and heliport transitional surface area as defined in section 735-105 and indicated on the official zoning map.

- (1) Interface with communications. No use shall create interface with any form of communication, the primary purpose of which is for air navigation.
- (2) Glare; marking and lighting of airspace hazards.
 - a. All lights shall be located or shielded in such a manner that they do not interfere with runway, taxi, tower or any other airport and heliport lights or result in glare which may interfere with the use of the airport and heliport in landing, taking-off or maneuvering of aircraft.
 - b. Such markers and lights as may be required by the Indianapolis Airport Authority to indicate to air crews the presence of structures or trees constituting airspace hazards, as defined in section 735-105, shall be permitted.
- (3) Smoke, dust, particulate matter.
 - a. The emission of smoke, dust, particulate matter and any other airborne material shall be subject to the standards of Chapter 511 of this Code and regulations adopted pursuant thereto (a copy of which is on file in the Office of the Division of Planning of the Department of Metropolitan Development of Marion County, Indiana, and which standards and regulations are hereby incorporated by reference and made a part hereof).
 - b. No use shall cause smoke, dust, particulate matter or airborne material of any kind to escape beyond the lot lines in a manner detrimental to or endangering the visibility of air crews using the airport and heliport in landing, taking-off or maneuvering of aircraft.

(G.O. 31, 2001, § 5; G.O. 2, 2002, § 20)

Sec. 735-105. Construction of language and definitions.

(a) **Construction of language.** The language of this article shall be interpreted in accordance with the following regulations:

- (1) The particular shall control the general.
- (2) In the case of any difference of meaning or implication between the text of this article and any illustration or diagram, the text shall control.
- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (4) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (5) A "building" or "structure" includes any part thereof.
- (6) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- (7) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either . . . or," the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - c. "Either . . . or" indicates that all the connected items, conditions, provisions, or events shall apply singly but not in combination.

(b) **Definitions.**

Airport conical surface area. The land area designated as "airport conical surface area" on the official zoning map, beginning at the periphery of the horizontal surface area and thence extending outwardly a distance of four thousand (4,000) feet - such conical surface area not including, however, the instrument and noninstrument approach surface areas and transitional surface area.

Airport horizontal surface area. The land area designated as "airport horizontal surface area" on the official zoning map, the perimeter of which is determined by projecting arcs from the center of the inner line of each instrument and noninstrument approach surface area (the dimension of such arcs for instrument approach surface areas being ten thousand (10,000) feet and for noninstrument approach connecting adjacent arcs by lines tangent thereto - not including, however, as a part of the horizontal surface area, the instrument and noninstrument approach surface areas and transitional surface area).

Airport instrument approach surface area. The land area designated as "airport instrument approach surface area" on the official zoning map, located at each end of each instrument runway for landings and take-offs - such surface area having a width of one thousand (1,000) feet at a horizontal distance of two hundred (200) feet beyond each end of the runway and widening thereafter uniformly to a width of sixteen thousand (16,000) feet at a horizontal distance of fifty thousand two hundred (50,200) feet beyond each end of the runway, its centerline being the continuation of the runway centerline.

Airport landing area. The area of the airport used for the landing, taking-off or taxiing of aircraft.

Airport noninstrument approach surface area. The land area designated as "airport noninstrument approach surface area" on the official zoning map, located at each end of each noninstrument runway for noninstrument landings and take-offs - such surface area having a width of five hundred (500) feet at a horizontal distance of two hundred (200) feet beyond each end of the runway and widening thereafter uniformly to a width of three thousand five hundred (3,500) feet at a horizontal distance of ten thousand two hundred (10,200) feet beyond each end of the runway, its centerline being the continuation of the runway centerline.

Airport transitional surface area. The land area designated as "airport transitional surface area" on the official zoning map, located adjacent to each instrument and noninstrument runway - such surface area extending outward as indicated on the official zoning map from a line two hundred fifty (250) feet on either side of the centerline of a noninstrument runway, for the length of such runway plus two hundred (200) feet at each end thereof, to the inner line of the horizontal surface area, and from a line five hundred (500) feet of either side of the centerline of an instrument runway plus two hundred (200) feet at each end thereof, to the inner line of the horizontal surface area; further symmetrically located adjacent to each instrument and noninstrument runway approach surface area, on each side thereof, having variable widths, as indicated on the official zoning map, and extending the entire length of such approach surface areas to their intersection with the outline of the conical surface area; and further located beyond such points of intersection, beginning at the out lines of all instrument approach surface areas and extending a horizontal distance of five thousand (5,000) feet therefrom, measured at right angles to the continuation of the runway centerline, as indicated on the official zoning map.

Airspace hazard. Any structure, tree, object or use of land which obstructs the airspace or is otherwise hazardous to the flight of aircraft in landing or taking-off at a public airport or heliport, as determined to constitute an "airspace," "airport" or "heliport" hazard either by the Federal Aviation Administration, the Aeronautics Commission of Indiana or the Indianapolis Airport Authority.

Heliport approach surface area. The land area designated as "heliport approach surface area" on the official zoning map, located at the edge of the heliport landing and take-off area and widening thereafter uniformly to a width of five hundred (500) feet at a horizontal distance of four thousand (4,000) feet from the landing and take-off area.

Heliport landing and take-off area. The area of the heliport used for the landing and taking-off of helicopters.

Heliport primary surface area. That area coinciding in size and shape with the heliport landing and take-off area.

Heliport transitional surface area. The land area designated as transitional surface area on the official zoning map, located adjacent to the heliport primary surface - such surface extends outward perpendicular to the centerline of the primary and approach surfaces for a horizontal distance of two hundred fifty (250) feet.

Instrument runway. A runway equipped or to be equipped with electronic or visual air navigation aids adequate to permit the landing of aircraft under restricted visibility conditions.

Noninstrument runway. A runway other than an instrument runway.

Public airport or heliport. An airport or heliport publicly owned or operated, designated as a "public airport" or "public heliport" on the official zoning map, for which an Airspace District is established by this article.

Runway. The surface of the airport used for landing and taking-off of aircraft.

Structure. An object constructed or installed by man, including but without limitation, buildings, towers, smokestacks and overhead transmission lines.

(G.O. 31, 2001, § 5)

Chapter 735 ZONING -- OTHER DISTRICTS *

ARTICLE II. CENTRAL BUSINESS *

** Editor's note: This article consists of G.O. 57, 1994, adopted Apr. 25, 1994, as amended by G.O. 29, 1995, adopted Feb. 27, 1995; G.O. 173, 1996, adopted Nov. 25, 1996; G.O. 86, 1997, adopted June 9, 1997; G.O. 1, 1998, adopted Jan. 12, 1998; and G.O. 112, 1998, adopted Aug. 3, 1998. Future amendments will be indicated by parenthetical history notes following the sections amended.*

Sec. 735-200. Establishment of official zoning map; establishment of central business zoning districts.

(a) Establishment of the official zoning map.

- (1) The county is divided into zoning districts, as shown on the official zoning map, which together with all explanatory matter thereon, is adopted by reference and declared to be a part of all zoning ordinances for Marion County, Indiana.
- (2) The official zoning map shall be maintained in electronic form, and depicted in various formats and scales as appropriate to the need. The Director of the Department of Metropolitan Development shall be the custodian of the official zoning map.
- (3) When changes are made in zoning district boundaries, such changes shall be made on the official zoning map promptly after the amendment has been adopted in accordance with IC 36-7-4-600 Series.
- (4) No changes shall be made to the official zoning map except in conformity with the requirements and procedures set forth in the zoning ordinance and state law.

(b) Establishment of central business zoning districts. The following primary central business zoning districts for Metropolitan Indianapolis, Marion County, Indiana, are hereby established, and land within Indianapolis is hereby classified, divided and zoned into such districts as designated on the official zoning map:

Symbol	Central Business Zoning Districts
CBD-1	Central Business District One
CBD-2	Central Business District Two
CBD-3	Central Business District Three
CBD-S	CBD-Special Development District

(G.O. 31, 2001, § 6)

Sec. 735-201. Central business district regulations.

The following regulations shall apply to all land within the central business zoning districts. After the effective date of this article:

- (1) With the exception of legally established nonconforming uses, no land, building, structure, premises, or part thereof shall be used or occupied except in conformity with these regulations and for uses permitted by this article.**
- (2) No building, structure, premises or part thereof shall be constructed, erected, converted, enlarged, extended, reconstructed, or relocated except in conformity with these regulations and for uses permitted by this article. Provided, however, legally**

established nonconforming uses may be reconstructed if damaged or partially destroyed by fire or other disaster when such damage or destruction does not exceed two-thirds (2/3) of the gross floor area of the structures or facilities affected.

(3) Prohibited uses. Uses for which the following Special Use Districts are provided, under Article VII of this chapter (as last amended by Docket 94-AO-4) as in effect from time to time, shall not be permitted in any central business district created under this article:

SU-3	Golf course, golf driving range, golf country club - public or private
SU-8	Correctional and penal institution
SU-10	Cemetery
SU-13	Sanitary landfill
SU-18	Light and power substation
SU-23	Permanent gravel or sand processing plant, rock crushing, grinding or milling and stock piling
SU-28	Petroleum refinery and petroleum products storage
SU-39	Water tank, water pumping station and similar structures not located on buildings
SU-41	Sewage disposal plant; garbage feeding and disposal
SU-42	Gas utility
SU-43	Power transmission lines
SU-44	Off-track pari mutuel wagering facilities, licensed as satellite facilities under IC 4-31-5.5

(4) Legal establishment of nonconforming uses that were not legally initiated prior to April 8, 1969.

a. A nonconforming use in a district of this article (as adopted by the Metropolitan Development Commission under docket number 64-AO-1 (central business districts zoning ordinance), and 68-AO-7 (CBD-special development district)) shall be deemed to be legally established (relative to both use and development standards) if the use:

1. Existed prior to April 8, 1969; and
2. Has continued to exist from April 8, 1969, to the present;
3. Has not been abandoned; and
4. Of the entire building has not been vacant voluntarily for any period of three hundred sixty-five (365) consecutive days.

A certificate stating the use and development of a property are legally established under this section shall be available from the Administrator on the presentation of sufficient evidence. The rules of procedure of the Metropolitan Development Commission shall outline the procedure to be followed in order to obtain an official certificate.

b. Any construction, erection, conversion (including, but not limited, to the addition of dwelling units), enlargement, extension, reconstruction or relocation occurring after

the specific dates noted in a.1. above must have been done in conformity with these regulations and have been done for uses permitted by this article. Any such future activity shall not be permitted except in conformity with these regulations and for uses permitted by this article.

c. Subsection (4) above shall:

1. Have no effect upon the powers of the Consolidated City of Indianapolis, Marion County, or any unit or agency thereof, or the Health and Hospital Corporation of Marion County, Indiana, to enforce other public health and safety laws and ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance).
 2. Not relieve any property of the obligation to comply with conditions or commitments which lawfully apply to the property made in connection with any variance, rezoning, platting, or other zoning decision.
- (5) Compliance with Chapter 731, Article III of this Code. In compliance with IC-36-7-4-701, the Metropolitan Development Commission and city-county council have set forth the following zoning districts in which subdivision of land is required to comply with the provisions of Chapter 731, Article III of this Code: Any central business district, as noted in this article, which permits single-family or two-family dwellings. Specifically, the applicable districts are the CBD-2 (Central Business District Two), CBD-3 (Central Business District Three), and CBD-S (Central Business District Three) classifications, for single- or two-family dwelling development only. Condominium development shall not be regulated by Chapter 731, Article III of this Code, but shall be regulated per IC 32-1-6.
- (6) Wireless communication facility. In any central business district, a wireless communication facility (as defined in, and subject to the additional regulations of, Article IX of this chapter), is permitted.

Sec. 735-202. Central Business District One (CBD-1 regulations).

(a) **Permitted CBD-1 uses.** Permitted uses in the CBD-1 District shall conform to the regulations of section 735-201, the CBD-1 development standards of section 735-202(b) and the CBD-1 performance standards of section 735-202(c). The following uses shall be permitted in the CBD-1 District:

- (1) Accessory off-street parking within buildings, anywhere within the CBD-1, provided:
 - a. The gross floor area devoted to off-street parking, including access drives and maneuvering space, does not exceed twenty-five (25) percent of the total gross floor space of the building in which such off-street parking is located; and
 - b. Such off-street parking shall be incidental and accessory to the primary use or uses of the building in which such off-street parking is located.
- (2) Apartment hotels, hotels, motels.
- (3) Apartments.
- (4) Banks; savings and loan offices.
- (5) Business, professional and customer service offices.
- (6) Drive-in services (not including goods and food) shall be permitted in the CBD-1 District by special exception only upon grant of a special exception by the Metropolitan Board of Zoning Appeals as set forth in section 735-206. (Drive-in establishments offering goods or food to customers waiting in cars shall not be permitted.)
- (7) Off-street parking garages, and accessory uses and facilities therefor, provided the lot obtains access only from one (1) or more of the streets noted in section 735-202(b)(3). On lots obtaining access from any other street within the CBD-1 District (excepting Monument Circle), off-street parking garages shall be permitted by special exception only, upon grant of a special exception by the Metropolitan Board of Zoning Appeals as set forth in section 735-206.
- (8) Off-street parking lots. Provided, however, parking lots or other at- or near-grade open-to-the-air parking uses, commercial or private, shall be permitted only for a period not exceeding five (5) years in the area bounded by Talbott Street to the west, East Ohio Street to the north, North Delaware Street to the east, and East Washington Street to the south.
- (9) Offices, sales and display rooms for wholesalers, distributors, warehouses, and manufacturers' agents, including stock, accessory storage, or warehouse space, provided:
 - a. Such accessory stock, storage and warehouse space does not exceed seventy-five (75) percent of the total net floor area of the combined office, sales, display, and accessory storage and warehouse space used in the same building by the same firm or enterprise; and
 - b. In no case shall more than twenty-five (25) percent of the total net floor area in any single building be devoted to such accessory stock, storage and warehouse space. (In the case of two (2) or more contiguous buildings under single ownership or lease, for purposes of a. and b. above, such contiguous buildings shall be considered as one (1) building).
- (10) Outdoor retail sales of beverages, flowers and food from carts on sidewalks and public areas, subject to the provisions of Chapter 961 of this Code.

- (11) Printing establishments.
- (12) Processing or manufacturing of goods by retailers and wholesalers, provided:
 - a. The net floor area occupied by such processing or manufacturing plus storage and warehouse space does not exceed seventy-five (75) percent of the total net floor area used in the same building by the same firm or enterprise; and
 - b. In no case shall more than twenty-five (25) percent of the total net floor area in any single building be devoted to such processing, manufacturing, storage and warehouse space.

(In the case of two (2) or more contiguous buildings under single ownership or lease, for purposes of a. and b. above, such contiguous building shall be considered as one (1) building.)
- (13) Public and semipublic structures, parks and open space.
- (14) Public utilities.
- (15) Retail sales and service establishments, provided, however, automobile service stations, repair garages, auto sales or service centers or car washes or other similar or comparable service to automotive vehicles or customers in such vehicles shall be prohibited in the CBD-1 District in an area bounded by Talbott Street to the west, East Ohio Street to the north, North Delaware Street to the east, and East Washington Street to the south.
- (16) Sales of beverages, flowers and food from a portion of the sidewalk abutting the same business premises, subject to the additional provisions of section 735-202(b)(1)b.
- (17) Theatres, auditoriums or indoor commercial amusement/recreation establishments (no adult entertainment business permitted).
- (18) Transportation facilities and accessory facilities therefor, including but not limited to, waiting rooms, loading docks, storage and associated commercial uses.

(b) CBD-1 development standards.

(1) Use.

- a. All sales, servicing, processing, manufacturing and storage shall be conducted within completely enclosed buildings, except that the display or sale of merchandise may be conducted on open space on the lot, if such open space is located within or is enclosed on three (3) or more sides by the outer dimensions of the building.
- b. Retail sales on sidewalks abutting a business.
 - 1. Retail sales of beverages, flowers and food may be carried out on a portion of the sidewalk abutting the same business premises provided:
 - (a) Regional center approval is obtained.
 - (b) Permission is secured from the appropriate governmental unit to use the right-of-way.
 - (c) A detailed site plan showing the use and location all furniture and equipment (including tables, barriers, chairs, signs, awnings, trash receptacles and umbrellas) on the portion of the sidewalk, the color and design of such furniture and equipment, and the movement of people on the portion of the sidewalk must be approved by the Administrator of the division of planning.

- c. Taverns, package liquor stores, night club establishments, and such establishments where alcoholic beverages may be carried out (except drug stores or grocery stores) shall:
 - 1. Provide adequate outdoor convenience trash containers; and
 - 2. Erect and maintain a decorative fence or wall along the perimeter of any outdoor seating area; and
 - 3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 735-207, Diagram A); and
 - 4. Not be located within five hundred (500) feet, measured in any direction, of any indoor commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject indoor commercial amusement/recreation establishment.
- d. Any indoor commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age shall not be located within five hundred (500) feet, measured in any direction, of any tavern, package liquor store, night club establishment, or such establishment where alcoholic beverages may be carried out (except drug stores or grocery stores). The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject tavern, package liquor store, night club, or establishment where alcoholic beverages may be carried out.
- e. Trash containers exceeding six (6) cubic feet shall:
 - 1. Be completely screened on at least three (3) sides within a solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any protected district, nor shall it be viewed from any street frontage; and
 - 2. Be located behind the established front building line; and
 - 3. Not be located within a required yard or required transitional yard.

(2) Bulk control.

- a. Maximum lot coverage and minimum setback: One hundred (100) percent lot coverage shall be permitted, and no front, side or rear setbacks shall be required. Provided, however, if a rear or side setback is provided along any rear or side lot line not abutting an alley, such setback depth shall be not less than ten (10) feet.
- b. Height limitations - sky exposure plane: With the exceptions of signs, there shall be no height limitations in the CBD-1 District other than the following sky exposure plane controls, which shall apply to the erection, expansion and alteration of all buildings or other structures in the CBD-1 District.
 - 1. The Sky Exposure Plane One (as defined in section 735-207) shall be applied to all lots within the CBD-1 District abutting:

- | | |
|-----------------------|--------------------------|
| (a) New York Street | (h) Meridian Street |
| (b) Ohio Street | (i) Pennsylvania Street |
| (c) Market Street | (j) Delaware Street |
| (d) Washington Street | (k) Indiana Street |
| (e) Maryland Street | (l) Massachusetts Avenue |
| (f) Capitol Avenue | (m) Kentucky Avenue |
| (g) Illinois Street | (n) Virginia Avenue |

Provided, however, the Sky Exposure Plan Three (as defined in section 735-207) shall be applied to all lots abutting Monument Circle.

2. No part of any building or other structure on any lot shall penetrate the applicable sky exposure plane except as follows: A building or other structure may penetrate the Sky Exposure Plane One provided that the area of all architectural elevation facing the street, of all buildings and other structures on the lot (including those portions thereof violating the sky exposure plane) when projected back to the base of the sky exposure plane, establishes an area at the lot line not in excess of the total area of the lot frontage plane (an imaginary vertical plane, having a base coextensive with the front line and extending vertically to its termination at the intersection of the applicable sky exposure plane).

(3) Off-street parking.

- a. Parking garages. Off-street parking garages shall be subject to the following requirements:

Entrances and exits:

1. Vehicular entrances and exits to off-street parking garages shall be provided only on the following streets:

- (a) East New York Street; West New York Street.
- (b) East Maryland Street; West Maryland Street.
- (c) North Capitol Avenue; South Capitol Avenue.
- (d) North Delaware Street; South Delaware Street.
- (e) West Washington Street between Illinois Street and Capitol Avenue.
- (f) West Ohio between Illinois Street and Capitol Avenue.
- (g) North Pennsylvania Street between Ohio Street and New York Street; South Pennsylvania Street between Maryland Street and Washington Street.
- (h) North Illinois Street between Ohio Street and New York Street; South Illinois Street between Maryland Street and Washington Street.
- (i) Indiana, Massachusetts, Kentucky and Virginia Avenues.
- (j) East Washington Street between Pennsylvania Street and Delaware Street.

2. Off-street parking entrances or exits shall be located a minimum distance of twenty-five (25) feet from the nearest point of two (2) intersecting street right-of-way lines. Such access cuts shall further conform to all requirements of the traffic engineering departments having jurisdiction thereof.
3. Vehicular entrances and exits to off-street parking garages shall not be provided on any alley except for emergency purposes only.

- b. Parking lots. Off-street parking lots shall be subject to the following requirements:
 - 1. The parking area shall not be used for permanent storage or the display, advertisement, sale, repair, dismantling or wrecking of any vehicle, equipment or materials.
 - 2. Parking areas shall be paved with concrete or improved with a compacted macadam base, and surfaced with an asphaltic pavement to adequately provide a durable and dust-free surface. Parking areas shall be maintained in good condition and free of weeds, dirt, trash and debris.
 - 3. The surface shall be graded and drained in such a manner that there be no free flow of water onto either adjacent properties or sidewalks.
 - 4. The parking area shall be provided with bumper guards or wheel guards so located that no part of the parked vehicles will extend beyond the boundary of the established parking area.
 - 5. Lighting facilities used to illuminate the parking areas shall be so located, shielded and directed upon the parking area that they do not glare onto or interfere with street traffic, adjacent buildings, or adjacent uses.

(4) Off-street loading.

- a. Location.
 - 1. All off-street loading areas shall be located within two hundred (200) feet of the lot served.
 - 2. Off-street loading facilities for separate lots may be provided collectively if:
 - (a) Such loading facilities are within two hundred (200) feet of all establishments served thereby; and
 - (b) The size of the collective loading area is determined (in accordance with e. below), by the sum of the total adjusted net floor area for all buildings served by such collective off-street loading facilities.
 - 3. Each off-street loading area shall be located with direct vehicular access to an alley only, and in a manner which will least interfere with traffic movements and such that no vehicle or part thereof will protrude into an alley, street or public right-of-way.
- b. Size of off-street loading space. An off-street loading space shall be at least five hundred (500) square feet in area, exclusive of maneuvering area.
- c. Surfacing. All open off-street loading areas shall be paved with concrete, or improved with a compacted macadam base, and surfaced with an asphaltic surface which shall be maintained in good condition and free of weeds, dirt, trash and debris.
- d. Repair and service. No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities, except for emergencies developing during occupation of such facilities.
- e. Number of required off-street loading spaces.
 - 1. The number of required off-street loading spaces is based upon the building total adjusted net floor area as defined in section 735-207.
 - 2. Off-street loading spaces shall be provided in accordance with the following minimum requirements:

Total Adjusted Net Floor Area of Building (Square Feet)	No. of Loading Spaces Required
0--10,000	None
10,001--100,000	1
100,001--350,000	2
350,001--600,000	3
600,001--850,000	4
850,001--1,100,000	5

For each additional three hundred fifty thousand (350,000) square feet of net floor area over one million one hundred thousand (1,100,000) or fraction thereof, one (1) additional loading space shall be provided.

(5) Signs. Signs and sign structures shall comply with Chapter 734 of this Code.

(c) CBD-1 performance standards. All uses established or placed into operation after the effective date of this article shall comply with the following standards. No use in existence on the effective date of this article shall be so altered or modified as to conflict with these standards.

- (1) Vibration. No use shall cause earth vibrations or concussions detectable beyond the lot lines without the aid of instruments.
- (2) Smoke, dust and particulate matter. Smoke, dust, particulate matter, or any other airborne material shall be subject to the standards and regulations of Chapter 511 of this Code, which is on file in the office of the Division of Planning, Department of Metropolitan Development of Marion County, Indiana, and is hereby incorporated by reference and made a part hereof.
- (3) Noxious matter. No use shall discharge across the lot lines noxious, toxic or corrosive matter, fumes or gases in such concentration as to be detrimental to or endanger the public health, safety or welfare or cause injury to property.
- (4) Odor. No use shall emit across the lot lines odor in such quantities as to be readily detectable at any point along the lot lines and as to be detrimental to or endanger the public health, safety or welfare or cause injury to property.
- (5) Sound. No use shall produce sound in such a manner as to endanger the public health, safety or welfare or cause injury to property. Sound shall be muffled so as not to become detrimental due to intermittence, beat frequency, shrillness or vibration.
- (6) Heat and glare. No use shall produce heat or glare creating a hazard perceptible from any point beyond the lot lines.
- (7) Waste matter. No use shall accumulate within the lot or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of the applicable standards and regulations of the Division of Public Health of the Health and Hospital Corporation of Marion County, Indiana, the Indiana State Board of Health, the Stream Pollution Control Board of the State of Indiana, and the Department of Public Works, or in such a manner as to endanger the public health, safety or welfare or cause injury to property.

(G.O. 2, 2002, § 21)

Sec. 735-203. Central Business District Two regulations.

(a) Permitted CBD-2 uses. Permitted uses in the CBD-2 District shall conform to the regulations of section 735-201, the CBD-2 development standards of section 735-203(b) and the CBD-2 performance standards of section 735-203(c). The following uses shall be permitted in the CBD-2 District:

- (1) Attached multifamily dwellings, as defined in section 735-207.
- (2) Banks, savings and loan offices.
- (3) Business, professional and consumer service offices.
- (4) City market place.
- (5) Dwelling unit(s), as defined in section 735-207.
- (6) Hotel, motel.
- (7) Off-street parking garages.
- (8) Off-street parking lots, provided, however, parking lots or other at- or near-grade open-to-the-air parking uses, commercial or private, shall be permitted only for a period not exceeding five (5) years in the area bounded by: North Delaware Street on the west, lots fronting on the north side of East Ohio Street between Delaware and Ogden Streets on the north, lots fronting on Alabama Street between Ohio and Pearl Streets on the east, and Pearl Street on the south.
- (9) Off-street parking (accessory) within buildings.
- (10) Outdoor retail sales of beverages, flowers and food from carts on sidewalks and public areas, subject to the provisions of Chapter 961 of this Code.
- (11) Printing establishments.
- (12) Processing, repairing, or manufacturing goods by retailers and wholesalers, provided:
 - a. The net floor area occupied by such processing, repairing, or manufacturing plus storage and warehouse space does not exceed seventy-five (75) percent of the total net floor area used in the same building by the same firm or enterprise; and
 - b. In no case shall more than fifty (50) percent of the total net floor area in any single building be devoted to such processing, repairing, manufacturing, storage and warehouse space.

(In the case of two (2) or more contiguous buildings under single ownership or lease, for purposes of a. and b. above, such contiguous buildings shall be considered as one (1) building.)
- (13) Public and semipublic structures, parks and open space.
- (14) Public utilities.
- (15) Retail sales and service establishments, provided, however, automobile service stations, repair garages, auto sales or service centers or car washes or other similar or comparable service to automotive vehicles or customers in such vehicles shall be prohibited in the CBD-2 District in an area bounded by: North Delaware Street on the west, lots fronting on the north side of East Ohio Street between Delaware and Ogden Streets on the north, lots fronting on Alabama Street between Ohio and Pearl Streets on the east, and Pearl Street on the south.

- (16) Sales of beverages, flowers and food from a portion of the sidewalk abutting the same business premises, subject to the additional provisions of section 735-203(b)(1)c.
- (17) Theatres, auditoriums or indoor commercial amusement/recreation establishments (no adult entertainment business permitted).
- (18) Transportation facilities and accessory facilities therefor including but not limited to waiting rooms, loading docks, storage and associated commercial uses.
- (19) Wholesaling and warehousing establishments.

(b) CBD-2 development standards.

(1) Use.

- a. Outdoor display. Outdoor display, sales and service shall be permitted, provided:
 - 1. The outdoor display of goods or materials shall not include the storage or stockpiling of materials.
 - 2. All goods and materials shall be located within the lot, and not encroach upon any public right-of-way.
 - 3. The outdoor display of materials or goods shall not occupy an area greater than twenty-five (25) percent of the gross floor area of the main structure occupying the lot - except, however, outdoor display of motor vehicles shall be permitted (with or without a main structure occupying the lot), provided:
 - (a) The outdoor space is not utilized for the repair, dismantling or wrecking of any vehicle.
 - (b) No attention attracting devices, including but not limited to flags, pennants, flashing lights, etc., are used, except as provided for in Chapter 734 of this Code.
 - (c) All lighting facilities used to illuminate the outdoor space are located, shielded and directed upon the outdoor space in such a manner that they do not glare onto or interfere with street traffic, adjacent buildings or adjacent uses.
 - (d) All outdoor space used for the display of motor vehicles shall be paved with concrete or improved with a compacted macadam base, and surfaced with an asphaltic pavement to adequately provide a durable and dust-free surface.
 - (e) The outdoor space used for the display of motor vehicles shall be provided with bumper guards or wheel guards so located that no part of the displayed vehicles will extend beyond the boundary of the established display area.
 - 4. The outdoor display area shall be maintained in good condition and free of weeds, dirt, trash and debris.
- b. Outdoor sales and service.
 - 1. Outdoor sales may be conducted in association with outdoor displays.
 - 2. Outdoor sales and service to customers waiting in parked cars (drive-in services) shall be permitted provided:
 - (a) Service is not construed to mean manufacturing, processing, or repairing, dismantling, or wrecking of vehicles, machinery, equipment.

- (b) Outdoor space is not utilized for the rental, sale, or storage of motor vehicles or trailers.
 - (c) The area on which outdoor service is conducted shall be surfaced and maintained under the standards set forth in section 735-203(b)(3)b.(2), (3), (4), and (5).
- c. Retail sales on sidewalks abutting a business.
 - 1. Retail sales of beverages, flowers and food may be carried out on a portion of the sidewalk abutting the same business premises provided:
 - (a) Regional center approval is obtained.
 - (b) Permission is secured from the appropriate governmental unit to use the right-of-way.
 - (c) A detailed site plan showing the use and location of all furniture and equipment (including tables, barriers, chairs, signs, awnings, trash receptacles and umbrellas) on the portion of the sidewalk, the color and design of such furniture and equipment and the movement of people on the portion of the sidewalk is approved by the Administrator of the division of planning.
- d. Taverns, package liquor stores, night club establishments, and such establishments where alcoholic beverages may be carried out (except drug stores or grocery stores) shall:
 - 1. Provide adequate outdoor convenience trash containers; and
 - 2. Erect and maintain a decorative fence or wall along the perimeter of any outdoor seating area; and
 - 3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 735-207, Diagram A); and
 - 4. Not be located within five hundred (500) feet, measured in any direction, of any indoor commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject indoor commercial amusement/recreation establishment.
- e. Any indoor commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age shall not be located within five hundred (500) feet, measured in any direction, of any tavern, package liquor store, night club establishment, or such establishment where alcoholic beverages may be carried out (except drug stores or grocery stores). The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject tavern, package liquor store, night club, or establishment where alcoholic beverages may be carried out.
- f. Trash containers exceeding six (6) cubic feet shall:

1. Be completely screened on at least three (3) sides within a solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any protected district, nor shall it be viewed from any street frontage; and
2. Be located behind the established front building line; and
3. Not be located within a required yard or required transitional yard.

(2) Bulk control.

- a. Maximum lot coverage and minimum setback. One hundred (100) percent lot coverage shall be permitted, and no front, side or rear setbacks shall be required. Provided, however, if a rear or side setback is provided along any rear or side lot line not abutting an alley, such setback depth shall be not less than ten (10) feet.
- b. Height limitations - sky exposure plane. With the exception of signs, there shall be no height limitations in the CBD-2 District other than the following sky exposure plane controls, which shall apply to the erection, expansion and alteration of all buildings or other structures in the CBD-2 District.
 1. The Sky Exposure Plane Two (as defined in section 735-207) shall be applied to all lots within the CBD-2 District. Except, however, the Sky Exposure Plane One (as defined in section 735-207) shall be applied to all lots within the CBD-2 District abutting:
 - (a) The north side of New York Street between Illinois Street and Capitol Avenue.
 - (b) The east side of Delaware Street between New York Street and Maryland Street.
 - (c) The south side of Maryland Street between Delaware Street and Capitol Avenue.
 - (d) The west side of Capitol Avenue between New York Street and Maryland Street.
 2. No part of any building or other structure on any lot shall penetrate the applicable sky exposure plane, except the following: A building or other structure may penetrate the Sky Exposure Plane One or Two provided that the area of all architectural elevation facing the street, of all buildings and other structures on the lot (including those portions thereof violating the sky exposure plane), when projected back to the base of the sky exposure plane establishes an area at the lot line not in excess of the total area of the lot frontage plane (an imaginary vertical plane, having a base coextensive with the front lot line and extending vertically to its termination at the intersection of the applicable sky exposure plane).

(3) Off-street parking.

- a. Off-street parking entrances or exits shall be located a minimum distance of twenty-five (25) feet from the nearest point of two (2) intersecting street right-of-way lines. Such access cuts shall further conform to all requirements of the traffic engineering department having jurisdiction thereof.
- b. Parking lots. Off-street parking lots shall be subject to the following requirements:
 1. The parking area shall not be used for permanent storage, or the display, advertisement, sale, repair, dismantling or wrecking of any vehicle, equipment or materials.

2. Parking areas shall be paved with concrete or improved with a compacted macadam base, and surfaced with an asphaltic pavement to adequately provide a durable and dust-free surface. Parking areas shall be maintained in good condition and free of weeds, dirt, trash and debris.
 3. The surface shall be graded and drained in such a manner that there will be no free flow of water onto either adjacent properties or sidewalks.
 4. The parking area shall be provided with bumper guards or wheel guards so located that no part of the parked vehicles will extend beyond the boundary of the established parking area.
 5. Lighting facilities used to illuminate the parking areas shall be so located, shielded and directed upon the parking area that they do not glare onto or interfere with street traffic, adjacent buildings, or adjacent uses.
- c. Required off-street parking. Off-street parking facilities shall be provided for all uses in the CBD-2 District except, however, all lots within the area known as the Mile Square, bounded by North Street, East Street, South Street, and West Street.
1. Number of required off-street parking spaces: One (1) parking space at least nine (9) feet in width and at least twenty (20) feet in length, exclusive of access drives, aisles, ramps, lanes, etc., shall be provided for each eight hundred (800) square feet of the building's total adjusted net floor area as defined in section 735-207.
 2. Location of required parking: All required off-street parking facilities shall be located either on the same lot as the use served or within four hundred (400) feet thereof.
 3. Collective facilities: Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided collectively is not less than the sum of the separate requirements for each such use, and provided that such parking facilities are within four hundred (400) feet of all such separate uses.

(4) Off-street loading.

- a. Location.
1. All loading areas shall be located within two hundred (200) feet of the lot served.
 2. Off-street loading facilities for separate lots may be provided collectively if:
 - (a) Such loading facilities are within two hundred (200) feet of all establishments served thereby; and
 - (b) The size of the collective loading area is determined (in accordance with e. below) by the sum of the total adjusted net floor area for all buildings served by such collective off-street loading facilities.
 3. Off-street loading areas may have direct access from any streets, except on the:

North side of New York Street between Delaware Street and Capitol Avenue;

South side of Maryland Street between Delaware Street and Capitol Avenue;

West side of Capitol Avenue between Maryland Street and New York Street;

East side of Delaware Street between Maryland Street and New York Street.

4. Each off-street loading area shall be located in a manner which will least interfere with traffic movements and such that no vehicle or part thereof will protrude into any alley, street or public right-of-way.
- b. Size of off-street loading space. An off-street loading space shall be at least five hundred (500) square feet in area, exclusive of maneuvering area.
- c. Surfacing. All open off-street loading areas shall be paved with concrete, or improved with a compacted macadam base, and surfaced with an asphaltic surface to adequately provide a durable and dust-free surface which shall be maintained in good condition and free of weeds, dirt, trash and debris.
- d. Repair and service. No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities, except for emergencies developing during occupation of such facilities.
- e. Number of required off-street loading spaces.
 1. The number of required off-street loading spaces is based upon the building total adjusted net floor area as defined in section 735-207.
 2. Off-street loading spaces shall be provided in accordance with the following minimum requirements:

Total Adjusted Net Floor Area of Building (Square Feet)	No. of Loading Spaces Required
0--10,000	None
10,001--100,000	1
100,001--350,000	2
350,001--600,000	3
600,001--850,000	4
850,001--1,100,000	5

For each additional three hundred fifty thousand (350,000) square feet of net floor area over one million one hundred thousand (1,100,000) square feet or fraction thereof, one (1) additional loading space shall be provided.

(5) Signs. Signs and sign structures shall comply with Chapter 734 of this Code.

(c) CBD-2 performance standards. The CBD-1 performance standards, section 735-202(c) shall apply to the CBD-2 District.

(G.O. 2, 2002, § 21)

Sec. 735-204. Central Business District Three (CBD-3) regulations.

(a) **Permitted CBD-3 uses.** Permitted uses in the CBD-3 District shall conform to the regulations of section 735-201, the CBD-3 development standards of section 735-204(b) and the CBD-3 performance standards of section 735-204(c). The following uses shall be permitted in the CBD-3 District:

- (1) Attached multifamily dwellings, as defined in section 735-207.
- (2) Banks, savings and loan offices.
- (3) Business, professional and consumer service offices.
- (4) Dwelling units, as defined in section 735-207.
- (5) Hotels, motels.
- (6) Off-street parking garage, parking lots, and accessory off- street parking within buildings, subject to the regulations of section 735-204(b)(3).
- (7) Offices, sales and display rooms for wholesalers, distributors, warehouses, manufacturers' agents, including stock, accessory storage, or warehouse space, provided:
 - a. Such accessory storage, stock and warehouse space does not exceed twenty-five (25) percent of the total net floor area of the combined office, sales, display, and accessory storage and warehouse space used in the same building by the same firm or enterprise; and
 - b. In no case shall more than twenty-five (25) percent of the total net floor area in any single building be devoted to such accessory stock, storage and warehouse space.
(In the case of two (2) or more contiguous buildings under single ownership or lease, for purposes of a. and b. above, such contiguous buildings shall be considered as one (1) building.)
- (8) Outdoor retail sales of beverages, flowers and food from carts on sidewalks and public areas, subject to the provisions of Chapter 961 of this Code.
- (9) Printing establishments.
- (10) Public utilities.
- (11) Retail sales and service establishments primarily for the convenience of residents or employees of this district, provided:
 - a. Such establishments (except for sales of beverages, flowers and food from carts) shall be located within buildings principally used for office, apartment, hotel or off-street parking uses; and
 - b. Such establishments shall include any of the following or similar uses of a like nature or character:

Bank, savings and loan office	Cleaners and laundry outlet
Bar*, cabaret*, night club*	Delicatessen
Barber shop	Drug store
Beauty shop	Florist
Book store	Gift shop
	Grocery store

Indoor commercial
amusement/recreational
establishment (no adult
entertainment business
permitted) **
Jewelry store
Laundromat

Men's and women's wear
Newsstand
Restaurant
Shoe repair shop
Stationery store
Ticket office

* Subject to section 735-204(b)(1)d.

** Subject to section 735-204(b)(1)e.

(12) Public and semi-public structures, parks, and open space.

(13) Sales of beverage, flowers and food from a portion of the sidewalk abutting the same business premises, subject to the additional provisions of section 735-204(b)(1)c.

(b) CBD-3 development standards.

(1) Use.

- a. All business and retail enterprise shall be conducted within completely enclosed buildings.
- b. Drive-in establishments offering goods, food or services to customers waiting in cars shall not be permitted.
- c. Retail sales on sidewalks abutting a business. Retail sales of beverages, flowers and food may be carried out on a portion of the sidewalk abutting the same business premises provided:
 1. Regional center approval is obtained.
 2. Permission is secured from the appropriate governmental unit to use the right-of-way.
 3. A detailed site plan showing the use and location of all furniture and equipment (including tables, barriers, chairs, signs, awnings, trash receptacles and umbrellas) on the portion of the sidewalk, the color and design of such furniture and equipment and the movement of people on the portion of the sidewalk is approved by the Administrator of the division of planning.
- d. Taverns, package liquor stores, night club establishments, and such establishments where alcoholic beverages may be carried out (except drug stores or grocery stores) shall:
 1. Provide adequate outdoor convenience trash containers; and
 2. Erect and maintain a decorative fence or wall along the perimeter of any outdoor seating area; and
 3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 735-207, Diagram A); and

4. Not be located within five hundred (500) feet, measured in any direction, of any indoor commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject indoor commercial amusement/recreation establishment.
- e. Any indoor commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age shall not be located within five hundred (500) feet, measured in any direction, of any tavern, package liquor store, night club establishment, or such establishment where alcoholic beverages may be carried out (except drug stores or grocery stores). The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject tavern, package liquor store, night club, or establishment where alcoholic beverages may be carried out.
- f. Trash containers exceeding six (6) cubic feet shall:
 1. Be completely screened on at least three (3) sides within a solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any protected district, nor shall it be viewed from any street frontage; and
 2. Be located behind the established front building line; and
 3. Not be located within a required yard or required transitional yard.

(2) Bulk control.

- a. Maximum lot coverage and minimum setback. One hundred (100) percent lot coverage shall be permitted, and no front, side or rear setbacks shall be required. Provided, however, if a rear or side setback is provided along any rear or side lot line abutting an alley, such setback depth shall be not less than ten (10) feet.
- b. Height limitations. There shall be no height limitations or sky exposure plane controls in the CBD-3 District.

(3) Off-street parking.

- a. Parking garages and accessory parking within buildings.
 1. Off-street parking garage and accessory off-street parking facilities within buildings located on lots having frontage upon North Meridian Street or North Pennsylvania Street shall: Be developed as an integral part of an associated apartment, office, hotel or other permitted principal use structure, with no exterior evidence of the parking use perceptible on the Pennsylvania or Meridian Street frontage, except for ingress or egress from North Meridian or North Pennsylvania Streets.
 2. Off-street parking entrances or exits shall be located a minimum distance of twenty-five (25) feet from the nearest point of two (2) intersecting street right-of-way lines. Such access cuts shall further conform to all requirements of the traffic engineering departments having jurisdiction thereof.
- b. Parking lots.

1. The off-street parking requirements and regulations of the CBD-2 District (section 735-201(b)(3)a. and b.) shall apply to the CBD-3 District.
 2. No open parking shall be permitted on any lot having frontage upon North Meridian Street or North Pennsylvania Street, except where there is an intervening structure of at least one (1) story between the entire open parking area of such lot and North Meridian Street or North Pennsylvania Street.
- (4) Off-street loading.** The requirements and regulations of the CBD-2 District (section 735-203(b)(4)) shall apply to the CBD-3 District, except: Off-street loading areas may have direct access from any streets, except:
- North Meridian Street;
 - North Pennsylvania Street; and
 - The north side of East and West New York Street.
- (5) Signs.** Signs and sign structures shall comply with Chapter 734 of this Code.
- (c) CBD-3 performance standards.** The CBD-1 performance standards, section 735-202(c) shall apply to the CBD-3 District.

(G.O. 2, 2002, § 21)

Sec. 735-205. CBD-Special Development Zoning District.

(a) Permitted uses. Permitted uses in the CBD-S District shall conform to the regulations of section 735-201, the development standards of section 735-205(b) and the performance standards of section 735-204(c). Subject to the provisions of this section, any appropriate planned land use, complex or combination of land uses as designated and specified in the amending petition or ordinance zoning land to the CBD Special Development District may be permitted. By example, the following uses may be appropriate in the CBD-S District:

- (1) Attached multifamily dwellings, as defined in section 735-207.
- (2) Commercial office-multifamily residential complex, or other planned complex, which may include business, professional and consumer service offices, retail sales and service uses, or other appropriate uses and accessory facilities.
- (3) Hotels, motels.
- (4) Office-commercial-industrial research and development park or complex.
- (5) Off-street parking garage, parking lots, and accessory off-street parking within buildings.
- (6) Public and semipublic structures and uses, parks and open spaces, including, but not limited to, museums, auditoriums, theatres, amphitheaters, exhibition halls or exhibition spaces, zoos, civic centers, libraries, governmental office complex, greenways, and recreational uses such as sports stadia, marinas, and similar uses.
- (7) Restaurant.

All land use within the CBD-S District shall be limited to the use or uses specified in the applicable rezoning petition or ordinance redistricting and zoning the particular land to the CBD-S District.

A site and development plan for a proposed district shall be filed with the zoning petition and approved by the Metropolitan Development Commission. The Commission may approve, amend or disapprove the plan or any amended plan and may impose any reasonable conditions upon its approval. If such plan submitted is a preliminary rather than final plan, the Commission's approval shall be conditioned upon the approval, by the Administrator of the Division of Planning, Department of Metropolitan Development, of a final site and development plan, in total or in phases. Such final plan approval by the Administrator shall be conditioned upon the Administrator's finding that the final plan is consistent and in substantial conformity with the preliminary plan, as approved by the Metropolitan Development Commission. If the Administrator does not so find, the applicant may appeal the Administrator's decision to the Metropolitan Development Commission, and the Commission shall determine, after hearing, whether the Administrator's decision should be sustained.

(b) Development standards. The following regulations shall apply to all land within the CBD-S District: All district uses shall:

- (1) Be so planned, designed, constructed and maintained as to create a superior land development, in conformity with the Comprehensive Plan of Marion County, Indiana;
- (2) Create and maintain a desirable, efficient and economical use of land with high functional and aesthetic value, attractiveness and compatibility of land uses, within the district and with adjacent uses;
- (3) Provide sufficient and well-designed access, parking and loading areas;
- (4) Provide traffic control and street plan integration with existing and planned public streets and interior access roads;
- (5) Provide adequately for sanitation, drainage and public utilities; and

- (6) Allocate adequate area for all uses proposed, the design, character, grade, location and orientation thereof to be appropriate for the uses proposed, logically related to existing and proposed topographical and other conditions, and consistent with the Comprehensive Plan for Marion County, Indiana.

(c) Performance standards. The CBD-1 performance standards, section 735-202(c) shall apply to the CBD-S District.

(G.O. 2, 2002, § 21)

Sec. 735-206. Special exceptions.

(a) Special exceptions.

- (1) Special exceptions granted by Metropolitan Board of Zoning Appeals. The Metropolitan Board of Zoning Appeals of Marion County, Indiana, is hereby authorized to grant special exceptions to the central business districts standard terms, regulations and requirements, as specified in this article.
 - a. Such special exceptions shall be granted (following application filed with the secretary of such Board by the landowner petitioner, notice to owners of adjoining parcels of land and public hearing by such Board - all in accordance with the rules of procedure of the Metropolitan Board of Zoning Appeals) only upon the Metropolitan Board's determination that:
 1. The grant will not be injurious to the public health, safety, convenience or general welfare.
 2. The grant will not injure or adversely affect the adjacent area or property values therein.
 3. The grant will be in harmony with the character of the district and land use authorized therein.
 - b. The grant of such special exception shall be conditioned upon the following requirements:
 1. The proposed use shall conform to all performance standards of the applicable central business district.
 2. The proposed use shall conform to all development standards of the applicable central business district, except as specifically modified by the grant of special exception.
 3. The proposed use shall conform to all other applicable requirements of this article and all restrictions and conditions attached to the grant of special exception by such Board (in case of conflict, the more restrictive standards or requirements are to control). All restrictions or conditions attached to the grant of any special exception by the Metropolitan Board of Zoning Appeals shall be limited by standards (1), (2) and (3) of paragraph a. above, and shall be imposed by such Board to ensure compliance with such standards.

Sec. 735-207. Definitions.

The following definitions shall be applied for purposes of this article:

Alley. A public way, the right-of-way of which is less than thirty-five (35) feet in width.

Adult entertainment business. An adult bookstore, adult motion picture theatre, adult mini motion picture theatre, adult motion picture arcade, adult cabaret, adult drive-in theatre, adult live entertainment arcade or adult services establishment (all as defined in Chapter 731, Article III of this Code).

Amusement arcade. A type of indoor commercial amusement/recreation establishment where more than four (4) amusement machines are available to the public.

Amusement machine. An amusement device operated by means of the insertion of a coin, token, or similar object for the purpose of entertainment, amusement or skill and for the playing of which a fee is charged. "Amusement machine" does not include vending machines which do not incorporate gaming amusement or skill features, nor does the term include any coin-operated mechanical musical device.

Attached multifamily dwellings. A building or buildings for residential purposes with three (3) or more dwelling units, having common or party wall or walls, on a single lot. Each unit is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common or individual stairwell(s) exterior to any dwelling unit(s).

Commercial amusement/recreation establishment, indoor. A facility wholly enclosed in a building that offers entertainment or games of skill to the general public for a fee. This includes but is not limited to such facilities as bowling alleys, billiard parlors, dance halls, sports facilities or amusement arcades.

Dwelling unit. One (1) or more rooms connected together in a residential building or residential portion of a building, which are arranged, designed, used and intended for use by one (1) or more human beings living together as a family and maintaining a common household for owner occupancy or rental or lease on a weekly, monthly, or longer basis; and which includes lawful cooking, eating, sleeping space and sanitary facilities reserved solely for the occupants thereof.

Family. One (1) or more human beings related by blood, marriage, adoption, or guardianship together with incidental domestic servants and temporary, noncompensating guests; or not more than four (4) human beings not so related, occupying a dwelling unit and living as a single housekeeping unit.

Grocery store. A commercial establishment, commonly known as a supermarket or food store, primarily engaged in the retail sale of canned foods and dry goods, such as tea, coffee, spices, sugar, and flour; fresh fruits and vegetables; and fresh and prepared meats, fish and poultry.

Liquor store, package. A facility principally for the retail sale of alcoholic beverages for off-premises consumption.

Lot. Any area of land designated as a lot on a platted subdivision or described on a duly recorded deed or parcel of land or site which is occupied, or intended for occupancy, by one (1) principal use.

Net floor area. The sum of the gross horizontal areas of the one (1) or several floors and basements of the building or portions thereof devoted to permitted uses, not including, however: floor areas devoted primarily to storage purposes; floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space; or floor area used for toilets, rostrums, utilities, lounges, elevator shafts, main corridors and stair wells, or cafeterias for the use of employees

only. Provided, however, for the purposes of determining off-street loading requirements, net floor area shall include floor area devoted primarily to storage purposes, but shall otherwise be defined as above.

Night club. An establishment engaged primarily in offering entertainment to the general public, in the form of music for dancing or live or recorded performances. The establishment may or may not engage in the preparation and retail sale of alcoholic beverages for consumption on the premises. For the purposes of this article, an establishment of a similar nature which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age shall not be construed to be a night club, but rather an indoor commercial amusement/recreation establishment.

Protected district. Specific classes of zoning districts which, because of their low intensity or the sensitive land uses permitted by them, require additional buffering and separation when abutted by certain more intense classifications of land use. A protected district shall include any dwelling district, hospital district, parks district, university quarter district, SU-1 (church) district or SU-2 (school) district.

Public area. Land owned or controlled by a governmental unit for public use, including but not limited to sidewalks, plazas and parks.

Signs. Any structure, fixture, placard, announcement, declaration, device, demonstration or insignia used for direction, information, identification or to advertise or promote any business, product, goods, activity, services or any interests.

Sky exposure plane. An imaginary sloping surface, consisting of three (3) types, rising over designated lots in the CBD-1 and CBD-2, as specified in sections 735-202(b)(2) and 735-203(b)(2) for purposes of limiting height of building, signs and other structures.

(1) Sign Exposure Plane One.

- a. On each street in the CBD-1 designated in section 735-202(b)(2)b.1. (excepting Monument Circle) and in the CBD-2 designated in section 735-203(b)(2)b.1., the Sky Exposure Plane One shall have a base which is coincident with the center line of each such street; and
- b. At the base has an elevation equal to the average elevations above mean sea level of the street center line from the intersection of one (1) street center to the intersection of the next; and
- c. Is inclined at an angle of seventy-eight (78) degrees measured from the horizontal; and
- d. Extends to a vertical elevation of three hundred (300) feet above the base; and
- e. Then continues vertically at an angle of ninety (90) degrees measured from the horizontal; and
- f. Extends to a vertical elevation, above the base, equal to infinity.

(2) Sky Exposure Plane Two.

- a. On all streets in the CBD-2 (excepting those street specifically designated in section 735-203(b)(2)a.), the Sky Exposure Plane Two shall have a base which is coincident with the center line of each such street; and
- b. At the base has an elevation equal to the average elevation above mean sea level of the street center line from the intersection of one (1) street center line to the intersection of the next; and
- c. Is inclined at an angle of sixty (60) degrees measured from the horizontal; and
- d. Extends to a vertical elevation of two hundred (200) feet above the base; and

- e. Then continues vertically at an angle of ninety (90) degrees measured from the horizontal; and
- f. Extends to a vertical elevation, above the base, equal to infinity.

(3) Sky Exposure Plane Three.

- a. In the case of all lots abutting Monument Circle, in the CBD-1, as designated in section 735-202(b)(2)b.1., the Sky Exposure Plane Three shall have a base which is coincident with the center line of the street; and
- b. At the base has an elevation equal to the average elevation above mean sea level of the street center line from the intersection of one (1) street center line to the intersection of the next; and
- c. Is inclined at an angle of sixty-seven and one-half (67.5) degrees measured from the horizontal; and
- d. Extends to a vertical elevation of one hundred eight (108) feet above the base; and
- e. Then continues at an angle of seventy-four (74) degrees measured from the horizontal; and
- f. Extends to a vertical elevation of one hundred fifty (150) feet above the base; and
- g. Then continues horizontally at an angle of zero (0) degrees measured from the horizontal; and
- h. Extends to the alleys known as Wabash, Scioto, Bird and Court Streets.

Street. A public way, the right-of-way of which is at least thirty-five (35) feet in width.

Tavern. An establishment used primarily for the serving of liquor by the drink to the general public, but where minors cannot be within the use, and where food or packaged liquors may be served or sold only as accessory to the primary use.

Total adjusted net floor area.

(1) For determining required off-street loading.

- a. To determine total adjusted net floor area:
 - 1. Total the net floor area devoted to each use within the building.
 - 2. Multiply the total net floor area for each use by the loading floor area factor for such use, as specified in b. below.
 - 3. Add the results of 2. above - this is the total adjusted net floor area.
- b. Loading floor area factors:
 - 1. Retail sales and services - 2.0.
 - 2. Business, professional and consumer service, hotels and motor hotels - 1.0.
 - 3. Manufacturing and wholesale (exclusive of office, sales and display area) - 2.5.
 - 4. Residential and apartment hotels - 0.5.

(2) For determining off-street parking.

- a. To determine total adjusted net floor area:
 - 1. Total the net floor area devoted to each use within the building.
 - 2. Multiply the total net floor area for each use by the parking floor area factor for such use, as specified in b. below.

3. Add the results of 2. above - this is the total adjusted net floor area.
- b. Parking floor area factors:
1. Retail sales and services - 2.0.
 2. Residential and apartment hotels - 1.0.
 3. Manufacturing - 3.0.
 4. Hotel and motor hotels - 3.0.
 5. Business, professional and consumer service, and wholesale - 1.0.

Sec. 735-208. Severability.

If any provision of this article shall be held invalid, its invalidity shall not affect any other provisions of this article that can be given effect without the invalid provision, and for this purpose the provisions of this article are hereby declared to be severable.

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Sec. 735-300. Establishment of official zoning map; establishment of secondary flood control districts.

(a) Establishment of the official zoning map.

- (1) The county is divided into zoning districts, as shown on the official zoning map, which together with all explanatory matter thereon, is adopted by reference and declared to be a part of all zoning ordinances for Marion County, Indiana.
- (2) The official zoning map shall be maintained in electronic form, and depicted in various formats and scales as appropriate to the need. The director of the department of metropolitan development shall be the custodian of the official zoning map.
- (3) When changes are made in zoning district boundaries, such changes shall be made on the official zoning map promptly after the amendment has been adopted in accordance with IC 36-7-4-600 Series.
- (4) No changes shall be made to the official zoning map except in conformity with the requirements and procedures set forth in the zoning ordinance and state law.

(b) Establishment of flood control districts. The following secondary flood control districts for Marion County, Indiana, are hereby classified, divided and zoned into such districts as designated on the official zoning map:

<u>Flood Control Zoning Districts</u>	<u>Zoning District Symbols</u>
Floodway (secondary)	FW
Floodway Fringe (secondary)	FF

(c) The district boundaries have been established from hydrological data delineated on flood insurance rate maps provided by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Marion County, Indiana, and Incorporated Areas," dated January 5, 2001. Topographic-based floodplain maps that may be developed by the city and approved for use by FEMA may be used as best available data to supplement FEMA's flood insurance rate maps, in accordance with FEMA and IDNR procedures and regulations. These maps contain zone AE floodplain areas for which floodway district boundaries and base flood elevations are provided, zone AH floodplain areas for which base flood elevations are provided, zone AO floodplain areas for which base flood elevations are not provided, and zone A floodplain areas for which floodway district boundaries and base flood elevations are not provided. Each of the aforementioned maps also contain shaded zone X floodplain areas that depict areas subject to flooding in the headwaters of a stream, the five hundred-year frequency floodplain collar outside of the one-hundred-year frequency zone AE area, and land subject to shallow flood depths of less than one (1) foot. The district boundaries and base flood elevations for mapped areas shall be determined as follows:

- (1) Zone AE:** The floodway fringe (FF) zone district boundary is determined by applying the base flood elevations from the flood insurance study base profiles to the specific topography of a site/parcel/property. The floodway (FW) district boundary is determined from the flood insurance rate map. The base flood elevation shall be determined from the flood insurance study base flood profile, and is rounded up to the nearest one-half (1/2) foot elevation.
- (2) Zone AH and zone AO:** In zone AH floodplain areas, the base flood elevation shown on the flood insurance rate map shall be used. In zone AO areas, the base flood elevation shall be determined by adding the depth number specified in feet on the flood insurance rate map (two (2) feet, if no depth number is specified) to the highest ground elevation at the site.

(3) Zone A: Because this mapped area depicts only the approximate base flood boundary, the floodway (FW) district boundary, floodway fringe (FF) district boundary, and base flood elevation must be established through a site-specific engineering analysis using a method acceptable to the bureau of license and permit services of the department of code enforcement or a floodplain recommendation letter issued by IDNR containing specific reference to the site in question. It is the responsibility of the applicant applying for a floodplain development permit to provide the requisite engineering analysis to the bureau of license and permit services or to obtain a floodplain recommendation letter from IDNR.

(4) Zone X: Zone X areas (shaded or unshaded) are not designated by FEMA as special flood hazard areas and are not regulated by this article.

(d) Detailed hydrological data may not be available on the aforementioned maps for certain portions of the floodway and floodway fringe districts. In such cases, an owner of land or applicant for a floodplain development permit shall be required to request a determination of district boundaries and appropriate flood protection grade from the IDNR and the appropriate district regulations shall apply. In the event IDNR lacks sufficient data, the bureau of license and permit services of the department of code enforcement shall determine which type of flood control district the site is located in and the appropriate flood protection grade and limitations applicable to that district. If the bureau of license and permit services lacks sufficient data to make this determination, the applicant for the floodplain development permit shall be required to submit a zoning district boundary determination completed by a registered professional engineer. The procedures by which specific determinations of district boundaries are to be made and incorporated into revisions of the flood insurance rate maps are set forth in section 735-301 of this article.

(G.O. 130, 2000, § 1.00; G.O. 31, 2001, § 7; G.O. 2, 2002, § 22; G.O. 96, 2009)

Sec. 735-301. Changes to district boundaries.

- (a) Procedures to change the floodway and floodway fringe district boundaries, with or without an accompanying base flood elevation change, may be initiated in certain circumstances, including but not limited to: Determination of original mapping error; physical change to the landscape such as filling, excavating or grading; modification of a channel or bridge that changes the hydraulic or hydrologic characteristics of the watercourse; availability of better topographic base mapping that more accurately depicts the floodplain limits; and development of detailed hydrological data for previously unstudied zone A areas. In addition, an owner or lessee of property who believes his or her property has been wrongly designated in a particular flood control zoning district may apply for a district boundary change in accordance with this section.
- (b) Changes to the floodway (FW) district boundary, floodway fringe (FF) district boundary, and the accompanying base flood elevations must be approved by FEMA through a letter of map revision (LOMR) or letter of map amendment (LOMA) in accordance with procedures established by FEMA, before the revised maps and data shall be used under this article. Detailed study data, developed for sites located in zone A areas pursuant to section 735-300 as best available data, will generally not be acknowledged by FEMA for flood insurance determinations or result in district boundary revisions unless an official LOMR or LOMA is issued by FEMA that specifies such changes.
- (c) The bureau of license and permit services of the department of code enforcement shall review all LOMR and LOMA applications for completeness pursuant to FEMA regulations and procedures and verify that the subject project has satisfied the regulatory requirements of this article. Upon verification, the bureau of license and permit services shall issue a signed community acknowledgement to the applicant as required by FEMA. If the LOMR or LOMA application is based on a channel improvement or other physical change to the floodplain that requires continual

operation and maintenance as a condition of the issuance of the LOMR or LOMA by FEMA, the bureau of license and permit services may require the applicant to enter into an agreement with the bureau of license and permit services to provide such operation and maintenance.

- (d) Any changes in the floodway district boundary must be reported to FEMA by the applicant within six (6) months of construction with a copy forwarded to the bureau of license and permit services. The bureau of license and permit services shall be responsible for maintaining up-to-date floodplain maps including any amending LOMRs and LOMAs and shall coordinate efforts with IDNR, FEMA and applicants to solve mapping conflicts using the best available hydrologic, hydraulic and topographic data.
- (e) By reference the Metropolitan Development Commission and the city-county council must acknowledge all floodway (FW) and floodway fringe (FF) district boundary relocations and base flood elevation revisions approved by FEMA through the issuance of LOMR and LOMAs as changes to the official zoning map.
- (f) All letters of map amendment (LOMA) and letters of map revisions (LOMR) approved and issued by the Federal Emergency Management Agency (FEMA) from September 2, 1992 until January 5, 2001 shall be incorporated as map amendments to the applicable flood control districts boundaries (said letters [LOMA and LOMR] are incorporated by reference and made a part of this article).

(G.O. 130, 2000, § 1.01; G.O. 31, 2001, § 7; G.O. 2, 2002, § 22; G.O. 96, 2009)

Sec. 735-302. General regulations applicable to all districts.

The following regulations shall apply to all land within any flood control district:

- (1) From and after October 4, 1971:
 - a. No land, watercourse, building, structure, premises or part thereof shall be used or occupied except in conformity with these regulations and for uses permitted by this article.
 - b. No land, watercourse, building, structure, premises, use or part thereof shall be constructed, erected, converted, enlarged, extended, reconstructed, relocated, altered, improved, or repaired except in conformity with these regulations and for uses permitted by this article.
- (2) No land alteration, watercourse alteration, open land use, legally established nonconforming use, or structure as defined in this article shall be constructed, erected, placed, converted, enlarged, extended, reconstructed, improved, repaired, restored, or relocated until a floodplain development permit is issued for the proposed activity as required by this article.
- (3) Application for a floodplain development permit shall be made on a form provided by the bureau of license and permit services. The application shall be accompanied by drawings of the site drawn to scale that depict the proposed activity in a manner adequate for the bureau of license and permit services to determine compliance with this article. At a minimum, the site plan shall show: All existing and proposed structures; existing and proposed contours (if the proposed activity includes land alteration or watercourse alteration), the governing base flood elevation for the site (including the source of the base flood elevation value); and the proposed flood protection grade elevation (if the proposed activity requires a specified flood protection grade under this article).

Site plans for all platted subdivisions shall also include a delineation of the existing and proposed floodway and floodway fringe boundaries; a flood protection grade denoted for each building pad; and, for each lot located in a flood control district, a plan note identifying the flood

control district in which it is located and the requirements and limitations imposed under this article for construction on the floodplain lot.

Plans for proposed activities requiring a specified flood protection grade under this article, which involve land or watercourse alterations, or involve floodproofing of a structure, shall be certified by a professional engineer, professional surveyor, or professional architect as defined by this article.

- (4) An application fee shall be charged for the processing of a floodplain development permit application. A fee schedule shall be developed by the bureau of license and permit services for categories of proposed activities sufficient to recover the cost of processing applications.
- (5) A floodplain development permit shall not be issued for any proposed activity until all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.
- (6) The bureau of license and permit services shall require that an NFIP elevation certificate be completed by a professional engineer, professional architect or professional surveyor for each new structure, substantial addition, substantial improvement, or restoration of substantial damage located in a flood control district, as required by FEMA. The bureau of license and permit services shall supply each applicant for a floodplain development permit with a blank NFIP elevation certificate during the bureau of license and permit services' floodplain development permit review process. The applicant shall have a professional engineer, professional architect or professional surveyor complete the NFIP elevation certificate, showing the as-built flood protection grade and lowest adjacent grade to the structure, and other information required in the form. The applicant shall deliver a signed and completed NFIP elevation certificate to the bureau of license and permit services within ten (10) calendar days after completion of construction of the lowest floor grade, and before the division of inspections completes the final site inspection.

The bureau of license and permit services shall require that a floodproofing certificate, if required by section 735-302(2)a. be completed by a professional engineer or professional architect for each new structure, substantial addition, substantial improvement or restoration of substantial damage located in a flood control district, as required by FEMA. The bureau shall supply each applicant for a floodplain development permit with a blank floodproofing certificate during the the bureau's floodplain development permit review process. The applicant shall have a professional engineer or architect complete the floodproofing certificate showing the as-built flood protection grade as provided by the floodproofing measures constructed, and other required information on the form. The applicant shall deliver a signed and completed floodproofing certificate to the bureau within ten (10) calendar days after completion of construction of the structural floodproofing and before the bureau completes the final site inspection.

The division of inspections shall not perform the final inspection of construction involving a new building or addition to a building requiring an elevation certificate or floodproofing certificate until it has received notification that a properly completed elevation certificate or floodproofing certificate has been submitted to the bureau of license and permit services. Failure to submit a properly completed elevation certificate, or floodproofing certificate if applicable, shall result in the issuance of a stop work order on the project by the bureau, revocation of the floodplain development permit by the bureau, or both.

- (7) The bureau of license and permit services shall make all determinations and obtain all data in accordance with FEMA standards at 44 CFR 60.3. The permit applicant is responsible for supplying data to the bureau that is required by FEMA.

- (8) The Metropolitan Development Commission hereby delegates authority to the bureau of license and permit services to perform all functions relating to the review of applications for issuance of floodplain development permits, in accordance with this article.
- (9) All new construction and substantial improvements shall:
- a. Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b. Be constructed with materials resistant to flood damage;
 - c. Be constructed by methods and practices that minimize flood damages; and
 - d. Be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (10) A floodplain development permit shall not be issued for proposed activity in zone A or zone AH or zone AO until the floodway and floodway fringe district boundaries and base flood elevation are established in accordance with section 735-300(b).
- (11) The approval of a floodplain development plan by the bureau of license and permit services under this section shall be valid for a period of one (1) year from the date such approval was granted, or until the floodplain development permit for which the plan was submitted was issued, whichever occurs first. However, prior to the issuance of the permit, if there are any material changes to an approved floodplain development plan or circumstances that cause the floodplain development plan to be inaccurate or incomplete, then a new or corrected floodplain development plan shall be submitted to the department as a precondition for obtaining a floodplain development permit.
- (12)
- a. A floodplain development permit may be transferred with the approval of the bureau of license and permit services to a person, partnership or corporation that would be eligible to obtain such floodplain development permit in the first instance (hereinafter called "transferee"), after both the payment of a fee specified in the rules and procedures of the Metropolitan Development Commission and the execution and filing of a form furnished by the bureau. Such transfer form shall contain, in substance, the following certifications, release and agreement:
 1. The person who obtained the original floodplain development permit or a person who is employed by and authorized to act for the obtainer (hereinafter called "transferor") shall:
 - i. Certify under penalties for perjury that such person is familiar with construction activity accomplished pursuant to the floodplain development permit; such person is familiar with the floodplain development standards and procedures applicable to the construction activity; and to the best of such person's knowledge, information and belief the construction activity, to the extent performed, is in conformity with all floodplain development standards and procedures; and,
 - ii. Sign a statement releasing all rights and privileges secured under the floodplain development permit to the transferee.
 2. The transferee shall:

- i. Certify that the transferee is familiar with the information contained in the original floodplain development permit application, the detailed plans and specifications, the plot plan and any other documents filed in support of the application for the original floodplain development permit;
 - ii. Certify that the transferee is familiar with the present condition of the premises on which construction activity is to be accomplished pursuant to the floodplain development permit; and,
 - iii. Agree to adopt and be bound by the information contained in the original application for the floodplain development permit, the detailed plans and specifications, the plot plan and other documents supporting the original floodplain development permit application; or in the alternative, agree to be bound by such application plans and documents modified by plan amendments submitted to the bureau of license and permit services for approval.
- b. The transferee shall assume the responsibilities and obligations of and shall comply with the same procedures required of the transferor and shall be subject to any written orders issued by the bureau of license and permit services.
 - c. A permit or design approval may not be transferred from the specified location to another location.

(13) Expiration of floodplain development permits by operation of law.

- a. If construction activity, other than activity involving the removal of all or part of a structure, has not been commenced within one hundred eighty (180) days from the date of issuance of the floodplain development permit, the permit shall expire by operation of law and shall no longer be of any force or effect; provided, however, the bureau of license and permit services may, for good cause shown in writing, extend the validity of any such permit for an additional period that is reasonable under the circumstances, but in no event shall the continuance exceed a period of sixty (60) days. Such extension shall be confirmed in writing.
- b. If the construction activity has been commenced but only partially completed, and thereafter substantially no construction activity occurs on the construction site over a period of one hundred eighty (180) days, the permit shall expire by operation of law and no longer be of any force or effect; provided, however, the bureau of license and permit services may, for good cause shown in writing, extend the validity of any such permit for an additional period that is reasonable under the circumstances to allow reinitiation of construction activity.

(G.O. 130, 2000, § 2.00; G.O. 2, 2002, § 22; G.O. 96, 2009)

Sec. 735-303. FW Floodway District regulations (secondary).

The following regulations, in addition to those in section 735-302, shall apply to all land within the floodway district. These regulations shall be in addition to all other primary and secondary zoning district regulations applicable to such land, and in case of conflict, the more restrictive regulations shall apply.

The purpose of the floodway district is to guide development in areas identified as a floodway. IDNR, under the authority of the INRC, exercises primary jurisdiction in the floodway district under the authority of IC 14-28-1; however, the city may impose terms and conditions on any floodplain development permit it issues in a floodway district that are more restrictive than those imposed by IDNR regulations.

(a) Permitted uses. The following uses shall be permitted in the floodway district subject to the development standards of section 735-303(b):

- (1) Open land uses.
- (2) Land alterations and watercourse alterations.
- (3) Nonbuilding structures.
- (4) Detached residential accessory structures.
- (5) Improvements, additions, and restoration of damage to legally established nonconforming uses.

(b) Development standards.

(1) Open land use. An open land use as defined in this article shall be allowed without a floodplain development permit provided that the open land use does not constitute or involve any structure, obstruction, deposit, construction, excavation, or filling in a floodway in accordance with IDNR regulations. Otherwise, proposed open land uses shall require a floodplain development permit in accordance with this subsection.

(2) Land and watercourse alterations. Land alterations and watercourse alterations as defined in this article shall not result in any new or additional public or private expense for flood protection; shall assure that the flood carrying capacity is maintained and shall not increase flood elevations, velocities, or erosion upstream, downstream or across the stream from the proposed site; and shall not result in unreasonable degradation of water quality or the floodplain environment.

In addition, no floodplain development permit shall be issued for land alterations or watercourse alterations in a floodway unless a certificate of approval for construction in a floodway is first issued by IDNR for the proposed activity, if required pursuant to IC 14-28-1.

(3) Nonbuilding structures. Nonbuilding structures as defined in this article shall be permitted in a floodway only under the following conditions:

- a. The nonbuilding structure is designed, located, and constructed such that it is protected from potential damage resulting from flooding up to and including the base flood;
- b. The nonbuilding structure is designed to resist displacement resulting from hydrostatic, hydrodynamic, buoyant, or debris loading forces associated with flooding up to and including the base flood;
- c. The nonbuilding structure is designed to minimize potential contamination or infiltration of floodwaters or other potential environmental health or safety hazards associated with flooding up to and including the base flood;
- d. The nonbuilding structure is designed to minimize the obstruction of floodwaters by such measures as providing flow-through rather than solid fencing, reduction of structure cross-section area perpendicular to the flow path, and placement of the nonbuilding structure away from areas of greater depth or velocities;
- e. The IDNR has first issued a certificate of approval of construction in a floodway, if applicable pursuant of IC 14-28-1; and
- f. The nonbuilding structure must meet the applicable flood protection grade required by IDNR and FEMA rules.

(4) Detached residential accessory structures, the total square footage being equal to or less than four hundred (400) square feet, may be erected in a floodway with or without a flood protection grade two (2) feet above the base flood elevation only if the following conditions are met.

- a. The detached structure is constructed or placed on the same lot as an existing primary residential structure and is operated and maintained under the same ownership;
- b. The detached structure is customarily incidental, accessory and subordinate to, and commonly associated with, the operation of the primary use of the lot;
- c. The detached structure is no larger than seventy-five (75) percent of the size of the existing primary residential structure;
- d. The detached structure shall never be used in total, or in part, for habitable space;
- e. Any electrical wiring and any heating, cooling or other major appliance in the detached structure is located above the base flood elevation and the detached structure is not used for the storage of any substance or chemical that is dangerous or would become dangerous if mixed with water;
- f. The IDNR has first issued a certificate of approval of construction in a floodway; and
- g. As a condition to allowing construction of a detached residential accessory structure, the bureau of license and permit services may first require the owner to record a statement, in a form approved by the bureau, indicating that the detached residential accessory structure shall not, in the future, be used in total, or in part, as habitable space. This shall be a covenant that shall be recorded in the office of the Recorder, Marion County, Indiana, with the property deed and shall be binding on all subsequent owners.

(5) Legally established nonconforming uses in a floodway (FW) district. Nothing stated in this subsection shall prevent ordinary maintenance or repair of legally established nonconforming uses as defined in this article. The cost of ordinary maintenance and repair of building or structures is not counted toward the fifty (50) percent limit for determining substantial improvement, restoration of substantial damage or substantial addition as defined herein.

a. Restoration of damage.

1. Nonsubstantial damage: A legally established nonconforming use that has been damaged by flood, fire, explosion, act of God, or the public enemy, may be restored to its original dimension and condition provided that the damage is nonsubstantial damage as defined in this article and a certificate of approval of construction in a floodway, if required in accordance with IDNR rules, is first obtained from IDNR.
2. Substantial damage: A legally established nonconforming use that is substantially damaged as defined in this article may only be restored if the following conditions are satisfied:
 - (i) The legally established nonconforming use is not a primary residential structure;
 - (ii) If required, the applicant for the proposed restored use must first obtain a certificate of approval for construction in a floodway from IDNR;
 - (iii) A restored structure must be provided with a flood protection grade at or above the base flood elevation;

- (iv) The design of the foundation of a restored structure must be certified by a professional engineer or professional architect registered in the state of Indiana as being adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood, and constructed with a material that will maintain its structural integrity during and after exposure to floodwaters;
- (v) If the damage to a structure is such that the structure including the foundation is destroyed, the structure must be rebuilt upon the same area of the original foundation and have substantially the same configuration as the destroyed structure, unless the rebuilt structure is proposed to be placed on a site less vulnerable to flood hazards as determined by the bureau of license and permit services;
- (vi) The restored or rebuilt structure does not restrict or obstruct the floodway more than the damaged structure; and
- (vii) The damage was not intentionally caused by the owner or occupant;
- (viii) The restoration of the structure is begun within one (1) year and completed within two (2) years following the date that the damage occurred.

b. Improvements.

- 1. Nonsubstantial improvements: A legally established nonconforming use in a floodway (FW) district may undergo a one-time only nonsubstantial improvement. Subsequent improvements shall be subject to the requirements and limitations of this article applicable to substantial improvements.
- 2. Substantial improvements: A substantial improvement to a legally established nonconforming use in a floodway (FW) district is prohibited.

c. Additions.

- 1. Nonsubstantial additions: A legally established nonconforming use in a floodway (FW) district may undergo a one-time only nonsubstantial addition provided that:
 - (i) The applicant has provided development plans and any other supporting data, as required by the bureau of license and permit services, certifying that the proposed addition will not cause any increase in the base flood elevation; and
 - (ii) A covenant indicating that "a one-time non-substantial addition to the structure has taken place and that no further additions will be allowed" shall be recorded in the office of the recorder, Marion County, Indiana, with the property deed and shall be binding on all subsequent owners.Subsequent additions shall be subject to the requirements and limitations of this article applicable to substantial additions.
- 2. Substantial addition: A substantial addition to a legally established nonconforming use in a floodway (FW) district is prohibited.

(6) Prohibition of garbage, trash, junk in floodway (FW) district. No use shall involve the storage, accumulation, spreading, dismantling or processing of garbage, trash, junk, or any other similar discarded or waster material.

(G.O. 130, 2000, § 2.01; G.O. 2, 2002, § 22; G.O. 96, 2009)

Sec. 735-304. Floodway Fringe (FF) District regulations (secondary).

The following regulations, in addition to those in section 735-302, shall apply to all land within the floodway fringe district. These regulations shall be in addition to all other primary and secondary zoning district regulations applicable to such land, and in case of conflict, the more restrictive regulations shall apply.

The purpose of the floodway fringe district is to guide development in areas subject to potential flood damage, but outside a floodway district.

(a) Permitted uses. All uses permitted in the applicable primary zoning district shall be permitted in the floodway fringe district, subject to the requirements of this section.

(b) Development standards.

(1) General. Except as provided in this subsection and subsections (2), (3), (5), (6) and (8) below, no building shall be erected, reconstructed, expanded, structurally altered, converted, used, relocated, restored, or improved unless it is provided with a flood protection grade of at least two (2) feet above the base flood elevation. This flood protection grade may be achieved for nonresidential structures by structural floodproofing. The design and construction shall be certified on a floodproofing certificate by a professional engineer or professional architect registered in the state of Indiana as being adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.

For floodplain development at sites that are elevated with fill, lowest floor levels, including basement floors, shall be provided with a flood protection grade of at least two (2) feet above the base flood elevation. Non-living spaces, such as crawl spaces that are below grade on all sides, shall be provided with a lowest floor level at least equal to the base flood elevation. The flood protection grade as well as all other requirements of this article shall not be applicable to property that has been removed from a flood control district through the issuance of a final LOMR or LOMA by FEMA.

Floodway fringe fill on which a building is to be placed shall be compacted to ninety-five (95) percent of maximum density using the Standard Proctor Test method. The surface of the fill shall extend at least ten (10) feet horizontally from the perimeter of the building before sloping below the base flood elevation. This is a minimum distance that may need to be increased by the designer based on-site conditions. Fill slopes shall be adequately protected from erosion using a method approved by the bureau of license and permit services of the department of code enforcement.

(2) Open land use. Any open land use as defined in this article shall be allowed in a floodway fringe district without a floodplain development permit.

(3) Land and watercourse alterations. Land alterations and watercourse alterations in a floodway fringe district shall not result in any new or additional public or private expense for flood protection; shall not increase flood elevations or reduce flood carrying capacity; shall not increase velocities or erosion upstream, downstream, or across the stream from the proposed site; and shall not result in unreasonable degradation of water quality or the floodplain environment.

(4) Nonbuilding structures. Nonbuilding structures as defined in this article shall be allowed in a floodway fringe district only if constructed in a manner that will not impede the flow of floodwater and debris carried by floodwater, and the following conditions are met:

- a. The nonbuilding structure is designed, located and constructed such that it is protected from potential damage resulting from flooding up to and including the base flood;

- b. The nonbuilding structure is designed to resist displacement resulting from hydrostatic, hydrodynamic, buoyant, or debris loading forces associated with flooding up to and including the base flood;
- c. The nonbuilding structure is designed to minimize potential contamination or infiltration of floodwaters or other potential environmental or safety hazards associated with flooding up to and including the base flood;
- d. The nonbuilding structure is designed to minimize the obstruction of floodwaters by such measures as providing flow-through rather than solid fencing, reduction of structure cross-section perpendicular to the flow path, and placement of the nonbuilding structure away from areas of greater depth or velocities.
- e. The nonbuilding structure must meet the applicable flood protection grade required by IDNR and FEMA rules.

(5) Detached residential accessory structures. Detached residential accessory structures larger than four hundred (400) square feet in a floodway fringe district must be provided with a flood protection grade of at least two (2) feet above the base flood elevation. Detached residential accessory structures, the total square footage being equal to or smaller than four hundred (400) square feet may be erected in a floodway fringe district above or below the flood protection grade only if the following conditions are met:

- a. The detached structure is constructed or placed on the same lot as an existing primary residential structure and is operated and maintained under the same ownership;
- b. The detached structure is customarily incidental, accessory and subordinate to, and commonly associated with, the operation of the primary use of the lot;
- c. The detached structure is no larger than seventy-five (75) percent of the size of the existing primary residential structure;
- d. The detached structure shall never be used in total, or in part, for habitable space;
- e. Any electrical wiring and any heating, cooling or other major appliance in the detached structure is located above the base flood elevation and the detached structure is not used for the storage of any substance or chemical that is dangerous or would become dangerous if mixed with water; and
- f. As a condition to allowing a detached residential accessory structure, the bureau of license and permit services may require the owner to record a statement, in a form approved by the bureau, indicating that the detached residential accessory structure shall not, in the future, be used in total, or in part, as habitable space. This shall be a covenant that shall be recorded in the Office of the Recorder, Marion County, Indiana, with the property deed and shall be binding on all subsequent owners.

(6) Attached nonhabitable residential accessory enclosures. Attached nonhabitable accessory enclosures may be constructed in a floodway fringe district as a part of one-family, two-family, or multifamily structures only under the following conditions:

- a. All parts of the building or structure other than the attached nonhabitable accessory enclosure shall be erected, constructed, reconstructed, expanded, structurally altered, converted, used or relocated in compliance with this subsection 735-304(b);
- b. The attached nonhabitable accessory enclosure is attached to or part of the primary residential structure and is operated and maintained under the same ownership;

- c. The attached nonhabitable accessory enclosure is customarily incidental, accessory and subordinate to, and commonly associated with the use of the primary residential structure;
- d. The attached nonhabitable accessory enclosure is not used in total or in part as habitable space, but is solely for parking vehicles, building access or storage of materials not covered under standard flood insurance policy;
- e. As a condition to allowing an attached nonhabitable accessory enclosure, the bureau of license and permit services shall require the owner to record a statement, in a form approved by the bureau, indicating that the attached nonhabitable accessory enclosure shall not, in the future, be used in total, or in part, as habitable space. This shall be a covenant that shall be recorded in the Office of the Recorder, Marion County, Indiana, with the deed and shall be binding on all subsequent owners;
- f. Any electrical wiring and any heating, cooling or other major appliance or equipment in the attached nonhabitable accessory enclosure is located above the base flood elevation and the attached nonhabitable accessory enclosure is not used for the storage of any substance or chemical that is dangerous or would become dangerous if mixed with water; and
- g. The exterior walls of the attached nonhabitable accessory enclosure shall be constructed with a material that will maintain its structural integrity during and after exposure to floodwaters and be designed to automatically equalize hydrostatic flood forces by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must meet the following minimum criteria:
 - 1. A minimum of two (2) wall openings having a total net area of not less than one (1) square foot for every two (2) square feet of enclosed area subject to flooding shall be provided;
 - 2. The bottoms of all openings shall be no higher than one (1) foot above the flood level of the enclosure or no greater than one (1) foot above grade, whichever is less; and
 - 3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters without reliance on human or electrical activation; and
- h. Attached nonhabitable accessory enclosures that are also legally established nonconforming uses pursuant to subsection 735-304(b)(8) shall not be subject to the requirements of subsection 735-304(b)(6).

(7) Manufactured home dwellings, mobile dwellings and recreational vehicles.

- a. Manufactured home dwellings and mobile dwellings that are placed or undergo substantial improvements or substantial additions on sites outside of a mobile dwelling project, in a new mobile dwelling project or subdivision, in an expansion to an existing mobile dwelling project or subdivision, or in an existing mobile dwelling project or subdivision on which a manufactured home dwelling or mobile dwelling has incurred substantial damage as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home dwelling or mobile dwelling is elevated with a flood protection grade at least two (2) feet above the base flood and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- b. Manufactured home dwellings and mobile dwellings that are placed or undergo substantial improvements or substantial additions on sites in an existing mobile

dwelling project or subdivision on which a manufactured home dwelling or mobile dwelling has not incurred substantial damage as the result of a flood, shall be elevated so that either the lowest floor of the manufactured home dwelling or mobile dwelling is elevated with a flood protection grade at least two (2) feet above the base flood or the manufactured home dwelling or mobile dwelling chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely anchored to a foundation system to resist flotation, collapse and lateral movement.

- c. Recreational vehicles placed on sites in the floodway fringe for one hundred eighty (180) consecutive days or more shall be subject to the requirements for manufactured home dwellings and mobile dwellings contained in this article. Recreational vehicles placed on sites in the floodway fringe shall not be subject to requirements for manufactured home dwellings and mobile dwellings contained in this article and shall not require a floodplain development permit if the recreational vehicle is either placed on the site for fewer than one hundred eighty (180) consecutive days or is fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is 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.

(8) Legally established nonconforming uses. Nothing stated in this subsection shall prevent ordinary maintenance or repair of legally established nonconforming uses as defined in this article. The cost of ordinary maintenance and repair of buildings or structures is not counted toward the fifty (50) percent limit for determining a substantial improvement, restoration of substantial damage or substantial addition as defined herein.

Improvements, additions and restoration of damage to legally established nonconforming uses authorized under this subsection shall not be subject to subsection 735-304(b)(6) of this section.

a. Restoration of damage.

1. Nonsubstantial damage: A legally established nonconforming use in a floodway fringe district damaged by flood, fire, explosion, act of God or the public enemy may be restored to its original dimensions and condition provided that the damage is a nonsubstantial damage as defined by this article.
2. Substantial damage: A legally established nonconforming use that is substantially damaged may only be restored if the restored structure is provided with a flood protection grade of at least two (2) feet above the base flood elevation.

b. Improvements.

1. Nonsubstantial improvements: A legally established nonconforming use in a floodway fringe district may undergo a one-time only nonsubstantial improvement. Subsequent improvements shall be subject to the requirements and limitations of this article applicable to substantial improvements.
2. Substantial improvements: A legally established nonconforming use may undergo a substantial addition if the addition is provided with a flood protection grade of at least two (2) feet above the base flood.

c. Additions.

1. Nonsubstantial addition: A legally established nonconforming use in a floodway fringe district may undergo a one-time only nonsubstantial addition provided that a covenant indicating that "a one-time non-substantial addition to the structure has taken place and that any subsequent improvements or additions shall be subject to the requirements and limitations of this article applicable to substantial additions" shall be recorded in the office of the recorder, Marion County, Indiana, with the property deed and shall be binding on all subsequent owners.

2. Substantial addition: A legally established nonconforming use may only undergo a substantial addition if the addition is provided with a flood protection grade of at least two (2) feet above the base flood elevation.

(9) Draining of land; altering of watercourses; construction of ponds, lakes, levee, dams. No draining or reclamation of land; altering, widening, deepening or filling of watercourses or drainage channels or ways; construction of ponds, lakes, levees, or dams; or any other changes or improvements of watercourses or drainage channels or ways shall be undertaken in the floodway fringe district unless first approved by the IDNR, if applicable, and any other local, state or federal agencies having jurisdiction over such activity.

(10) Construction of new access roads. If the proposed activity includes the construction of a new access road between proposed buildings to be located in the floodway fringe district and a public road, and the public road at the intersection with the proposed access road is at or above the base flood elevation, then the proposed access road must also be at or above the base flood elevation along the entire length between any proposed building and the public road. If there is more than one (1) access road between the public road and any proposed building, only one (1) must provide access at or above the base flood elevation.

(G.O. 130, 2000, § 2.02; G.O. 2, 2002, § 22; G.O. 96, 2009)

Sec. 735-305. Variances.

(a) The Board of Zoning Appeals may only issue a variance to the permitted uses or development standards of the floodway (FW) or floodway fringe (FF) districts if the applicant submits evidence that:

- (1) There exists a good and sufficient cause for the requested variance;
- (2) The strict application of the terms of this article will constitute an exceptional hardship to the applicant;
- (3) The grant 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 other applicable law or ordinances.

(b) The Board of Zoning Appeals may only issue a variance to the permitted uses of development standards of the floodway (FW) or floodway fringe (FF) districts subject to the following conditions:

- (1) No variance for the construction of a new residential structure in a floodway (FW) district may be granted;
- (2) Any variance granted for a use in a floodway (FW) district shall first require a permit from IDNR, if such permit is required by IDNR rules and procedures;
- (3) Variances to the flood protection grade requirements may be granted only when a new structure is to be located on a lot of one-half (1/2) acre or less in size, contiguous to and

surrounded by lots with existing structures constructed below the flood protection elevation;

- (4) Variances may be granted for the reconstruction or restoration of any structure listed on the National Register of Historic Places or the Indiana State Survey of Historic, Architectural, Archaeological and Cultural Sites, Structures, Districts and Objects, subject to the condition that such variance will not preclude the structure's continued designation as an historic structure and that the variance is the minimum necessary to preserve the historic character;
- (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 department of metropolitan development shall issue a written notice to the recipient of a variance that the proposed construction will be subject to increased risks of life and property and could require payment of increased flood insurance premiums.

(G.O. 130, 2000, § 2.03; G.O. 2, 2002, § 22; G.O. 96, 2009)

Sec. 735-306. Permit application and review procedures; recordkeeping.

- (a) The bureau of license and permit services shall review all applications for a floodplain development permit for all sites that have been identified by the bureau as lying in a flood control district. The bureau of license and permit services shall verify that the site is in a flood control district by referring to the flood insurance rate map. In cases where the floodplain status of the site cannot be fully determined through the use of these maps, the bureau shall use the best available data to determine the floodplain status of the site, in accordance with section 735-300 of this article.
- (b) If the permit application is for a site located in an identified floodway (FW) district, then the bureau of license and permit services shall direct the applicant to apply to IDNR for a state permit for construction in a floodway. A floodplain development permit shall not be issued for the proposed activity until the IDNR has issued a certificate of approval of construction in a floodway or a letter stating that IDNR approval is not required, and the bureau determines that the application complies with all other applicable requirements of this article.
- (c) If the permit application is for a site located in a floodway fringe (FF) district, then the bureau of license and permit services may approve the application upon compliance with the applicable requirements of this article.
- (d) In both floodway (FW) and floodway fringe (FF) districts, the bureau of license and permit services will require such modifications to the design and materials of the proposed activity as the bureau may deem appropriate under this article.
- (e) In reviewing applications for floodplain development permits for compliance with the requirements of this article, the bureau of license and permit services shall assure that all necessary permits related to floodplain management objectives from state, federal, and local agencies have been obtained.
- (f) Records of floodplain development permits.
 - (1) The bureau of license and permit services will maintain a file of all floodplain development permits issued in a flood control district.
 - (2) The bureau of license and permit services will make these floodplain development permits available to representatives of FEMA, IDNR and other interested parties.

(g) NFIP elevation certificates.

- (1) The bureau of license and permit services will file the NFIP elevation certificate, and the floodproofing certificate if applicable, for each building and structure in a flood control district with the floodplain development permit.
- (2) The bureau of license and permit services will make available to insurance agents and lenders, upon request, copies of the NFIP elevation certificate and the floodproofing certificate to assist in the actuarial rating of the structure for flood insurance purposes.

(h) The applicant shall notify an adjacent community and IDNR prior to any alteration or relocation of a watercourse in a riverine situation and submit copies of such notification to the bureau of license and permit services and FEMA.

(G.O. 130, 2000, § 2.04; G.O. 2, 2002, § 22; G.O. 96, 2009)

Sec. 735-307. National flood insurance program regulation.

The bureau of license and permit services, during the review of floodplain development permit applications located in identified flood control districts, shall ensure that all national flood insurance program regulations (codified at 44 CFR, Part 60.3) pertaining to state and federal permits, subdivision review, building permit review, floodproofing nonresidential structures, mobile home tie-down standards, utility construction, recordkeeping (including lowest floor elevations), and watercourse alteration and maintenance have been met.

(G.O. 130, 2000, § 3.00; G.O. 2, 2002, § 22; G.O. 96, 2009)

Sec. 735-308. Severability.

If any section, subsection, paragraph, subparagraph, clause, phrase, word, provision or portion of this article shall be held to be unconstitutional or invalid by any court of competent jurisdiction, such holding or decision shall not affect or impair the validity of this article as a whole or any part thereof, other than the section, subsection, paragraph, subparagraph, clause, phrase, provision or portion so held to be unconstitutional or invalid.

(G.O. 130, 2000, § 4.00; G.O. 2, 2002, § 22)

Sec. 735-309. Violations.

- (a) Construction or development authorized by the floodplain development permit shall proceed according to the requirements of this article, the development plan and supporting documents filed with said permit application, and the conditions of an applicable variance grant to the requirements of this article. If the bureau of license and permit services determines that construction or development is proceeding or has proceeded in violation of this article, the development plan or supporting documents, or variance grant, or that the permit was issued in violation of an ordinance or the conditions of such variance grant, the bureau may revoke said permit. Written notice of the revocation shall be provided to the permit applicant.
- (b) A violation of this article shall be enforceable under Chapter 730, Article V of this Code.
- (c) A violation may lead to the cancellation of a standard flood insurance policy. The bureau shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by the standard flood insurance policy to be suspended.

(G.O. 130, 2000, § 5.00; G.O. 2, 2002, § 22; G.O. 96, 2009)

Sec. 735-309.5. Effective date.

This article shall be in full force and effect on January 5, 2001 after its adoption in compliance with I.C. 37-7-4.

(G.O. 130, 2000, § 6.00)

Sec. 735-310. Construction of language and definitions.

(a) Construction of language. The language of this article shall be interpreted in accordance with the following regulations:

- (1) The particular shall control the general.
- (2) In the case of any difference of meaning or implication between the text of this article and any illustration or diagram the text shall control.
- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (4) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (5) A "building" or "structure" includes any part thereof.
- (6) The phrase "used for", includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".
- (7) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either/or", the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - c. "Either ... or" indicates that all the connected items, conditions, provisions, or events shall apply singly but not in combination.

(b) Definitions. The words in the text or illustrations of this article shall be interpreted in accordance with the following definitions. The illustrations and diagrams in this section provide graphic representation of the concept of a definition; the illustration or diagram is not to be construed or interpreted as a definition itself.

As-built condition. The state of being of a structure or building immediately following its construction or placement.

Attached nonhabitable accessory enclosure. An enclosed area of a structure below the elevated first floor used solely for parking vehicles, building access or storage that satisfies all requirements for such a structure as set forth in this article.

Base flood. That flood having a peak discharge that can be expected to be equalled or exceeded on the average of once in a hundred-year period, as calculated by a method and procedure that is acceptable to and approved by the IDNR. This flood is equivalent to a flood having a probability of occurrence of one (1) percent in any given year.

Base flood elevation. The site-specific elevation of the water surface of the base flood measured in feet above mean sea level (1929 NGVD or NAVD 1988). In either case, a conversion number shall be included.

Best available data. Information including but not limited to available topographic mapping, survey data, historic flood records, engineering studies, channel ratings, and engineering judgment, used by the bureau of license and permit services to make flood control district determinations pursuant to section 735-300 of this article, when detailed floodplain data are not available for a particular site.

Building. Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, or property of any kind, having an enclosed space and a permanent roof supported by columns or walls.

Bureau of license and permit services or bureau. Bureau of license and permit services of the department of code enforcement.

Construction activity. The conduct of land alterations, watercourse alterations, erection, construction, placement, repair, alteration, conversion, maintenance, moving, or remodeling of any new or existing building or structure or any part thereof, or the construction, installation, extension, repair, alteration, conversion, removal or maintenance of building or structure equipment.

Cost. The actual value of the work to be performed based on a method approved by FEMA.

Detached residential accessory structure. A detached nonhabitable structure that is subordinate to and located no less than six (6) feet from the primary residential structure and that satisfies all local regulations regarding this classification.

Development. Any man-made change to improved or unimproved real estate including, but not limited to, buildings and other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Division of inspections. The division of inspections of the department of code enforcement.

DMD. The Department of Metropolitan Development of the City of Indianapolis.

Elevation certificate. The most recently published official elevation certificate document issued by FEMA.

Existing mobile dwelling project or subdivision. A mobile dwelling project or subdivision for which the construction of facilities for servicing the lots on which the mobile dwellings are to be affixed (including, at a minimum, the installation of utilities, construction of streets and either final site grading or pouring of concrete pads) is completed before the effective date of this article.

Expansion to an existing mobile dwelling project or subdivision. The preparation of additional sites for an existing mobile dwelling project or subdivision by the construction of facilities for servicing the lots on which the mobile dwellings are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FDP. Floodplain development permit.

FEMA. Federal Emergency Management Agency.

Fifty (50) percent limit. The maximum amount of work allowed in or on a legally established nonconforming use before the work is not eligible for the special allowances provided for restoration of nonsubstantial damage, nonsubstantial improvements and nonsubstantial additions as provided herein. The proposed work shown on an application for a floodplain development permit in or on a legally established nonconforming use shall be evaluated to determine whether the fifty (50) percent limit has been exceeded by taking the ratio of the projected cost of the work divided by the market value before the start of construction of the legally established nonconforming use (excluding the value of the land or detached structures) as a percentage.

Fill. Soil material placed upon the ground, compacted and graded for the purpose of elevating the surface of the ground.

Flood or flooding.

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of rivers, streams, ditches or enclosed drainage systems;
 - b. The unusual and rapid accumulation or runoff of surface waters from any source;
 - c. Mudslides (i.e., mudflows) that are proximately caused by flooding as defined in paragraph (1)b. of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event that results in flooding as defined in paragraph (1)a. of this definition.

Flood insurance study base flood profile. The base flood elevation profile included in the January 5, 2001 flood insurance study published by FEMA.

Floodplain. The area adjoining the river or stream that has been or may hereafter be covered by floodwaters.

Floodproofed building. A nonresidential building designed to exclude floodwaters from the interior of that building. All such floodproofing shall be adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.

Floodproofing certificate. The most recently published official document for floodproofing certificate for nonresidential structures issued by FEMA.

Flood protection grade. The elevation of the lowest point in a building at which floodwaters may enter the interior of the building. Such lowest point is defined by the following:

- (1) The lowest floor of the building (if a basement is included, the basement floor is the lowest floor);
- (2) The garage floor, if the garage is the lowest level of the building (except garages that qualify as an allowed nonhabitable attached accessory enclosure);
- (3) The first floor of buildings elevated on pilings or constructed on an above-ground crawl space;
- (4) The floor level of any enclosure below the elevated first floor, including a crawl space that is below the adjoining ground level at all sides unless the enclosure satisfies the requirements for a nonhabitable attached accessory enclosure;
- (5) The level of protection provided to a nonresidential building below which the building is designed to be floodproofed. The design and construction shall be certified on a floodproofing certificate by a professional engineer or a professional architect as being adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.

Floodwater. The water of any lake or watercourse that is above the banks and/or outside the channel and banks of such watercourse.

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

Floodway fringe. The portion of the regulatory floodplain that is not required to convey the one hundred-year frequency flood peak discharge and therefore lies outside of the floodway.

Habitable space. The enclosed area of any building used for living area including but not limited to bedrooms, bathrooms, kitchens, living rooms, family rooms, dining rooms, recreation rooms, utility rooms and workshops.

Historic structure. Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;
- (2) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in accordance with state historic preservation programs that have been approved by the secretary of interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the secretary of the interior; or
 - b. Directly by the secretary of the interior.

IDNR. The Indiana Department of Natural Resources.

INRC. The Indiana Natural Resources Commission.

Land alteration. Any change in the topography of land caused by activities including but not limited to excavation, filling, deposit or stockpiling of materials and construction of ponds, dams, or levees outside of a watercourse. For purposes of this article, land alterations do not include the construction, placement of, or other activities involving buildings or nonbuilding structures, or those activities that are defined as open land use in this article, or ordinary maintenance and repair of an IDNR approved land alteration.

Legally established nonconforming use. Any continuous, lawful land use having commenced prior to the time of adoption, revision or amendment of this article, but that fails, by reason of such adoption, revision, amendment or variance, to conform to the present requirements of the flood control zoning district.

LOMA. Letter of map amendment issued by FEMA.

LOMR. Letter of map revision issued by FEMA.

Manufactured home dwelling. A unit that is fabricated in one (1) or more modules at a location other than the home site, by assembly line type production techniques or by other construction methods unique to an off-site manufacturing process. Every module shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards. The unit must have been built after January 1, 1981, have at least nine hundred fifty (950) square feet of main floor area (exclusive of garages, carports, and open porches), and exceed twenty-three (23) feet in width.

Market value of structure. The market value of the structure itself, not including the associated land, landscaping or detached accessory structures. The market value must be determined by a method approved by FEMA and the bureau of license and permit services. If an appraisal is used, the appraiser must have at least one (1) of the following designations:

- (1) Member of the American Institute of Real Estate Appraisers (MAI);
- (2) Residential member of the American Institute of Real Estate Appraisers (RM);

- (3) Senior real estate analyst of the Society of Real Estate Appraisers (SREA);
- (4) Senior residential appraiser of the Society of Real Estate Appraisers (SREA);
- (5) Senior real property appraiser of the Society of Real Estate Appraisers (SRPA);
- (6) Senior member of the American Society of Appraisers (ASA);
- (7) Accredited rural appraiser of the American Society of Farm Managers and Rural Appraisers (ARA); or
- (8) Accredited appraiser of the Manufactured Housing Appraiser Society.

Mobile dwelling. A movable or portable unit fabricated in one (1) or more modules at a location other than the home site, by assembly line type production techniques or by other construction methods unique to an off-site manufacturing process. The unit is designed for occupancy by one (1) family, and erected or located as specified by section 536-831 et seq. of this Code, and that was either:

- (1) Constructed prior to June 15, 1976, and bears a seal attached under Indiana Public Law 135, 1971, certifying that it was built in compliance with the standards established by the Indiana Administrative Building Council; or
- (2) Constructed subsequent to or on June 15, 1976, and bears a seal certifying that it was built in compliance with the Federal Mobile Home Construction and Safety Standards Law.

Mobile dwelling project or subdivision. An area of contiguous land separated only by a street(s) upon which three (3) or more mobile dwellings are designated spaces or lots for the purpose of being occupied as primary residences and includes all real and personal property used in the operation of such mobile dwelling project; or an area of contiguous land separated only by a street that is subdivided and contains individual lots that are sold or intended to be sold, leased or similarly contracted for the purpose of being occupied as a primary residence, is a mobile dwelling project if three (3) or more lots or sites are designated specifically to accommodate mobile dwellings.

New mobile dwelling project or subdivision. A mobile dwelling project or subdivision for which the construction of facilities for servicing the lots on which the mobile dwellings are to be affixed (including 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 article.

NFIP. National flood insurance program.

Nonbuilding structure. Structures other than buildings including but not limited to public utilities, on-site wastewater disposal systems, water supply systems, sanitary sewers, on-site wastewater treatment systems, lift stations, transmission towers, well pumps, electrical units, bridges, culverts, and any other structures determined by the bureau of license and permit services to constitute a potential hazard to life, health, safety or property caused by exposure to floodwaters during the base flood.

Nonsubstantial addition. A structural enlargement of a structure, the cost of which is less than fifty (50) percent of the market value of the structure before the start of construction.

Nonsubstantial damage. Damage of any origin sustained by a structure and not intentionally caused or inflicted by the owner or occupant whereby the cost of restoring the structure to its predamaged condition would be less than fifty (50) percent of the market value of the structure before the damage occurred.

Nonsubstantial improvement. Any structural improvement of a structure that does not consist of a structural enlargement or repair of damage, the cost of which is less than fifty (50) percent of the market value of the structure before the start of construction of the improvement. This term does not include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions;
- (2) Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure"; or
- (3) Ordinary maintenance and repair as defined herein.

Open land use. The production of crops, pasture, forests, parks, and recreational uses that do not involve any structure, obstruction, construction, excavation or deposit in a floodway as defined by IDNR, or any land alteration or watercourse alteration as otherwise defined in this article. The following specific activities are classified as open land use:

- (1) Excavation of cemetery grave;
- (2) Exploratory excavations or soil testing under the direction and control of professional engineers, soil engineers, geologists, civil engineers, architects or land surveyors, which are backfilled;
- (3) Ordinary cultivation of agricultural land including tilling, construction of minor open ditches, and crop irrigation; and
- (4) The planting and tilling of gardens, flower beds, shrubs, trees and other common uses and minor landscaping of land appurtenant to residences.

Ordinary maintenance and repair. Construction activity commonly accomplished in or on an existing structure or existing building equipment for the purposes of preventing deterioration or performance deficiencies, maintaining appearance, or securing the original level of performance. Preventing deterioration or deficient performance shall include such activities as caulking windows, painting, pointing brick, oiling machinery and replacing filters. Maintaining appearance shall include such activities as sandblasting masonry and cleaning equipment. Securing the original level of performance shall include such activities as replacing broken glass, patching a roof, disassembling and reassembling a piece of building equipment, welding a broken part and replacing a component of a heating system (but not a furnace) with an identical component. Ordinary maintenance and repair shall not include any construction activity that alters the prior or initial capacity, performance, specifications, type or required energy of functional features of an existing structure or building equipment.

Primary residential structure. The residential building in which the permitted primary use of the lot is conducted.

Professional architect. An architect registered under IC 25-4-1.

Professional engineer. An engineer registered under IC 25-31-1.

Professional surveyor. A surveyor registered under IC 31-1-1.

Recreational vehicle. A self-propelled or towed vehicle designed and intended specifically for temporary living, travel, and leisure activities, including but not limited to boats, motor homes, travel trailers, and camping trailers.

Regulatory flood profile. A longitudinal profile along the thread of a stream showing the maximum water surface elevation attained by the base flood.

Residential building. Any building that possesses the architectural features, traits and qualities indicating or constituting those distinguishing attributes of a residence, such as height, bulk, materials, detailing and similar features.

Shaded zone X. Areas between limits of the one hundred-year flood and five hundred-year flood; certain areas subject to one hundred-year flooding with average depths less than one (1) foot or with

drainage areas generally less than one (1) square mile; and areas protected by levees from the base flood.

Standard flood insurance policy. The flood insurance policy issued by the federal insurance Administrator, or an insurer pursuant to an arrangement with the Administrator pursuant to federal statutes and regulations.

Standard proctor. The maximum dry density of a backfill material as determined by the methods set forth within ASTM D 698. The percent standard proctor density is a ratio of the in-place dry density of a backfill material, determined by those methods set forth within ASTM D 1556, to the maximum dry density (determined by Test Method 698). The resulting quotient must be multiplied by one hundred (100), and the value obtained must meet or exceed the minimum values specified herein.

Start of construction. The date that a floodplain development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date.

Structure. Anything that can be constructed, altered, repaired or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, detached garages, gas or liquid storage tanks, cabins, manufactured homes, travel trailers to be placed on a site for more than one hundred eighty (180) consecutive days, and other similar items.

Substantial addition. A structural enlargement of the enclosed space of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction.

Substantial damage. Damage of any origin sustained by a structure and not intentionally caused or inflicted by the owner or occupant, whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement. Any structural improvement of a structure that does not consist of a structural enlargement or repair of damage, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. The term does not include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions;
- (2) Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure"; or
- (3) Ordinary maintenance and repair as defined herein.

Variance. A grant of relief from the terms of this article.

Violation. The failure of a structure or development or use to be fully compliant with this article. A structure or use or development without the elevation certificate, other certifications, or other evidence of compliance required.

Watercourse. Natural streams, man-made ditches, lakes, reservoirs, ponds, retention or detention basins, and drainage swales. A watercourse is distinguished from overland flow, sheet flow, shallow swale flow, and storm sewer flow by the following characteristics that must be present to constitute a watercourse:

- (1) Defined and distinguishable stream banks under natural conditions; and
- (2) Regularity of flow in the channel evidenced by a distinguishable waterline vegetation limit or hydrologic characteristics.

Watercourse alteration. Any encroachment, diversion, relocation, impoundment, draining, damming, repair, construction, reconstruction, dredging, enclosing, widening, deepening, filling or other modification of a watercourse. Watercourse alteration does not include the clearing of dead or dying vegetation, debris or trash from the channel, nor does it include ordinary maintenance or repair of an IDNR approved watercourse alteration.

Zone A. Areas within the floodplain established by the flood insurance rate maps where no base flood elevation is provided.

Zone AE. Areas within the floodplain established by the flood insurance rate maps where base flood elevations are provided.

Zone AO. Areas within the floodplain established by the flood insurance rate maps that are subject to sheet flow, ponding, or shallow flooding and where base flood depths (feet above grade) are provided.

Zone AH. Areas within the floodplain established by the flood insurance rate maps that are subject to shallow flooding and where base flood elevations are provided.

(G.O. 130, 2000, § 7.00; G.O. 2, 2002, § 22; G.O. 96, 2009)

Chapter 735 ZONING -- OTHER DISTRICTS *

ARTICLE IV. GRAVEL-SAND-BORROW *

** Editor's note: This article consists of the gravel, sand, borrow districts ordinance, adopted Feb. 8, 1966. Future amendments will be indicated by parenthetical history notes following the amended sections.*

Sec. 735-400. Establishment of official zoning map; establishment of gravel-sand-borrow districts.

- (a) **Purpose.** It is the purpose of this article to establish reasonable and uniform limitations, safeguards and controls in Marion County, Indiana, for the further production of sand, gravel, borrow, and other mineral or earthen materials. Restrictive limitations, safeguards and controls are deemed necessary in the public interest to effect practices which will provide for a more economic production of sand, gravel, borrow, and other mineral or earthen materials, and which will also take into consideration the surface use of the land as such uses are indicated by the value and character of the existing improvements in the districts where such production is hereinafter permitted, the desirability of the area for residential or other uses, or any other factor directly relating to the public health, comfort, safety and general welfare in gravel-sand-borrow districts.
- (b) **Establishment of the official zoning map.**
- (1) The county is divided into zoning districts, as shown on the official zoning map, which together with all explanatory matter thereon, is adopted by reference and declared to be a part of all zoning ordinances for Marion County, Indiana.
 - (2) The official zoning map shall be maintained in electronic form, and depicted in various formats and scales as appropriate to the need. The director of the department of metropolitan development shall be the custodian of the official zoning map.
 - (3) When changes are made in zoning district boundaries, such changes shall be made on the official zoning map promptly after the amendment has been adopted in accordance with IC 36-7-4-600 Series.
 - (4) No changes shall be made to the official zoning map except in conformity with the requirements and procedures set forth in the zoning ordinance and state law.
- (c) **Establishment of gravel-sand-borrow districts.** Certain lands, as shown on the official zoning map, containing deposits of gravel, sand, borrow, and other mineral or earthen materials, shall be given a secondary zoning classification of "gravel-sand-borrow district" and be designated "GSB Gravel-Sand-Borrow District" on the legend of the official zoning map. In a gravel-sand-borrow district designated GSB, no structure or land shall be used and no building, structure, sand, gravel or borrow plant, or sand, gravel or borrow equipment shall hereafter be located, unless otherwise provided herein except for one (1) or more of the following uses:
- (1) Any use permitted in the primary zoning district in which such gravel-sand-borrow district is situated.
 - (2) Mining, quarrying, excavating of sand, gravel, borrow, or other mineral or earthen materials.
 - (3) Location, for a period not to exceed five (5) years, of temporary processing plants for the processing and stockpiling of sand, gravel, borrow, or other mineral or earthen materials, mined on the premises.

Provided, however, that permanent plants for the processing and stockpiling of gravel, sand, borrow, and other mineral or earthen materials, mined on the premises or elsewhere, shall not be permitted in any gravel-sand-borrow district except one (1) which

has a Special Use District (23) primary zoning classification. It is further provided that changes in the primary zoning classification of areas comprising, in whole or in part, a gravel-sand-borrow district shall not affect such gravel-sand-borrow district as herein established. It is further provided that gravel-sand-borrow districts as herein established shall be enlarged or diminished only by ordinance.

- (d) **Borrow excavation pursuant to state highway department contract.** Provided, however, that nothing in this article shall prevent the excavating of borrow or other earthen materials in any zoning district of Marion County pursuant to a contract therefor with the Indiana State Highway Department, as a part of a state or federal highway project, provided the following requirements have been met prior to the beginning of such excavation:
- (1) A bond for such excavation shall have been filed with the Indiana State Highway Department in accordance with all such department's applicable requirements, specifications and performance standards of excavation, operation and restoration.
 - (2) A copy of such bond shall be filed with the Department of Metropolitan Development, together with a site plan, area map, and legal description of the land to be included in such borrow excavation.
 - (3) A permit for such borrow excavation shall be obtained from the Department of Metropolitan Development. Such permit shall be issued upon the filing of the bond, site plan, area map, and legal description.

(G.O. 31, 2001, § 8)

Sec. 735-401. Requirements and regulations.

- (a) **No gravel, sand, borrow, or other mineral or earthen materials shall hereafter be mined in any part of Marion County, to which this article applies, unless a permit for such work has been issued by the Metropolitan Planning Department.**
- (b) **Applications for the permits mentioned in subparagraph (a) of this section shall be made in writing and shall be accompanied by a corporate surety bond for the faithful performance of all of the applicable requirements set out in this section.** Such bond shall be in the amount of five hundred dollars (\$500.00) per acre, with a minimum of one thousand dollars (\$1,000.00) per operation and shall be with surety approved by the Metropolitan Plan Commission. Such bond shall specify the time for the completion of all of the applicable requirements of this section. Such permit shall be renewed for like periods provided an application accompanied by bond is filed within six (6) months before the expiration date, with the Metropolitan Planning Department as provided herein in case of original application, provided the applicant is carrying out the requirements of his permit in good faith and there exists no judicial determination at such time to the contrary.
- (c) All equipment used for the production of sand, gravel, borrow, and other mineral or earthen materials shall be constructed, maintained and operated in such a manner as to eliminate, as far as practicable, noises, vibration or dust which are injurious or annoying to persons living in the vicinity.
- (d) No production of sand, gravel, borrow, or other mineral or earthen materials shall be permitted nearer than fifty (50) feet to the boundary of a district designated gravel-sand-borrow district, nor shall such production be permitted nearer than fifty (50) feet to the boundary of an adjoining property within any such gravel-sand-borrow district unless the written consent of the owner in fee of such adjoining property is first secured.
- (e) No excavation shall be made closer than one hundred fifty (150) feet from the right-of-way line of any existing or platted street, road or highway, excepting mining of sand, gravel, borrow, and

other mineral or earthen materials may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing elevation of the adjoining and existing or platted street, road or highway.

- (f) All excavation must either be made to a water-producing depth, such depth to be not less than five (5) feet measured from the low water mark, or graded or back-filled with nonnoxious, nonflammable and noncombustible solids to assure the following:
 - (1) That the excavated areas will not collect and permit to remain therein stagnant water.
 - (2) That the surface of such area shall be graded or back-filled as necessary so as to reduce the peaks and depressions thereof to a surface which results in a gently rolling topography, and minimizes erosion due to rainfall, and which will be in substantial conformity to the land area immediately surrounding.
 - (3) To plant trees, shrubs, legumes or grasses upon the parts of such area where revegetation is possible.
- (g) The banks of all excavations not back-filled as provided in subsection (f) above shall be sloped to the water line at a slope which shall not be less than one and one-half (1 1/2) feet horizontal to one (1) foot vertical, and such bank shall be sodded or surfaced with a maximum of six (6) inches of suitable soil, and the same shall be seeded with grass seed.
- (h) Whenever the permit referred to in subsection (a) above shall have expired or whenever any gravel, sand, borrow, or other mineral or earthen materials pits or excavation shall have been abandoned for any period exceeding twelve (12) consecutive months, then all plants, buildings, structures (except fences), stockpiles and equipment shall be entirely removed from such property.

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Chapter 735 ZONING -- OTHER DISTRICTS *

ARTICLE V. HISTORIC PRESERVATION *

** Editor's note: This article consists of the historic preservation districts ordinance, adopted Dec. 3, 1968. Future amendments will be indicated by parenthetical history notes following the section amended.*

Sec. 735-500. Establishment of official zoning map; establishment of historic preservation districts.

(a) Establishment of the official zoning map.

- (1) The county is divided into zoning districts, as shown on the official zoning map, which together with all explanatory matter thereon, is adopted by reference and declared to be a part of all zoning ordinances for Marion County, Indiana.
- (2) The official zoning map shall be maintained in electronic form, and depicted in various formats and scales as appropriate to the need. The Director of the Department of Metropolitan Development shall be the custodian of the official zoning map.
- (3) When changes are made in zoning district boundaries, such changes shall be made on the official zoning map promptly after the amendment has been adopted in accordance with IC 36-7-4-600 Series.
- (4) No changes shall be made to the official zoning map except in conformity with the requirements and procedures set forth in the zoning ordinance and state law.

(b) Establishment of historic preservation districts. The following primary and secondary historic preservation districts for Marion County, Indiana, are hereby established, and land within the county is hereby classified, divided and zoned into such districts as designated on the official zoning map:

Symbol	Historic Preservation Districts
HP-I	Historic Preservation District One - Primary
HP-S	Historic Preservation District - Secondary

(G.O. 31, 2001, § 9)

Sec. 735-501. Historic preservation district regulations.

The following regulations shall apply to all land within the historic preservation districts:

(a) After the effective date of this article:

- (1) With the exception of legally established nonconforming uses, no land, building, structure, premises or part thereof shall be used or occupied except in conformity with these regulations and for uses permitted by this article.
- (2) No building, structure, premises or part thereof shall be constructed, erected, converted, enlarged, extended, reconstructed or relocated except in conformity with these regulations and for uses permitted by this article. Provided, however, legally established nonconforming uses may be reconstructed or structurally altered if such reconstruction or alteration does not exceed in aggregate cost fifty (50) percent of the market value thereof.

(b) Historic preservation district performance standards. All uses established or placed into operation after the effective date of this article shall comply with the following performance standards. No use in existence on the effective date of this article shall be so altered or modified as to conflict with these standards.

- (1) Vibration. No use shall cause earth vibrations or concussions detectable beyond the lot lines without the aid of instruments.
- (2) Smoke. No use shall emit smoke of a density equal to or greater than No. 2 according to the Ringelmann Scale, as now published and used by the U.S. Bureau of Mines, which scale is on file in the office of the Metropolitan Planning Department of Marion County, Indiana, and is hereby incorporated by reference and made a part hereof.
- (3) Dust. No use shall cause dust, dirt, or flyash of any kind to escape beyond the lot lines in a manner detrimental to or endangering the public health, safety or welfare or causing injury to property.
- (4) Noxious matter. No use shall discharge across the lot lines noxious, toxic or corrosive matter, fumes or gases in such concentration as to be detrimental to or endanger the public health, safety or welfare or cause injury to property.
- (5) Odor. No use shall emit across the lot lines odor in such quantities as to be readily detectable at any point along the lot lines and as to be detrimental to or endanger the public health, safety or welfare or cause injury to property.
- (6) Sound. No use shall produce sound in such a manner as to endanger the public health, safety or welfare or cause injury to property. Sound shall be muffled so as not to become detrimental due to intermittence, beat frequency, shrillness or vibration.
- (7) Heat and glare. No use shall produce heat or glare creating a hazard perceptible from any point beyond the lot lines.
- (8) Waste matter. No use shall accumulate within the lot or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of the applicable standards and regulations of the Division of Public Health of the Health and Hospital Corporation of Marion County, Indiana, the Indiana State Board of Health and the Stream Pollution Control Board of the State of Indiana, or in such a manner as to endanger the public health, safety or welfare or cause injury to property.

Sec. 735-502. HP-I Historic Preservation District One - Primary.

Note: The HP-I Historic Preservation District One - Primary is designated to permit the preservation, reconstruction, restoration or development of an historic area or site designated by the comprehensive plan as an historic preservation project area. In order to preserve an historic area, restore structures of historic, architectural or other planning significance, or recreate a neighborhood or site, including the environment and atmosphere of a past day, with appropriate contemporary land uses, the zoning district regulations must differ from those of other zoning districts in such aspects as character of land uses permitted, building setbacks, lot size, off-street parking, street standards, construction materials, architectural controls, etc. Because of the individuality inherent in any specific historic preservation project, architectural and site development standards appropriate for each historic area designated by the comprehensive plan shall be included in the zoning controls.

(a) Permitted HP-I District uses. The following uses shall be permitted in the HP-I District. All uses in the HP-I District shall conform to the regulations of section 735-201 and the HP-I District development standards (subsection (b) hereof).

- (1) Historic structure, occupied, unoccupied and/or open to the public; historic use.
- (2) Single- or multifamily dwelling; apartment hotel; hotel.
- (3) Public and semi-public structures and facilities, including but not limited to, police or fire station, rail station, school, museum, church, civic or community center, auditorium or assembly hall, theatre, bandstand.

- (4) Parks, playgrounds, malls, plazas, pedestrian areas, scenic areas, greenways, bridle paths, hiking and bicycle trails, and other open space uses.
- (5) Business and professional offices; retail sales and services; other commercial establishments.
- (6) Shops of tradesmen and craftsmen; arts or crafts studios, galleries, exhibition halls; outdoor uses, such as sidewalk safes, outdoor performing arts or exhibition areas, sculpture courts, gardens.
- (7) Other uses similar and comparable in character to the above specified uses.
- (8) Primary or accessory off-street parking lots or structures for historic preservation project occupants, employees and visitors; trolley terminal; stable, blacksmith shop.
- (9) Historic preservation project management or information office.
- (10) Accessory utility or maintenance structures and facilities.
- (11) Temporary structures incidental to preservation, reconstruction, restoration or development.

(b) HP-I District development standards.

- (1) Conformance with historic preservation area plan. All uses permitted in the HP-I District shall be in conformance with the applicable historic preservation area plan officially adopted as a part of the Metropolitan Plan Commission's Comprehensive Plan for Marion County, Indiana.
- (2) Conformance with architectural and site development standards. All uses permitted in the HP-I District shall comply with the following applicable architectural and site development standards (as specified in subsection (c) below for each historic preservation area designated by the Metropolitan Plan Commission's Comprehensive Plan for Marion County, Indiana), setting forth, identifying and prescribing requirements for:
 - a. The general character of the historic preservation area, site development and land uses therein.
 - b. Types of buildings and structures.
 - c. Architectural style of buildings and structures.
 - d. Materials used in construction of buildings and structures.
 - e. Sizes of lots, location of buildings and structures on lots.
 - f. Location, design and materials used in construction of walls, fences, walks and other appurtenant features.
 - g. Location, character, design and orientation of parks, playgrounds, off-street parking areas or structures, off-street loading areas and other similar uses, vehicular access.
 - h. Location, character, design and orientation of identification, business and advertising signs; and materials of which such signs shall be constructed.

(c) Architectural and site development standards for Historic Preservation Area Plan I - Lockerbie Square. Purpose. The recreation of a neighborhood of a long-past period of Indianapolis' development, portraying realistically a way of life of the period 1870 to 1910, calls for meticulous care in the preservation, restoration, reconstruction and reproduction of every structure and feature to be included. Brick streets and sidewalks, limestone curbs, cobblestone alleys, gas street lights, and authentic fire hydrants, street name signs, park benches, etc., will be characteristic of the period to be recreated - with attention to developmental and operations details, such as characteristic landscaping, wrought-iron and board fences, backyard clotheslines. Occupancy of residential buildings, operating

business establishments, and public and semi-public facilities open to community use will provide a living museum of early Indianapolis life.

Lockerbie Square will differ from an actual neighborhood of the 1880's only in its scale in order to include in the historic area the maximum variety of business shops, public and semi-public buildings, and other functions that once served its residents. One (1) of the outstanding features of the neighborhood, as it originally existed, is the diversity of residential structures, not only architecturally, but in scale.

The architectural, site and project standards set forth herein are intended to assure the authenticity of all buildings, structures, public improvements, and appurtenances, in accordance with the Comprehensive Plan for Marion County, Indiana, and shall apply to all land designated in the Historic Area - Plan I for Marion County, Indiana, Lockerbie Square (adopted by the Metropolitan Plan Commission's Resolution 68-CPS-R-4, September 11, 1968) and zoned to the HP-I District classification.

(1) Architectural and site development standards for Historic Preservation Area I - Lockerbie Square.

- a. Streets and alleys. Existing streets and alleys shall be restored or reconstructed in wood paver blocks, brick pavers, cobblestone, or other special material used in Indianapolis during the period 1870--1910, and in accordance with the original historic area development.
- b. Curbs. Curbs shall be restored or reconstructed with cut limestone slabs or brick in accordance with the original historic area development.
- c. Sidewalks. Existing sidewalks shall be restored or reconstructed of brick pavers, cobblestone, or other special material used in Indianapolis during the period 1870--1910. Width of walks, location adjacent to or the distance from the curb, and design of pavement materials of walks shall be in keeping with the original historic area development, except:
 1. Sidewalks related to public, semi-public, business, and other nonresidential uses not originally existing in the historic area shall be designed, dimensioned and constructed appropriately for such uses existing in the period of approximately 1870--1910.
 2. Sidewalks or walkways associated with the "Village Green," a park, playground, public garden, or other open space shall be designed, dimensioned, and constructed in character with such uses existing in Indianapolis in the period of approximately 1870--1910.
- d. Trolley tracks. Tracks for horse-drawn trolley(s) shall be located in accordance with the approved site and development plan, making use of both streets and alleys to provide an appropriate circulation system through the historic area. Additional width of existing alleys may be necessary to accommodate trolley movement safely and without interference with pedestrian traffic.
- e. Street lighting. Street lighting throughout Lockerbie Square shall be restricted to gas or gas-simulated electric fixtures and equipment. (It is recognized that location, placement and spacing of lighting fixtures cannot be wholly in keeping with the original historic area development pattern due to the need to provide adequate and appropriate lighting levels for evening visitors to the site, etc.)
- f. Street name signs. Street name signs shall be authentic reproductions of original street signs of the historic area and shall be appropriately placed within the area.

- g. Landscaping and plant materials. Landscaping of and plant materials used in street rights-of-way, public parks and other open space areas shall be characteristic of and common to the period approximately 1870--1910.
- h. Other appurtenances and fixtures. Statuary, fountains, pools, benches, walls and fences, and other similar fixtures shall be of appropriate design and materials, and in keeping in their placement and relationship to surrounding uses, with the period approximately 1870--1910.
- i. Limited automotive traffic. Beginning at an appropriate phase of development of the historic area, as determined by the Indianapolis Historic Preservation Commission, all automotive traffic shall thereafter be prohibited from the historic area, except:
1. In the general public parking area at the northeast corner of the historic area;
 2. In the off-street parking area at the northwest corner of the historic area;
 3. In the off-street parking areas designated for customers of the businesses and shops along the south boundary of the historic area;
- or as otherwise or additionally limited by the Indianapolis Historic Preservation Commission. Provided, however, access and off-street parking by residents of the historic area shall be limited to the residential properties, and residents' vehicles shall be appropriately screened from public view.
- j. Electrical and telephone service; television antennas. All electrical and telephone service to the historic area shall be underground. Television antennas shall not be permitted on any structure.
- k. Outdoor advertising signs. No "billboards" or other outdoor advertising signs or devices shall be permitted within the historic area.
- l. Architectural and site design. The design of all buildings, structures and architectural elements in the restoration, preservation, reconstruction, structural alteration, relocation, development, or redevelopment within the historic area shall conform to the best standards typifying architecture of Indianapolis during the period of approximately 1870--1910, and each structure shall represent an architectural style wholly compatible and in harmony with existing and planned uses and structures on adjacent properties.
- The design of each lot or site upon which a building or structure is restored, preserved, reconstructed, relocated or developed or constructed shall be compatible and in harmony with the design of adjacent properties.
- Site and development plans and architectural plans for all such restoration, preservation, reconstruction, structural alteration, relocation, development or redevelopment within the historic area shall be submitted to the Indianapolis Historic Preservation Commission for review. The approval thereof by the Commission shall be required prior to the issuance of a certificate of appropriateness by the Commission.
- m. Construction materials. Where not specified, finish materials used in the construction of all buildings, structures, and appurtenant fixtures or features included on the lot or site shall be those found in common use in Indianapolis during the period of approximately 1870--1910. The choice among such qualifiable materials shall not create an incongruous and incompatible association with material used in buildings or structures on adjacent properties.
- n. Residential structures.

1. Residential structures in the historic area may be single-family, two-family, or multifamily dwelling units.
2. Residential structures may be one (1) to three (3) stories in height. Provided however, not less than fifty (50) percent of the total residential structures within the historic area shall be one and one-half (1 1/2) to two and one-half (2 1/2) story single-family dwellings, constructed of brick or wood frame, having panel type doors, and double hung or casement windows.
3. Permitted outbuildings and accessory structures shall be appropriate to the lot and primary structure, and shall be of a scale, design and function in keeping with the primary use.
4. Setback: The front setback (or side or rear setback, as applicable) of structures on lots abutting streets bounding the historic area (New York Street, College Avenue, Michigan Street and East Street) shall be not less than fifteen (15) feet from the right-of-way line of such streets.

The front or corner front setback of structures on lots abutting interior streets within the historic area shall be not less than ten (10) feet from the street right-of-way line.

Side and rear yard setbacks shall be in keeping with setbacks typical of residential structures in Indianapolis in the period of approximately 1870--1910.

5. Signs: No signs shall be permitted except identification name plates when approved by Indianapolis Historic Preservation Commission as part of the site and development plan.

o. Retail sales and services, offices and other businesses.

1. Commercial uses may be in single- or multiunit structures.
2. Commercial structures shall not exceed three (3) stories in height, except:
 - (a) When combined with residential use, the height limitation shall be four (4) stories.
 - (b) If the commercial use is a hotel or in combination with a hotel, the height limitation shall be ten (10) stories.
3. Not less than fifty (50) percent of the total commercial structures within the historic area shall be one- to two-story buildings, of brick or wood frame.
4. Setback: The front setback (or side or rear setback, as applicable) of structures on lots abutting streets bounding the historic area (New York Street, College Avenue, Michigan Street and East Street) shall be not less than ten (10) feet from the right-of-way line of such street.

The front or corner front setback of structures on lots abutting interior streets within the historic area shall be not less than five (5) feet from the street right-of-way line.

Side and rear yard setbacks shall be in keeping with setbacks typical of commercial structures in Indianapolis in the period of approximately 1870--1910.

5. Signs: Business signs shall be permitted provided they are of a size, style, design, content, material and location upon the building or lot

characteristic of signs used in association with business establishments in Indianapolis during the period of approximately 1870--1910.

6. Service courts: Refuse and service equipment may be located on individual or common service courts with accessibility for proper maintenance, but shall be fully screened from public view.

p. Institutional, public, and semi-public structures.

1. Institutional, public, and semi-public structures may be of unlimited height. Provided, however, the height of any such structure shall be in harmony and proportion to surrounding existing and planned structures and uses.

2. Setback: The front setback (or side or rear setback, as applicable) of structures on lots abutting streets bounding the historic area (New York Street, College Avenue, Michigan Street and East Street) shall not be less than fifteen (15) feet from the right-of-way line of such streets.

The front or corner front setback of structures on lots abutting interior streets within the historic area shall not be less than ten (10) feet from the street right-of-way line.

Side and rear yards shall be in keeping with setbacks typical of such institutional, public, or semi-public structures in Indianapolis in the period of approximately 1870--1910.

3. Signs: Identification signs for an institutional, public, or semi-public structures shall be appropriate and in keeping with signs typically used in association with such structures during the period of approximately 1870--1910.

q. Special structures. Structures such as, but not limited to, historic project area administration building, information building or booths, village green, bandstand and parking garage shall be permitted provided such structures are:

1. Designed in an architectural style to accomplish for any specific structure the maximum compatibility with the historic area as a whole and adjacent structures and uses.

2. Constructed of materials common to the period of approximately 1870--1910, except the parking garage may be constructed of other appropriate materials.

r. Landscaping of yards. Landscaping, including appurtenant features and fixtures of all yards, shall be in a style and fashion typical of the best standards of landscape architecture in Indianapolis in the period of approximately 1870--1910. Materials used in yards shall be as follows:

1. Walls and fences shall be constructed of wood, brick, stone or wrought iron.

2. Walks, patios and similar surfaces shall be constructed of wood blocks, brick pavers, cobblestone or other appropriate natural material.

3. Trees, shrubbery and other plants used shall be those native to the Indianapolis area or imports available to the local area during the period of approximately 1870--1910.

4. Other appurtenant features and fixtures shall be of materials and design typically used in Indianapolis during the period of approximately 1870--1910.

(2) Conformance with architectural and site development standards; historic preservation area plan; site and development plan; Improvement Location Permit. All preservation, reconstruction, restoration, development, and use within the HP-1 District (including, but not limited to, the location and type of street, alleys, curbs, sidewalks and materials used in the construction thereof, the location and character of buildings, structures and uses, including the location, amount and character of public and semi-public structures and facilities, open spaces, plazas, gardens and pedestrian areas, and the location of vehicular access to and from the project area, including acceleration and deceleration lanes) shall be in accordance with all requirements of this article, including the architectural and site development standards of subsection (c) above, the applicable historic preservation area plan officially adopted as a part of the Metropolitan Plan Commission's Comprehensive Plan for Marion County, Indiana, the approved site and development plan and Improvement Location Permit issued therefor.

No building or structure shall be erected, located, relocated, structurally altered, reconstructed or restored, or use established or placed in operation without an Improvement Location Permit. Such permit shall not be issued until a site and development plan for such building, structure or use has been approved by the Indianapolis Historic Preservation Commission and a certificate of appropriateness issued therefor by such Historic Preservation Commission. Provided, however, the approval of the Historic Preservation Commission shall be subject to review by the Metropolitan Plan Commission as to its appropriateness in relation to the Comprehensive Plan of Marion County, Indiana. Applications for Improvement Location Permit shall be made upon Metropolitan Planning Department forms and shall include, in addition to copies of the site and development plan and certificate of appropriateness, all information required by applicable ordinances and specified by such form.

Sec. 735-503. HP-S Historic Preservation District - Secondary.

Note: The HP-S Historic Preservation District - Secondary is designed to assure that the area immediately peripheral to the primary historic district will not be developed in a character, style, scale, etc., that would be unharmonious or incompatible with the character or overall atmosphere of the historic area or with the character of individual structures and uses therein. The primary zoning district or districts applicable to land in the secondary district will specify the land uses permitted and regulate height, bulk, area, intensity, etc., of land uses. The secondary zoning district will provide only for an additional limited control of the design, massiveness, proportion and height of peripheral development.

(a) Permitted HP-S District uses. Uses permitted in the HP-S District shall be controlled by the regulations and requirements of the primary zoning district or districts applicable to land therein, subject to the additional regulations of subsection (b) below.

(b) HP-S district development standards.

(1) All uses established or placed into operation, or buildings or structures located, relocated, erected, structurally altered, reconstructed or restored after the effective date of this article shall comply with all regulations and requirements of the applicable primary zoning district. Provided, however, the Indianapolis Historic Preservation Commission may impose, as conditions to its issuance of a certificate of appropriateness for any use, building or structure in the HP-S District, development standards, as follows:

- a. Limitations upon the height of buildings and structures, including signs.
- b. Limitations upon the total frontage or area of the face of a building or structure.
- c. Specifications regarding architectural style and design.
- d. Specifications regarding exterior construction materials.

- e. Restrictions for display windows or permitted exterior use or display.
- f. Specifications for type, size, style, design, character, amount or illumination, and construction materials of all signs.
- g. Limitation or prohibition of surface or structural off-street parking, as a primary or accessory use; requirements for screening of off-street parking areas or structures, where permitted.

Provided further, however, in no instance shall the development standards required by the Historic Preservation Commission for any use be less restrictive than the regulations and requirements of the applicable primary zoning district.

- (2) No building or structure shall be erected, located, relocated, structurally altered, reconstructed or restored, or use established or placed in operation without an Improvement Location Permit. Such permit shall not be issued until a site and development plan for such building, structure or use has been approved by the Indianapolis Historic Preservation Commission and a certificate of appropriateness issued therefor by such Historic Preservation Commission. Provided, however, the approval of the Historic Preservation Commission shall be subject to review by the Metropolitan Plan Commission as to its appropriateness in relation to the Comprehensive Plan of Marion County, Indiana. Applications for Improvement Location Permit shall be made upon Metropolitan Planning Department forms and shall include, in addition to copies of such site and development plan and certificate of appropriateness, all information required by applicable ordinances and specified by such form.

Sec. 735-504. Severability.

If any section, subsection, paragraph, subparagraph, clause, phrase, word, provision or portion of this article shall be held to be unconstitutional or invalid by any court of competent jurisdiction, such holding or decision shall not affect or impair the validity of this article as a whole or any part thereof, other than the section, subsection, paragraph, subparagraph, clause, phrase, word provision or portion so held to be unconstitutional or invalid.

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Chapter 735 ZONING -- OTHER DISTRICTS *

ARTICLE VI. REGIONAL CENTER*

[*Editor's note: This article consists of G.O. 13, 1983, adopted Jan. 31, 1983, and as amended through G.O. 56, 2008, effective August 31, 2008. Future amendments will be indicated by parenthetical history notes following the amended section.]

Sec. 735-600. Establishment of official zoning map; establishment of Regional Center and North Meridian Street Corridor; additional standards and requirements for use and development.

(a) Establishment of the official zoning map.

- (1) The county is divided into zoning districts, as shown on the official zoning map, which together with all explanatory matter thereon, is adopted by reference and declared to be a part of all zoning ordinances for Marion County, Indiana.
- (2) The official zoning map shall be maintained in electronic form, and depicted in various formats and scales as appropriate to the need. The Director of the Department of Metropolitan Development shall be the custodian of the official zoning map.
- (3) When changes are made in zoning district boundaries, such changes shall be made on the official zoning map promptly after the amendment has been adopted in accordance with IC 36-7-4-600 Series.
- (4) No changes shall be made to the official zoning map except in conformity with the requirements and procedures set forth in the zoning ordinance and state law.

- (b) Establishment of Regional Center and the North Meridian Street Corridor.** The Regional Center and North Meridian Street Corridor secondary zoning district is hereby established. All uses and development permitted by the various zoning districts applicable to land located within the Regional Center and the North Meridian Street Corridor secondary zoning district, as designated on the official zoning map, shall be subject to the following additional standards and requirements:

(G.O. 56, 2008, effective August 31, 2008)

Sec. 735-601. Metropolitan Development Commission approval required.

All development of land and demolition of structures located within the Regional Center and the North Meridian Street Corridor of Indianapolis, Marion County, Indiana, shall be subject to the Metropolitan Development Commission's approval as included within a required site and development plan approved as hereinafter provided. Provided, however:

- (a) The outdoor retail sales of beverages, flowers and food from carts on sidewalks and public areas shall be subject to the provisions of, and approved by the city controller in accordance with, Chapter 961 of this Code and shall not be subject to the provisions of this article.
- (b) Any lot located within any locally designated historic preservation areas as established by, and under the jurisdiction of, the Indianapolis Historic Preservation Commission (IHPC), shall not be subject to the provisions of this article.

(G.O. 56, 2008, effective August 31, 2008)

Sec. 735-602. Requirements of Metropolitan Development Commission approval.

- (a) **Filing the site and development plan.** All alteration, construction, conversion, demolition, development, enlargement, improvement, and modification on any lot shall file a petition for approval of the proposed changes.

Upon the filing of such a petition, the Administrator of the Division of Planning of the Department of Metropolitan Development, on behalf of the Metropolitan Development Commission, shall consider and either approve, disprove, or approve subject to any conditions, amendments, commitments or covenants by the petitioner, or refer to the *Regional Center Hearing Examiner*, the proposed site and development plan.

Petitions for *High Impact Projects* shall be automatically referred to the *Regional Center Hearing Examiner*. Petitions for *High Impact Projects* shall be required to provide public and individual notice of such filing and referral by the Administrator in accordance with the Rules of Procedure of the Metropolitan Development Commission.

The action upon such a petition by the Administrator or *Regional Center Hearing Examiner* upon such approval request shall be subject to the filing of an appeal, within ten (10) calendar days, by any aggrieved person to the Metropolitan Development Commission. Such an appeal shall otherwise be in accordance with Article VII of the Rules of Procedure of the Metropolitan Development Commission.

The Metropolitan Development Commission may consider and act upon such appeal of the action of the Administrator or *Regional Center Hearing Examiner* at any public meeting of the Commission and shall either approve, disapprove, or approve the site and development plan subject to any conditions, amendments, commitments, or covenants by the petitioner in accordance with the Rules of Procedure of the Metropolitan Development Commission.

- (b) **Standards and requirements for site and development plan, uses and structures.**

- (1) The required site and development plan, drawn to scale and dimensioned, and building and structural plans, shall indicate, where applicable:

- a. Existing uses, buildings and structures, noting those to remain and a description of materials and exterior colors.
- b. Proposed buildings and structures, and the materials and exterior colors thereof.
- c. Floor plans indicating floor area by activity types, vertical circulation, exits, service access.
- d. Elevation drawings of proposed buildings and structures, and the color, materials, window glazing material reflectance & transmissivity thereof.
- e. Off-street parking design and internal traffic pattern.
- f. Vehicular entrances, exits, and turnoff lanes.
- g. Rights-of-way, easements and building setbacks.
- h. Landscaping plan showing names, sizes at planting, spacing, and quantity of materials.
- i. Site improvements, such as site lighting, paving materials, furnishings, and the materials and colors thereof.
- j. Screens, walls, fences, and the materials and colors thereof.
- k. Signs, and the location, size, elevation, color, materials, and design thereof.
- l. Utilities, if aboveground facilities are needed.

- m. Pedestrian ways below, at, or above grade.
 - n. Information related to the development's environmental impact (such as application for LEED certification, paving permeability, and other sustainable techniques) and shadow casting.
 - o. For *High Impact Projects*, a written statement of design intent.
 - p. Documentation demonstrating compliance with all other requirements of this Article of this Code.
- (2) Details of such a development, including signage, building facade treatment, street furnishings and landscaping within the right-of-way, landscape treatment on the site, development intensity and massing of structure shall be so designed to:
- a. Be in conformity with the Regional Center Plan for Indianapolis, Marion County, Indiana, and the Regional Center Design Guidelines, adopted by the Metropolitan Development Commission's Resolution 2008-CPS-R-003, June 18, 2008; and any subsequently adopted plan;
 - b. Create a superior land development plan, in conformity with the Comprehensive Plan for Marion County, Indiana;
 - c. Create and maintain a desirable, efficient and economical use of land with high functional and aesthetic value, attractiveness and compatibility of land uses, within the Regional Center, the North Meridian Corridor, applicable zoning district and within adjacent uses;
 - d. Provide adequate access, parking and loading areas;
 - e. Provide adequate on-site vehicular circulation integrated with traffic control and existing and planned public streets in the vicinity;
 - f. Provide adequately for sanitation, drainage and public utilities;
 - g. Allocate adequate sites for all uses proposed - the design, character, grade, location, and orientation thereof to be appropriate for the uses proposed, logically related to existing and proposed topographical and other conditions;
 - h. Create and maintain clear sight lines which enhance the views of parks and landmarks in the Regional Center and North Meridian Street Corridor for pedestrians and motorists;
 - i. Create and enhance defensible, safe spaces and discourage crime through appropriate design, passive, natural surveillance and activated pedestrian areas;
 - j. Provide for accessibility and mass transit opportunities;
 - k. Be compatible in construction material, scale, color and pattern with the existing environment.

(G.O. 56, 2008, effective August 31, 2008)

Sec. 735-603. Applicability.

With the exception of legally established nonconforming uses, no land, building, structure, premises or part thereof shall be used or occupied except in conformity with these regulations and for uses permitted by this Article. In the case of any difference of regulations between this Article and the regulations of the primary zoning district, this Article shall control. Except as modified by this Article, all development standards as required by the primary zoning district shall apply.

Sec. 735-604. Prohibited Uses in the Regional Center and North Meridian Street Corridor.

The following uses shall not be permitted within the Regional Center or within the North Meridian Street Corridor. Any of the following uses lawfully in existence on the date of this article shall be permitted to remain.

- (a) Adult entertainment businesses or uses.
- (b) Billiard parlor, or roller or ice skating rink on any lot with frontage on Meridian Street.
- (c) Facilities with a drive-in, drive-through, drive-up, or customer service window on any lot with frontage on Meridian Street, Pennsylvania Street, Washington Street, Market Street, or on any lot located within the *Mile Square*.
- (d) Fuel or gasoline stations on any lot with frontage on Meridian Street, Market Street, Pennsylvania Street, Washington Street, or on any lot located within the *Mile Square*.
- (e) Night club, private club, or lounge on any lot with frontage on Meridian Street within the *North Meridian Street Corridor*.
- (f) Outside storage of equipment or materials that is not associated with any sidewalk cafe, outdoor dining, or food or flower cart.
- (g) Outside display of merchandise that is not associated with any sidewalk cafe, outdoor dining, or food or flower cart on any lot with frontage on Meridian Street, Pennsylvania Street, Washington Street, Market Street, or on any lot located within the *Mile Square*.
- (h) Package liquor stores and check cashing stores, except as a part of an integrated commercial center that exceeds a gross floor area of 10,000 square feet.
- (i) Pawnshops or loan shops.
- (j) Surface parking lot on any lot with frontage on Meridian Street, Pennsylvania Street, Washington Street, Market Street, or on any lot located within the *Mile Square*.
- (k) Vehicle sales (new or used) or vehicle service or repair on any lot with frontage on Meridian Street, Pennsylvania Street, Washington Street, Market Street, or on any lot located within the *Mile Square*. And further, used vehicle sales shall be prohibited except as an accessory use to new automobile sales.
- (l) Vehicle wash (any type, such as, completely indoors wash, self-service wash, automatic or semi-automatic wash) on any lot with frontage on Meridian Street, Washington Street, Market Street, or on any lot located within the *Mile Square*.

(G.O. 56, 2008, effective August 31, 2008)

Sec. 735-605. Additional Development Standards in the Regional Center and North Meridian Street Corridor.

All development standards as required by the zoning district shall be applicable in the Regional Center and the North Meridian Street Corridor except as modified by this section.

(a) Required front yard, setback.

1. Buildings and structures shall be in accordance with the Metropolitan Development Commission's approval.
2. *Vehicle areas* shall be located with a minimum setback of eight (8) feet and the maximum setback shall be the *established front setback line*.

(b) Use of required yards. Off-street parking shall not be permitted in any front yard required by ordinance.

(c) Landscaping within the right-of-way. At least one overstory tree with associated grating or protection system shall be provided and maintained in the right-of-way for each forty (40) feet of linear frontage along the following streets within the *Mile Square*:

- (1) Capitol Avenue;
- (2) Illinois Street;
- (3) Meridian Street;
- (4) Pennsylvania Street;
- (5) Delaware Street;
- (6) Ohio Street;
- (7) Market Street;
- (8) Washington Street;
- (9) Maryland Street;
- (10) Georgia Street.

(d) Drive-in, drive-up, drive-through and customer service window facilities. No customer service window shall be located on a façade that is adjacent to or faces a public right-of-way that exceeds thirty (30) feet in width. No off-street stacking space shall be located in a front yard that is along a public right-of-way that exceeds thirty (30) feet in width. In all instances, customer service windows shall be screened from all public rights-of-way that exceed thirty (30) feet in width regardless of proximity. Refer to Diagram W.

(e) Alley. An *alley* may be used for maneuvering for parking of automobiles.

(f) Exteriors. Building exteriors, awnings, porches, signs, landscaping, hardware and windows shall be properly maintained, kept clean, painted and in good repair.

(g) Signs.

(1) Business signs: Business signs shall comply with the sign regulations of Chapter 734 of this Code and be further modified by the following:

- a. Building identification signs and freestanding identification signs within the *North Meridian Street Corridor* shall be limited to wall signs, ground signs, awning signs, marquee signs, suspended signs, pylon signs and projecting signs. Signs shall be further limited by the following:
 1. Pylon signs shall not exceed thirty-six (36) square feet per sign face and shall not exceed 14 feet in height.
 2. Ground signs shall not exceed thirty-six (36) square feet per sign face and may be up to six feet in height.

3. Projecting signs shall not exceed eighteen (18) square feet per sign face.
 - b. Building identification signs and freestanding identification signs within the Regional Center but not within the *North Meridian Street Corridor* shall be limited to wall signs, pylon signs, awning signs, marquee signs, suspended signs, and projecting signs. Signs shall be further limited by the following:
 1. Pylon signs shall not exceed thirty-six (36) square feet per sign face and shall not exceed 8 feet in height.
 2. Projecting signs shall not exceed thirty-six (36) square feet per sign face.
 - c. Building identification signs and freestanding identification signs within the *Mile Square* shall be limited to wall signs, awning signs, marquee signs, suspended signs, and projecting signs. Signs shall be further limited by the following:
 1. Projecting signs shall not exceed fifty-four (54) square feet per sign face.
 2. Projecting signs, awning signs, and marquee signs along Meridian Street and Market Street shall not project more than three (3) feet into the right-of-way.
- (2) Advertising signs (also known as billboards or off-premise signs):** Advertising signs shall not be permitted.

(G.O. 56, 2008, effective August 31, 2008)

Sec. 735-606. Legal establishment of nonconforming uses that were not legally initiated prior to April 8, 1969.

- (a) A nonconforming use in a Regional Center district of this article shall be deemed to be legally established (relative to both use and development standards) if the use:
1. Existed prior to April 8, 1969; and
 2. Has continued to exist from April 8, 1969, to the present; and
 3. Has not been abandoned; and
 4. Of the entire building has not been vacant voluntarily for any period of three hundred sixty-five (365) consecutive days.

A certificate stating the use and development of a property are legally established under this section shall be available from the Administrator on the presentation of sufficient evidence. The rules of procedure of the Metropolitan Development Commission shall outline the procedure to be followed in order to obtain an official certificate.

- (b) Any construction, erection, conversion (including, but not limited to the addition of dwelling units), enlargement, extension, reconstruction or relocation occurring after April 8, 1969, must have been done in conformity with these regulations and have been done for uses permitted by this article. Any such future activity shall not be permitted except in conformity with these regulations and for uses permitted by this article.
- (c) Subsection (a)(3) shall:
1. Have no effect upon the powers of the Consolidated City of Indianapolis, Marion County, or any unit or agency thereof, or the Health and Hospital Corporation of Marion County, Indiana, to enforce other public health and safety laws and ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance).
 2. Not relieve any property of the obligation to comply with conditions and commitments which lawfully apply to the property made in connection with any variance, rezoning, platting, or other zoning decision.

(G.O. 31, 2001, § 10; G.O. 2, 2002, § 23)

Sec. 735-607. Definitions.

The words in the text of this article of this chapter shall be interpreted in accordance with the definitions set forth below. Except as indicated below, the definitions of Chapter 732 shall apply.

- (a) **Administrator.** The Administrator of the Division of Planning of the Department of Metropolitan Development.
- (b) **Alley.** A public right-of-way which has been dedicated or deeded to and accepted by the public for public use as a secondary means of public access to a lot otherwise abutting upon a public street and not intended for traffic other than public services and circulation to and from said lot and typically measures 30 feet or less in width.
- (c) **Established front setback line.** The line that parallels the *front lot line* and is located at the closest point of any legally established *building* on the *lot* to the *front lot line*, measured at grade.
- (d) **Regional Center Hearing Examiner.** An employee or contracted employee of the City of Indianapolis appointed by the Metropolitan Development Commission with specific knowledge and experience in urban design.
- (e) **High Impact Project.** Projects that are: new construction valued at a hard cost value exceeding a specific threshold value; remodeling or modification of existing development values at a hard cost value exceeding a specific threshold value; proposing a floor area exceeding a specific threshold value measured in square footage; proposing an area of surface parking exceeding a specific threshold value measured in square footage; or demolition of historic structure as determined by the *Administrator*. The threshold values of *High Impact Projects* shall be established by a resolution of the Metropolitan Development Commission.
- (f) **Mile Square.** The geographic area within the Regional Center and *North Meridian Street Corridor* secondary zoning district bound by North Street, East Street, South Street, and West Street and including any lot with frontage on North Street, East Street, South Street, and West Street.
- (g) **North Meridian Street Corridor.** The geographic area within the Regional Center and North Meridian Street Corridor secondary zoning district bounded on the:
 - (1) North by 30th Street;
 - (2) South by 16th Street;
 - (3) East by Talbott Street, north of Fall Creek; the first *alley* east of Pennsylvania Street from Fall Creek to 17th Street; and then Talbott Street from 17th Street to 16th Street;
 - (4) West by the first *alley* west of Illinois Street extended from 30th Street to 16th Street.
- (h) **Vehicle area.** Uncovered area used for vehicular traffic, maneuvering and parking. Included are the parking areas, drives, and driveways.

(G.O. 56, 2008, effective August 31, 2008)

Sec. 735-608. Severability.

If any section, subsection, paragraph, subparagraph, clause, word, provision, or portion of this article shall be held to be unconstitutional or invalid by any court of competent jurisdiction, such holding or decision shall not affect or impair the validity of this article as a whole or any part thereof, other than the section, subsection, paragraph, subparagraph, clause, phrase, word, provision or portion so held to be unconstitutional or invalid.

Chapter 735 ZONING -- OTHER DISTRICTS

ARTICLE VII. SPECIAL DISTRICTS

DIVISION 1. GENERALLY

Sec. 735-700. Establishment of official zoning map; establishment of special zoning districts.

(a) Establishment of the official zoning map.

- (1) The county is divided into zoning districts, as shown on the official zoning map, which together with all explanatory matter thereon, is adopted by reference and declared to be a part of all zoning ordinances for Marion County, Indiana.
- (2) The official zoning map shall be maintained in electronic form, and depicted in various formats and scales as appropriate to the need. The Director of the Department of Metropolitan Development shall be the custodian of the official zoning map.
- (3) When changes are made in zoning district boundaries, such changes shall be made on the official zoning map promptly after the amendment has been adopted in accordance with IC 36-7-4-600 Series.
- (4) No changes shall be made to the official zoning map except in conformity with the requirements and procedures set forth in the zoning ordinance and state law.

(b) Establishment of special zoning districts. The following primary special zoning districts for Indianapolis, Marion County are hereby established, and land within Indianapolis is hereby classified, divided and zoned into such districts as designated on the official zoning map:

<i>Park Districts</i>	
PK-1	Park District One
PK-2	Park District Two
<i>Hospital Districts</i>	
HD-1	Hospital District One
HD-2	Hospital District Two
<i>University Quarter Districts</i>	
UQ-1	University Quarter District One
UQ-2(B)	University Quarter District Two (Butler University)
<i>Speedway Districts</i>	
SZ-1	Speedway Main Street District
SZ-2	Speedway Industrial District

(G.O. 13, 2009, 2008-AO-02)

- (c) **Establishment of special use zoning districts; permitted uses.** The following primary special use zoning districts for Marion County, Indiana, are hereby established, and land within the county zoned to such district classifications shall be designated on the applicable zoning base maps by the following zoning district symbols, respectively (which maps are hereby incorporated by reference and made a part of this article). No use shall be permitted in any special use zoning district other than the following permitted use or uses specified for each such district, respectively:

Special Use Zoning District	Zoning District Symbol	Permitted Use
Special Use District I	SU-1	Religious use (as defined in section 735-751)
Special Use District II	SU-2	School
Special Use District III	SU-3	Golf course, golf driving range, golf country club-public or private
Special Use District V	SU-5	Radio receiving or broadcasting tower and accessory buildings
Special Use District VI	SU-6	Hospital, sanitarium, nursing home
Special Use District VII	SU-7	Charitable, philanthropic and not-for-profit institution
Special Use District VIII	SU-8	Correctional and penal institution
Special Use District IX	SU-9	Building(s) and grounds used by any department of town, city, township, county, state or federal government
Special Use District X	SU-10	Cemetery
Special Use District XIII	SU-13	Sanitary landfill
Special Use District XVI	SU-16	Indoor and outdoor commercial amusement, recreation and entertainment establishment
Special Use District XVIII	SU-18	Light or power substation
Special Use District XX	SU-20	Telephone exchange offices
Special Use District XXIII	SU-23	Permanent gravel or sand processing plant, rock crushing, grinding or milling and stockpiling
Special Use District XXVIII	SU-28	Petroleum refinery and petroleum products storage

Special Use Zoning District	Zoning District Symbol	Permitted Use
Special Use District XXXIV	SU-34	a. Club rooms b. Fraternal rooms--Fraternity and lodge c. Ballroom--Public
Special Use District XXXV	SU-35	Telecommunication receiving or broadcasting tower and associated accessory buildings
Special Use District XXXVII	SU-37	Library
Special Use District XXXVIII	SU-38	Community center
Special Use District XXXIX	SU-39	Water tank, water pumping station and similar structures not located on buildings
Special Use District XXXXI	SU-41	Sewage disposal plant; garbage feeding and disposal
Special Use District XXXXII	SU-42	Gas utility
Special Use District XXXXIII	SU-43	Power transmission lines
Special Use District XXXXIV	SU-44	Off-track mutuel wagering facilities, licensed as satellite facilities under IC 4-31-5.5 (off-track betting facilities)

Including for each such district:

- (1) Accessory uses and structures, subordinate, appropriate and incidental to the above permitted primary uses.
- (2) Wireless communication facility, as defined in, and subject to the additional regulations of Article IX of this chapter.

(G.O. 31, 2001, § 11)

Sec. 735-701. General regulations.

- (a) **Applicability of regulations.** The following regulations shall apply to all land within the special zoning districts. After the effective date of this article:
- (1) With the exception of legally established nonconforming uses, no land, building, structure, premises or part thereof shall be used or occupied except in conformity with these regulations and for uses permitted by this article.
 - (2) No building, structure, premises or part thereof shall be constructed, erected, converted, enlarged, extended, reconstructed or relocated except in conformity with these regulations and for uses permitted by this article. Provided, however, legally established nonconforming uses and structures or buildings not located in any flood control district may be restored to their original dimensions and conditions if damaged or partially destroyed by fire or other disaster when such damage or destruction does not exceed two-thirds (2/3) of the gross floor area of the structure or facilities affected.

- (3) Legal establishment of nonconforming uses that were not legally initiated prior to April 8, 1969.
- a. A nonconforming use in a Parks, Hospital, University Quarter and Special Use District (as adopted by the Metropolitan Development Commission under docket numbers: 69-AO-2 (Park Districts), 68-AO-8 (Hospital Districts), 66-AO-6 (University Quarter Districts), 66-AO-3 (Special Use Districts) shall be deemed to be legally established (relative to both use and development standards) if the use:
 1. Shall have existed prior to April 8, 1969; and
 2. Has continued to exist from April 8, 1969, to the present; and
 3. Has not been abandoned; and
 4. Of the entire building has not been vacant voluntarily for any period of three hundred sixty-five (365) consecutive days.

A certificate stating the use and development of a property are legally established under this section shall be available from the Administrator on the presentation of sufficient evidence. The rules of procedure of the Metropolitan Development Commission shall outline the procedure to be followed in order to obtain an official certificate.

- b. Any construction, erection, conversion (including, but not limited to, the addition of dwelling units), enlargement, extension, reconstruction or relocation occurring during the period after the specific dates noted in a.1. above must have been done in conformity with these regulations and have been done for uses permitted by this article. Any such future activity shall not be permitted except in conformity with these regulations and for uses permitted by this article.
 - c. This subsection (a)(3) shall:
 - Have no effect upon the powers of the Consolidated City of Indianapolis, Marion County, or any unit or agency thereof, or the Health and Hospital Corporation of Marion County, Indiana, to enforce other public health and safety laws and ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance).
 - Not relieve any property of the legal obligation to comply with conditions or commitments which lawfully apply to the property made in connection with any variance, rezoning, platting, or other zoning decision.
- (4) Compliance with Chapter 731, Article III of this Code. In compliance with IC-36-7-4-701, the Metropolitan Development Commission and city-county council have set forth the following zoning districts in which subdivision of land is required to comply with the provisions of Chapter 731, Article III of this Code: Any single-family or two-family component of land development within a PK-2 (Park District Two), UQ-2 (University Quarter Two), HD-2 (Hospital District Two) or any SU (Special Use) District, as noted in this article, specifically permitted through appropriate approval petitions (PK-2, UQ-2, HD-2 Districts), or where allowed as a permitted use (SU Districts). Condominium development shall not be regulated by Chapter 731, Article III of this Code, but shall be regulated per IC 32-1-6.

- (b) **Performance standards.** All uses established or placed into operation after the effective date of this article shall comply with the following performance standards. No use in

existence on the effective date of this article shall be so altered or modified as to conflict with these standards.

- (1) *Vibration.* No use shall cause earth vibrations or concussions detectable beyond the lot lines without the aid of instruments.
 - (2) *Smoke, dust and particulate matter.* Smoke, dust, particulate matter and any other airborne material shall be subject to the standards and regulations of Chapter 511 of this Code. The standards and regulations noted in Chapter 511 of this Code for the emission of smoke and particulate matter are hereby incorporated by reference and made a part hereof.
 - (3) *Noxious matter.* No use shall discharge across the lot lines noxious, toxic or corrosive matter, fumes or gases in such concentration as to be detrimental to or endanger the public health, safety or welfare or cause injury to property.
 - (4) *Odor.* No use shall emit across the lot lines odor in such quantities as to be readily detectable at any point along the lot lines and as to be detrimental to or endanger the public health, safety or welfare or cause injury to property.
 - (5) *Sound.* No use shall produce sound in such a manner as to endanger the public health, safety or welfare or cause injury to property. Sound shall be muffled so as not to become detrimental due to intermittence, beat frequency, shrillness or vibration.
 - (6) *Heat and glare.* No use shall produce heat or glare creating a hazard perceptible from any point beyond the lot lines.
 - (7) *Waste matter.* No use shall accumulate within the lot or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of the applicable standards and regulations of the Division of Public Health of the Health and Hospital Corporation of Marion County, Indiana, the Indiana State Board of Health, and the Stream Pollution Control Board of the State of Indiana and the Department of Public Works of Indianapolis, Indiana, or in such a manner as to endanger the public health, safety or welfare or cause injury to property.
- (c) **Development plans required.** A site and development plan shall be required in the PK-1, PK-2, HD-1, HD-2, UQ-1, UQ-2(B), SZ-1, SZ-2 and all SU districts. Development requirements that must be met for the approval of a site and development plan are specified in each of the respective districts.
(G.O. 13, 2009, 2008-AO-02)
- (d) **Commitments.** The Commission may permit or require commitments.
- (e) **State statute citation.** The applicable Indiana planning and zoning law pertaining to this article is the 1400 series - development plans (P.L. 320-1995, 22) of IC 36-7-4. Regulations contained in, and revisions to, this article reflect the provisions of the 1400 series - development plans.

DIVISION 2. PARK DISTRICT REGULATIONS

Sec. 735-720. Park district regulations.

(a) Permitted park district uses.

- (1) **Park District One (PK-1) uses.** Public playgrounds, play fields, ballfields, ball courts, tennis courts, spray or wading pools, outdoor swimming pools, ice skating, picnicking, boating, fishing, wildlife refuges, botanical gardens, arboreta, scenic areas, greenways, bridle paths, hiking and bicycle trails, and such other primary park or recreational uses, or uses incidental and accessory thereto, as are included within any site and development plan filed with and approved by the Commission as hereinafter provided.

Wireless communication facility, as defined in, and subject to the additional regulations of, Article IX of this chapter.

Provided, however, that no use not specifically enumerated nor any building or structure shall hereafter be constructed or used on any land in the PK-1 District for any purpose other than lawfully existed on or prior to May 7, 1969, until a site and development plan for such land and all park district lands of which it is a common tract (showing the location of existing and proposed park uses, including the location and proposed use of such building or structure to be built or used, or the proposed use not specifically enumerated as a permitted use) shall have been filed with and approved by the Commission unless enumerated in subsection (d) of this section (specific exemptions - Administrator's approval).

- (2) **Permitted Park Perimeter-Special District Two (PK-2) uses.** Permitted uses, as approved by the Commission as hereinafter provided:

- a. Any dwelling use, including single-family or multifamily, attached or detached dwellings, subject to all standards, requirements and regulations of Chapter 731 of this Code specified in the petition for such Commission approval.
- b. Any commercial office use, office complex, commercial office- apartment complex, or other planned complex, which may include business, professional and consumer service offices, retail sales and service uses or other appropriate uses and accessory facilities.
- c. Regional, community or neighborhood shopping center, commercial center-office-apartment complex, apartment hotels, hotels, motels or other similar single commercial use or multiuse planned complex, including business, professional and consumer service offices, retail sales and service uses, or other appropriate uses and accessory facilities.
- d. Office-commercial-industrial research and development park or complex or other commercial-industrial use or combination thereof (subject to all standards, requirements and regulations of section 733-206 of this Code) and accessory facilities.
- e. Public and semi-public structures and uses, parks and open space, including but not limited to museums, auditoriums, theaters, amphitheaters, exhibition halls or exhibition spaces, libraries, civic centers, university or college campus or other educational office complexes, malls, greenways, or other appropriate uses and accessory facilities.
- f. Residential-recreational-commercial planned complex, including multifamily dwellings, townhouses, condominium, cluster housing or other planned residential development in combination with open space, recreational-commercial development including golf course, country club, riding stable,

tennis or swimming club, marina, lake development or other recreational, public or semi-public, commercial or noncommercial uses, and accessory facilities.

- g. Wireless communication facility, as defined in, and subject to the additional regulations of, Article IX of this chapter.
- h. Any other appropriate planned land use, complex or combination of land uses.

Provided, however, that no use, building or structure shall hereafter be established or constructed on any land in the PK-2 District until such proposed use and a site and development plan for the use shall have been filed with and approved by the Commission unless enumerated in subsection (d) of this section (specific exemptions - Administrator's approval).

(b) Site and development plan consideration. The Commission may consider and act upon any proposed use and site and development plan, approve the same in whole or in part, and impose additional development standards, requirements or conditions thereon at any public hearing of the Commission. The Commission shall prescribe in its rules of procedure the requirements for an approval petition for site and development plan consideration which shall be filed. In addition, the rules of procedure set forth the fees, hearing process, notice, and amendment procedures relative to any petition.

(1) Plan documentation and supporting information. The site and development plan shall include layout and elevation plans for all proposed buildings and structures, and shall indicate:

- a. Proposed park district uses.
- b. Any existing uses, buildings and structures.
- c. Proposed buildings and structures.
- d. Off-street parking layouts.
- e. Vehicular entrances and exits and turnoff lanes.
- f. Setbacks.
- g. Landscaping, screens, walls, fences.
- h. Signs, including location, size and design thereof.
- i. Sewage disposal facilities.
- j. Storm drainage facilities.
- k. Other utilities if aboveground facilities are needed.

(2) Site and development requirements. Land in the PK-1 and PK-2 Districts is subject to the following site and development requirements. In review of the proposed site and development plan, the Commission shall assess whether such site and development plan, proposed uses, buildings and structures shall:

- a. Be in conformity with the Comprehensive Plan of Marion County, Indiana, including the Comprehensive Park Plan for Marion County, Indiana, adopted by Commission resolution 65-CPS-R-2, as amended;
- b. Create and maintain a desirable, efficient and economical land use with high functional and aesthetic value, attractiveness and compatibility of land uses, with adjacent park and other land uses;
- c. Provide sufficient and adequate access, parking and loading areas;
- d. Provide adequate traffic control and street plan integration with existing and planned public streets and interior access roads;
- e. Provide adequately for sanitation, drainage and public utilities; and

- f. Allocate adequate sites for all uses proposed - the design, character, grade, location, and orientation thereof to be appropriate for the uses proposed, logically related to existing and proposed topographical and other conditions, and consistent with the Comprehensive Plan of Marion County, Indiana, including the Comprehensive Park Plan for Marion County, Indiana.
- g. Provide pedestrian accessibility, which may be paths, sidewalks, trails, or combination thereof, along eligible public streets, excepting interstate, expressway, freeway, as indicated in the current Official Thoroughfare Plan for Marion County, Indiana, and other full control of access frontages as determined by the Administrator. Regional Parks, Natural Resource Areas and Greenways as designated by the department of parks and recreation in the “Indianapolis-Marion County Park, Recreation and Open Space Plan” are exempted from this paragraph. [2007-AO-02, G.O. 4, 2008]

The Commission may consider and act upon any such proposed use and site and development plan, approve the same in whole or in part, and impose additional development standards, requirements, conditions, or commitments thereon at any public hearing of the Commission.

- (3) **Commission findings.** The Commission shall make written findings concerning any decision to approve or disapprove a site and development plan filed under this section. The written findings shall be based upon the requirements of subsection (b)(2) above. The president or secretary of the Commission shall be responsible for signing the written findings.

(c) **Public notice.**

PK-1 District. Public notice of the hearing regarding such petition shall be required only to registered neighborhood organizations whose boundaries include all or part of the subject request.

PK-2 District. Public notice of the hearing regarding such petition shall be required in accordance with the Commission's rules of procedure.

(d) **Specific exemptions - Administrator's approval.**

- (1) **Administrator's approval.** The filing of an approval petition and subsequent Commission approval shall not be required for the creation or alteration of the following structures or for accomplishing the following types of improvements in the PK-1 and PK-2 Districts. Such structures and improvements, however, shall be required to obtain Administrator's approval prior to the issuance of an Improvement Location Permit. All provisions and regulations of the zoning ordinance applicable in the particular situation, or commitments related to prior Commission approval, shall continue to apply. The Administrator shall be required to use the standards of subsection (b)(2) in the review and disposition of such structures and improvements.

- a. Improvements to existing structures that do not increase the usable floor area of that structure (for example: canopies, awnings, vestibules, roof line changes, or similar features).
- b. Additions to existing structures which are less than:
 - One thousand (1,000) square feet in the PK-1 District;
 - One thousand (1,000) square feet for residential uses within the PK-2 District;
 - Two thousand five hundred (2,500) square feet for all other uses within the PK-2 District.

- c. In the PK-1 District, any new structure which is less than two thousand five hundred (2,500) square feet, provided the structure:
 - Is in substantial conformance with the applicable adopted park master plan; or
 - Is an accessory support structure which may not be delineated on the adopted park master plan, the location of which, however, will not affect the implementation of the plan (examples of such structures are golf cart buildings, picnic shelters, maintenance sheds, and rest rooms).
- d. Any new residential structures in projects or subdivisions previously approved by the Commission. In instances of an approved subdivision, a plat shall have been recorded.
- e. Accessory structures permitted in connection with residential development.
- f. Landscaping.
- g. Any incidental sign (as defined by Chapter 734 of this Code).

(2) Appeal of Administrator's decision. Where the Administrator is given the authority of discretionary approval of plans and specifications, or the method or manner of qualification, or any other similar authority, any party of interest shall have the right to appeal such action by the Administrator before the Metropolitan Development Commission for its review and approval or disapproval as an appeal in the form of an approval petition. Such appeal shall be filed within ten (10) business days of approval or denial of the approval as specified in, and following, the rules of procedure of the Metropolitan Development Commission. In any appeal, the Commission shall make written findings of its decision as required in subsection (b)(3).

(e) Improvement Location Permit requirements. All land use within the PK-1 and PK-2 Districts shall be subject to all requirements of subsections (c) and (d) of section 730-300 of this Code relative to conformity with all conditions and commitments of the applicable Commission approval or Board of Zoning Appeals grant of a variance.

No use, building or structure shall be established or erected in any park district without an Improvement Location Permit. An Improvement Location Permit shall not be issued until the proposed use and the site and development plan, or such part thereof as includes the proposed uses, buildings or structures, shall have been approved by the Commission, unless exempt under subsection (d) of this section. Applications for Improvement Location Permits shall be made upon Department of Metropolitan Development forms and shall include all information specified by such forms.

(f) Park district development standards.

Park District One (PK-1) development standards. The following development standards shall apply to all land within Park District One:

- (1) Location.** Public parks larger than ten (10) acres shall be located with direct access to and frontage on a collector street, or a street designated on the Official Thoroughfare Plan of Marion County, Indiana, as a primary or secondary thoroughfare, parkway, expressway or freeway.
- (2) Minimum lot area.** There shall be no minimum lot area.
- (3) Setback lines and minimum front yards.**
 - a. Front yards, having a minimum depth in accordance with the following setback requirements, shall be provided along all street right-of-way lines:

1. *Expressway, parkway or primary thoroughfare (as designated on the Official Thoroughfare Plan of Marion County, Indiana).* No part of any structure shall be built closer than sixty (60) feet to any right-of-way line of an expressway, parkway or primary thoroughfare.
2. *Secondary thoroughfare (as designated on the Official Thoroughfare Plan of Marion County, Indiana).* No part of any structure shall be built closer than forty (40) feet to any right-of-way line of a secondary thoroughfare.
3. *Collector street.* No part of any structure shall be built closer than thirty (30) feet to any right-of-way line of a collector street.
4. *Local street, marginal access street or cul-de-sac.* No part of any structure shall be built closer than twenty-five (25) feet to any right-of-way line of a local street, marginal access street, or cul-de-sac, with the exception of the vehicular turnaround thereof. No part of any structure shall be built closer than twenty (20) feet to any right-of-way line of the vehicular turnaround of a cul-de-sac.

Provided, however, that along the right-of-way line of any street, highway, or thoroughfare where access rights thereto have been purchased or otherwise acquired by the governmental agency having jurisdiction thereof, yards having a minimum depth of thirty (30) feet shall be provided.

Exception: Eaves, cornices or other laterally supported extensions may extend into the front yard setback a maximum of four (4) feet.

(4) Maximum height. Thirty-five (35) feet.

(5) Off-street parking.

- a. Adequate off-street parking spaces shall be provided for the various PK-1 District park activities and uses.
- b. Off-street parking area for all uses in the PK-1 District shall be developed and maintained in accordance with the following requirements:
 1. Off-street parking entrances and exits shall be located a minimum distance of twenty-five (25) feet from the nearest point of two (2) intersecting street right-of-way lines. Such access cuts from a public street shall further conform to all requirements of the traffic engineering department having jurisdiction thereof.
 2. The surface of parking areas shall be graded and drained in such a manner that there will be no free flow of water onto either adjacent properties or sidewalks.
 3. Lighting facilities used to illuminate parking areas shall be so located, shielded and directed upon the parking area that they do not glare onto or interfere with street traffic, adjacent buildings, or adjacent users.
- c. The distance of driveways and parking areas from any adjacent property line shall be at least twenty (20) feet.

(6) Signs. Signs and sign structures shall comply with Chapter 734 of this Code.

Park District Two (PK-2) development standards. All development within the Park District Two (PK-2) District shall be in accordance with the site and development plan, as approved by the Commission in accordance with this section.

DIVISION 3. HOSPITAL DISTRICT REGULATIONS

Sec. 735-730. Hospital district regulations.

Statements of purpose:

Hospital District One (HD-1). The HD-1 zoning category is designed to permit and facilitate the development, expansion, and modernization of a major hospital complex or campus, in which a diversity of uses, functions, and facilities is necessary to best perform the hospital's various services to the public; and further to permit appropriate land use modifications as necessary to facilitate the highest level of such service.

Hospital District Two (HD-2). The HD-2 zoning category is designed to: (1) permit and facilitate the logical association of a diversity of land uses in close proximity to a major hospital complex; (2) to provide adequate land area for such hospital-related uses; and (3) to assure a quality and character of site development that will create the environment of safety, quietness, attractiveness and convenience compatible with such hospital complex.

(a) Permitted hospital district uses.

(1) Permitted Hospital District One (HD-1) uses. All uses permitted within the HD-1 District shall be subject to the Commission's approval, as included with a required site and development plan filed with, and approved by, the Commission as specified in subsection (b) of this section.

- a. Assisted-living facility (as defined in section 735-751).
- b. Hospital complex or hospital campus, including the following accessory uses operated by or for the hospital, and integrally related thereto:
 1. Administrative and professional staff offices.
 2. Apartments and dormitories for hospital staff, personnel and students.
 3. Cafeterias, gift shops, book stores and other similar convenience functions.
 4. Medical, research, multi-service convalescent and educational facilities and buildings, and related functions such as laboratories, auditoriums, class and recreation facilities.
 5. Off-street parking lots and garages for employees, staff, and visitors; and off-street loading facilities.
 6. Warehouses, maintenance buildings, laundries, food preparation facilities, and utilities structures.
 7. Other similar uses and facilities.
- c. Wireless communication facility, as defined in, and subject to the additional regulations of, Article IX of this chapter.

(2) Permitted Hospital District Two (HD-2) uses. All uses permitted within the HD-2 District shall be subject to the Commission's approval, as included within a required site and development plan filed with, and approved by, the Commission as specified in subsection (b) of this section.

- a. Apartments, dormitories, and other higher-intensity, permanent or transient residential structures.
- b. Assisted-living facility (as defined in section 735-751).
- c. Commercial parking lots and garages.

- d. Medical laboratories; surgical and medical supply firms; hospital and sickroom equipment sales and rental.
- e. Nursing, convalescent and retirement homes.
- f. Offices for physicians, dentists, and other professions dealing with public health (excluding substance abuse treatment facilities, which are permitted in the C-4, C-5, and C-7 districts of Chapter 732 of this Code.
- g. Pharmacies; florists; card and gift shops; restaurants; uniform clothing stores; and similar convenience and specialty sales and service businesses.
- h. Wireless communication facility, as defined in, and subject to the additional regulations of, Article IX of this chapter.
- i. Other similar hospital-related or oriented uses.

(b) Site and development plan consideration. No use, building or structure shall hereafter be established, constructed or used on any land in the HD-1 or HD-2 District for any purpose other than lawfully existed on or prior to July 17, 1968, until a site and development plan for such land, including the proposed hospital district use or uses, shall have been filed with and approved by the Commission unless enumerated in subsection (d) of this section (specific exemptions - Administrator's approval). The Commission shall prescribe in its rules of procedure the requirements for an approval petition for site and development plan consideration which shall be filed. In addition, the rules of procedure set forth the fees, hearing process, notice, and amendment procedures relative to any petition.

(1) Plan documentation and supporting information. The site and development plan shall include layout and elevation plans for all proposed buildings and structures, and shall indicate:

- a. Proposed hospital district uses.
- b. Any existing uses, buildings and structures.
- c. Proposed buildings and structures.
- d. Off-street parking layouts.
- e. Vehicular entrances and exits and turnoff lanes.
- f. Setbacks.
- g. Landscaping, screens, walls, fences.
- h. Signs, including location, size and design thereof.
- i. Sewage disposal facilities.
- j. Storm drainage facilities.
- k. Other utilities if aboveground facilities are needed.

(2) Site and development requirements. Land in the HD-1 and HD-2 Districts is subject to the following site and development requirements. In review of the proposed site and development plan, the Commission shall assess whether the site and development plan, proposed use, buildings and structures shall:

- a. Be so designed as to create a superior land development plan, in conformity with the Comprehensive Plan of Marion County, Indiana;
- b. Create and maintain a desirable, efficient and economical use of land with high functional and aesthetic value, attractiveness and compatibility of land uses, within the hospital district and with adjacent uses;
- c. Provide sufficient and adequate access, parking and loading areas;
- d. Provide traffic control and street plan integration with existing and planned public streets and interior roads;
- e. Provide adequately for sanitation, drainage and public utilities; and

- f. Allocate adequate sites for all uses proposed - the design, character, grade, location and orientation thereof to be appropriate for the uses proposed, logically related to existing and proposed topographical and other conditions, and consistent with the Comprehensive Plan of Marion County, Indiana.
- g. Provide sidewalks along eligible public streets, excepting interstate, expressway, freeway, as indicated in the current Official Thoroughfare Plan for Marion County, Indiana, and other full control of access frontages as determined by the Administrator; and, pedestrian accessibility to available public transit. Sidewalks shall consist of the walkway and any curb ramps or blended transitions. If required to be installed, the Administrator or the Commission shall be guided by the provisions of Sec. 732-214(c)(5) for the installation of sidewalks in the C-S District. [2007-AO-02, G.O. 4, 2008]

The Commission may consider and act upon any such proposed use and site and development plan, approve the same in whole or in part, and impose additional development standards, requirements, conditions, or commitments thereon at any public hearing of the Commission.

- (3) Commission findings.** The Commission shall make written findings concerning any decision to approve or disapprove a site and development plan filed under this section. The written findings shall be based upon the requirements of subsection (b)(2) above. The president or secretary of the Commission shall be responsible for signing the written findings.

(c) Public notice.

HD-1 District. Public notice of the hearing regarding such petition shall be required only to registered neighborhood organizations whose boundaries include all or part of the subject request.

HD-2 District. Public notice of the hearing regarding such petition shall be required in accordance with the Commission's rules of procedure. In addition, the major hospital of the adjacent HD-1 District shall also receive public notice of the hearing by the petitioner.

- (d) Specific exemptions - Administrator's approval.** The filing of an approval petition and subsequent Commission approval shall not be required for the creation or alteration of the following structures or for accomplishing the following types of improvements in the HD-1 and HD-2 Districts. Such structures and improvements, however, shall be required to obtain Administrator's approval prior to the issuance of an Improvement Location Permit. All provisions and regulations of the zoning ordinance applicable in the particular situation, or commitments related to prior Commission approval, shall continue to apply. The Administrator shall be required to use the standards of subsection (b)(2) in the review and disposition of such structures and improvements.

(1) Administrator's approval.

- a. Improvements to existing structures that do not increase the usable floor area of that structure (for example: canopies, awnings, vestibules, roof line changes, or similar features).
- b. Additions to existing structures which are less than two thousand five hundred (2,500) square feet in area.
- c. Accessory structures permitted in connection with residential development.
- d. Landscaping.
- e. Any incidental sign (as defined by Chapter 734 of this Code).

- (2) **Appeal of Administrator's decision.** Where the Administrator is given the authority of discretionary approval of plans and specifications, or the method or manner of qualification, or any other similar authority, any party of interest shall have the right to appeal such action by the Administrator before the Metropolitan Development Commission for its review and approval or disapproval as an appeal in the form of an approval petition. Such appeal shall be filed within ten (10) business days of approval or denial of the approval as specified in, and following, the rules of procedure of the Metropolitan Development Commission. In any appeal, the Commission shall make written findings of its decision as required in subsection (b)(3) of this section.
- (e) **Improvement Location Permit requirements.** No building or structure shall be erected in the HD-1 or HD-2 District without an Improvement Location Permit. Such permit shall not be issued until the site and development plan, including the proposed hospital district use or uses and plans for such building or structure, shall have been approved by the Commission, unless exempt under subsection (b)(3) below. Applications for an Improvement Location Permit shall be made upon Department of Metropolitan Development forms and shall include all information specified by such forms.
- (f) **Hospital district development standards.** All development within the hospital districts shall be in accordance with the site and development plan, as approved by the Commission in accordance with this section.

DIVISION 4. UNIVERSITY QUARTER DISTRICT REGULATIONS

Sec. 735-740. University Quarter District regulations.

(a) Permitted University Quarter District uses.

(1) Permitted University Quarter One (UQ-1) uses.

University uses, provided, however, prior to the issuance of an Improvement Location Permit for any use, structure, building or development within the UQ-1 District, the Commission's approval shall be required unless enumerated in subsection (d) of this section (specific exemptions - Administrator's approval).

Wireless communication facility, as defined in, and subject to the additional regulations of, Article IX of this chapter.

The petition for such UQ-1 approval shall include a site and development plan.

(2) Permitted University Quarter Two (Butler University) (UQ-2(B)) uses.

- a. Any use permitted in the D-5 Dwelling District, subject to all standards, requirements and regulations of section 731-207 of this Code. Neither Commission nor Administrator's approval shall be required for permitted uses in this district, so long as all standards of Chapter 731 of this Code are satisfied.
- b. University-related group dwelling use (dormitory or fraternal organization) providing residence solely for university students or faculty. Provided however, such university-related group dwelling use shall be subject to the Commission's approval, as hereinafter provided, unless enumerated in subsection (d) of this section (specific exemptions - Administrator's approval), and subject to the development standards of subsection (f) of this section. The petition for UQ-2(B) university-related group dwelling use approval shall include a site and development plan.
- c. Wireless communication facility, as defined in, and subject to the additional regulations of, Article IX of this chapter.

(b) Site and development plan consideration. The Commission shall prescribe in its rules of procedure the requirements for an approval petition for site and development plan consideration which shall be filed. In addition, the rules of procedure set forth the fees, hearing process, notice, and amendment procedures relative to any petition.

(1) Plan documentation and supporting information. Land in the UQ-1 and UQ-2 Districts is subject to the following site and development requirements. The site and development plan shall include layout and elevation plans for all proposed buildings and structures, and shall indicate:

- a. Proposed University Quarter District uses.
- b. Any existing uses, buildings and structures.
- c. Proposed buildings and structures.
- d. Off-street parking layouts.
- e. Vehicular entrances and exits and turnoff lanes.
- f. Setbacks.
- g. Landscaping, screens, walls, fences.
- h. Signs, including location, size and design thereof.
- i. Sewage disposal facilities.
- j. Storm drainage facilities.
- k. Other utilities if aboveground facilities are needed.

- (2) **Site and development requirements.** In review of the proposed site and development plan, the Commission shall assess whether the site and development plan, proposed uses, buildings or structures shall:
- a. Be so designed as to create a superior land development plan, in conformity with the Comprehensive Plan of Marion County, Indiana, including the applicable University Quarter Plan;
 - b. Create and maintain a desirable, efficient and economical use of land with high functional and aesthetic value, attractiveness and compatibility of land uses, within the University Quarter District and with adjacent uses;
 - c. Provide sufficient and adequate access, parking and loading areas; except, however, such primary group dwelling parking area shall not be located within the subject site, but shall be provided within five hundred (500) feet thereof in the adjacent UQ-1 District;
 - d. Provide traffic control and street plan integration with existing and planned public streets and interior access roads;
 - e. Provide adequately for sanitation, drainage and public utilities; and
 - f. Allocate adequate sites for all uses proposed - the design, character, grade, location and orientation thereof to be appropriate for the uses proposed, logically related to existing and proposed topographical and other conditions, and consistent with the Comprehensive Plan of Marion County, Indiana, including the applicable University Quarter Plan. The Commission may consider and act upon such petition, approve the same in whole or in part, and impose additional development standards, requirements, conditions, or commitments thereon at any public meeting of the Commission.
 - g. Provide sidewalks along eligible public streets, excepting interstate, expressway, freeway, as indicated in the current Official Thoroughfare Plan for Marion County, Indiana, and other full control of access frontages as determined by the Administrator; and, pedestrian accessibility to available public transit. Sidewalks shall consist of the walkway and any curb ramps or blended transitions. If required to be installed, the Administrator or the Commission shall be guided by the provisions of Sec. 732-214(c)(5) for the installation of sidewalks in the C-S District. [2007-AO-02, G.O. 4, 2008]
- (3) **Commission findings.** The Commission shall make written findings concerning any decision to approve or disapprove a site and development plan filed under this section. The written findings shall be based upon the requirements of subsection (b)(2) above. The president or secretary of the Commission shall be responsible for signing the written findings.

(c) **Public notice.**

UQ-1 District. Public notice of such petition shall not be required.

UQ-2(B) District. Public notice of the hearing regarding such petition shall be required in accordance with the Commission's rules of procedure.

- (d) **Specific exemptions - Administrator's approval.** The filing of an approval petition and subsequent Commission approval shall not be required for the creation or alteration of the following structures or for accomplishing the following types of improvements in the UQ-1 and university-related group dwelling uses (dormitory or fraternal organization), permitted in the UQ-2(B) Districts. Such structures and improvements, however, shall be required to obtain Administrator's approval prior to the issuance of an Improvement Location Permit. All provisions and regulations of the zoning ordinance applicable in the particular situation, or commitments related to prior Commission approval, shall continue to apply. The

Administrator shall be required to use the standards of subsection (b)(2) above in the review and disposition of such structures and improvements.

(1) Administrator's approval.

- a. Improvements to existing structures that do not increase the usable floor area of that structure (for example: canopies, awnings, vestibules, roof line changes, or similar features).
- b. Additions to existing structures which are less than two thousand five hundred (2,500) square feet in area (UQ-1 District only).
- c. Landscaping.
- d. Any incidental sign (as defined by Chapter 734 of this Code).

(2) Appeal of Administrator's decision. Where the Administrator is given the authority of discretionary approval of plans and specifications, or the method or manner of qualification, or any other similar authority, any party of interest shall have the right to appeal such action by the Administrator before the Metropolitan Development Commission for its review and approval or disapproval as an appeal in the form of an approval petition. Such appeal shall be filed within ten (10) business days of approval or denial of the approval as specified in, and following, the rules of procedure of the Metropolitan Development Commission. In any appeal, the Commission shall make written findings of its decision as required in subsection (b)(3) above.

(e) Improvement Location Permit requirements. No building or structure shall be erected in the UQ-1 or UQ-2(B) District without an Improvement Location Permit. Such permit shall not be issued until the site and development plan, including the proposed University Quarter District use or uses and plans for such building or structure, shall have been approved by the Commission, unless: 1) such building or structure complies with subsection (a)(2)a. above; or is exempt under subsection (d) above. Applications for an Improvement Location Permit shall be made upon Department of Metropolitan Development forms and shall include all information specified by such forms.

(f) University Quarter District development standards.

(1) Development standards - UQ-1 District uses.

- a. *Setback lines and minimum yards.*
 1. Setback line and minimum front yard: Yards, having a minimum depth in accordance with the setback requirements of section 731-221(a) of this Code, shall be provided along all street right-of-way lines.
 2. Minimum side and rear yards: Fifteen (15) feet or one (1) foot for each foot of building height, whichever is greater.
- b. *Maximum building area.* Building area (as defined in section 731-102 of this Code) shall not exceed forty (40) percent of the lot area.
- c. *Maximum height.* Thirty-five (35) feet.

(2) Development standards - UQ-2(B), university-related group dwelling uses.

- a. *Setback lines and minimum yards.*
 1. Setback line and minimum front yard: Yards, having a minimum depth in accordance with the setback requirements of section 731-221(a) of this Code, shall be provided along all street right-of-way lines.
 2. Minimum side and rear yards: Fifteen (15) feet or one (1) foot for each foot of building height, whichever is greater.

- b. *Maximum building area.* Building area (as defined in section 731-102 of this Code) shall not exceed forty (40) percent of the lot area.
- c. *Maximum height.* Thirty-five (35) feet.

DIVISION 5. SPECIAL USE DISTRICT REGULATIONS

Sec. 735-750. Special Use District regulations.

The following regulations shall apply to all land within the Special Use Districts:

- (a) **Applicability of regulations for Special Use (SU) Districts.** After the effective date of this article:
- (1) No building, structure, premises or part thereof shall be constructed, erected, converted, enlarged, extended, reconstructed or relocated except in conformity with these regulations and for uses permitted by this article and until the proposed site and development plan and landscape plan have been filed with and approved on behalf of the Metropolitan Development Commission by the Administrator of the Division of Planning or approved by the Metropolitan Development Commission, as hereinafter provided. Such request shall be in the form of an application for an Improvement Location Permit, following all requirements for plan submission and documentation of section 730-300 et seq. of this Code, and shall contain the information specified in subsection (b)(1) of this section.
 - (2) All land use within the Special Use Districts shall be limited to the use or uses existing on the effective date of this article or specified in the applicable rezoning petition or ordinance redistricting and zoning the particular land to that district.
- (b) **Site and development plan consideration.** Upon the application for such permit, the Administrator of the Division of Planning on behalf of the Metropolitan Development Commission, shall consider and either approve, disapprove, or approve subject to any conditions, amendments or commitments agreed to by the applicant, the proposed site and development plan and landscape plan.
- (1) **Plan documentation and supporting information.** The site and development plan shall include layout and elevation plans for all proposed buildings and structures, and shall indicate:
 - a. Proposed Special Use District uses.
 - b. Any existing uses, buildings, and structures.
 - c. Proposed buildings and structures.
 - d. Off-street parking layout.
 - e. Vehicular entrances and exits and turnoff lanes.
 - f. Setbacks.
 - g. Landscaping, screens, walls, fences.
 - h. Signs, including location, size and design thereof.
 - i. Sewage disposal facilities.
 - j. Storm drainage facilities.
 - k. Other utilities if aboveground facilities are needed.
 - (2) **Site and development requirements.** Land in the SU Districts is subject to the following site and development requirements. In review of the proposed site and development plan, the Commission shall assess whether the site and development plan, proposed uses, buildings and structures shall:
 - a. Be so designed as to create a superior land development plan, in conformity with the Comprehensive Plan of Marion County, Indiana, including the applicable university quarter plan;
 - b. Create and maintain a desirable, efficient and economical use of land with high functional and aesthetic value, attractiveness and compatibility of land uses, within the Special Use District and with adjacent uses;
 - c. Provide sufficient and adequate access, parking and loading areas;

- d. Provide traffic control and street plan integration with existing and planned public streets and interior access roads;
- e. Provide adequately for sanitation, drainage and public utilities; and
- f. Allocate adequate sites for all uses proposed - the design, character, grade, location and orientation thereof to be appropriate for the uses proposed, logically related to existing and proposed topographical and other conditions, and consistent with the Comprehensive Plan of Marion County, Indiana.
- g. Provide sidewalks along eligible public streets, excepting interstate, expressway, freeway, as indicated in the current Official Thoroughfare Plan for Marion County, Indiana, and other full control of access frontages as determined by the Administrator; and, pedestrian accessibility to available public transit. Sidewalks shall consist of the walkway and any curb ramps or blended transitions. If required to be installed, the Administrator or the Commission shall be guided by the provisions of Sec. 732-214(c)(4) for the installation of sidewalks. [2007-AO-02, G.O. 4, 2008]

Exception: Golf courses that exist prior to July 1, 2008, in the SU3, SU10 and SU34 Districts, shall not be required to provide sidewalks or pedestrian accessibility. For golf courses that are established after July 1, 2008, in the SU3, SU10 and SU34 Districts, the Commission shall assess the provision of sidewalks along eligible public streets, excepting interstate, expressway, freeway, as indicated in the current Official Thoroughfare Plan for Marion County, Indiana, and other full control of access frontages as determined by the Administrator; and, pedestrian accessibility to available public transit. If required to be installed, the Administrator or the Commission shall be guided by the provisions of Sec. 732-214(c)(5) for the installation of sidewalks in the C-S district. [2007-AO-02, G.O. 4, 2008]

- (c) **Public notice.** Public notice of the filing of an application under this section and public notice of the decision by the Administrator relative to such application shall not be required.
- (d) **Administrator's approval.** The Administrator shall be required to use the standards of subsections (b)(2) and (f) in the review and disposition of such structures and improvements.

Appeal of Administrator's decision. Where the Administrator is given the authority of discretionary approval of plans and specifications, or the method or manner of qualification, or any other similar authority, any party of interest shall have the right to appeal such action by the Administrator before the Metropolitan Development Commission for its review and approval or disapproval as an appeal in the form of an approval petition. Such appeal shall be filed within ten (10) business days of approval or denial of the approval as specified in, and following, the rules of procedure of the Metropolitan Development Commission. In any appeal decision, the Commission shall make written findings of its decision as required in subsection 735-740(b)(3).

- (e) **Improvement Location Permit requirements.** No building or structure shall be constructed, erected, converted, enlarged, extended, reconstructed or relocated in the Special Use Districts of Indianapolis, Marion County, Indiana, without an Improvement Location Permit, and such permit shall not be issued until the proposed site and development plan has been approved in accordance with this section.

(f) **Development standards.** In addition to the site and development requirements of subsection (b)(2) of this section, all uses permitted within the Special Use Districts shall be administratively reviewed (as noted in subsection (a)(1) above), using as an administrative guide, the development standards applicable to the specified district as follows:

Special Use Zoning District	Applicable District for Development Standards Review
SU-1	C-1
SU-2	C-1
SU-3	C-5
SU-5	I-2-S
SU-6	C-2
SU-7	C-2
SU-8	C-2
SU-9	C-1
SU-10	C-1
SU-13	(As per subsection (g) of this section)
SU-16	C-5
SU-18	I-1-S
SU-20	C-1
SU-23	I-4-S
SU-28	I-4-S
SU-34	C-3
SU-35	I-2-S
SU-37	C-1
SU-38	C-3
SU-39	C-1
SU-41	I-4-S
SU-42	C-1 (and as per subsection (h) of this section)
SU-43	I-1-S
SU-44	C-3 (and as per subsection (i) of this section)

The Administrator, in reviewing Special Use District development, shall consider the standards noted above, and may approve alternatives for those requirements so long as the alternative standards are appropriate for the site and its surroundings, and the site development is compatible and consistent with the intent of the stated standards. Such

modifications shall be noted on the site and development plan, stamped approved by the Administrator and become a part of the file and requirements for the Improvement Location Permit.

(g) **Additional development standards for the Special Use XIII (SU-13) District.** In addition to the regulations of section 735-701(a) and (b) and subsections (a) through (f) of this section, the following regulations shall apply to Special Use District XIII (SU-13):

- (1) **Land use restriction.** Land use permitted in the SU-13 District shall be limited to "sanitary landfill" operations, as defined in section 735-751. Whenever the applicable standards or requirements of any other ordinance, or governmental unit or agency thereof are higher or more restrictive, the latter shall control land use permitted in the SU-13 District. "Open dumping," as defined in section 735-751, shall not be permitted in the SU-13 District. No use in the SU-13 District shall be maintained or operated in a manner constituting a hazard to health, safety or the public welfare.
- (2) **Minimum lot area.** Ten (10) acres.
- (3) **Minimum frontage.** Three hundred (300) feet.
- (4) **Minimum yards.** Minimum required depth of front, rear and side yards, surrounding the landfill operation: One hundred (100) feet. No landfill operation, or portion thereof, shall be permitted within one hundred (100) feet of any lot line.
- (5) **Fencing.** The entire landfill operation shall be enclosed with a substantial wall, fence at least five (5) feet in height, or other adequate barrier.
- (6) **Buffer strip.** A buffer planting strip, requiring trees, shrubs and woody vegetation, at least thirty (30) feet in depth, shall be provided and maintained between the lot lines and the above required fencing or other enclosure.
- (7) **Signs.** Signs and sign structures shall comply with Chapter 734 of this Code.
- (8) **Access drive.** Distance of driveway entrance or exit from any adjacent lot line shall be at least one hundred twenty-five (125) feet. Any portion of such access drive within a distance of one hundred fifty (150) feet of the public street shall be paved or treated so as to be dust free.
- (9) **Required permit, site and operational plan; bond.**
 - a. No sanitary landfill operation (or phase thereof) shall be permitted in the SU-13 District until a permit has been issued by the bureau of license and permit services of the department of code enforcement and a bond filed therefor, as required by subparagraph b. hereof.
 - b. Applications for the permit required by subparagraph a. above shall be made in writing and shall be accompanied by a corporate surety bond for the faithful performance of all applicable requirements of this article, including the operation and the completion of the sanitary landfill in accordance with the approved site and operational plan, as required by subparagraph c. hereof. (Such permit may be issued and bond filed for the total operation or for one (1) or more phases thereof, as shown on the site and operational plan.) Such bond shall run jointly and severally to the Metropolitan Development Commission of Marion County, Indiana, and any other governmental agency requiring a similar bond, and shall be in the amount of ten thousand dollars (\$10,000.00) per operation, with approved surety. Such bond shall specify the time for completion of all applicable requirements of this article and shall specify the total operational area, or phase thereof, covered by the bond.

- c. Applications for the permit required by subparagraph a. above shall be accompanied by the following:
 1. Proposed site and operational plan, including topographic maps (at a scale of not over one hundred (100) feet to the inch) with contour intervals that clearly show the character of the land and geological characteristics of the site as determined by on-site testing or from earlier reliable survey data, indicating soil conditions, water tables and subsurface characteristics. The plan shall indicate: the proposed fill area; any borrow area; access roads; on-site drives; grades for proper drainage of each lift required and a typical cross-section of a lift; special drainage devices if necessary; location and type of fencing; structures existing or to be located on the site; existing wooded areas, trees, ponds or other natural features to be preserved; existing and proposed utilities; phasing of landfill operations on the site; a plan and schedule for site restoration and completion; a plan for the ultimate land use of the site; and all other pertinent information to indicate clearly the orderly development, operation and completion of the sanitary landfill. Approval of the site and operational plan by the Administrator of the division of planning shall be required prior to the issuance of the permit.
 2. An area map.

(10) Operation.

- a. *Supervision of operation.* A landfill operation shall be under the direction of a responsible individual at all times. Access to a sanitary landfill shall be limited to those times when an attendant is on duty and only to those authorized to use the site for the disposal of refuse. Access to the site shall be controlled by a suitable barrier.
- b. *Unloading of refuse.* Unloading of refuse shall be continuously supervised.
- c. *Site maintenance.* Measures shall be provided to control dust and blowing paper. The entire area shall be kept clean and orderly.
- d. *Spreading and compacting of refuse.* Refuse shall be spread so that it can be compacted in layers not exceeding a depth of two (2) feet of compacted material. Large and bulky items, when not excluded from the site, shall be disposed of in a manner approved by the health and hospital corporation.
- e. *Daily cover.* A compacted layer of at least six (6) inches of suitable cover material shall be placed on all exposed refuse by the end of each working day.
- f. *Final cover.* A layer of suitable cover material compacted to a minimum thickness of two (2) feet shall be placed over the entire surface of each portion of the final lift not later than one (1) week following the placement of refuse within that portion.
- g. *Maintenance of cover.* All daily cover depths must be continually maintained and final cover depths shall be maintained for a period of two (2) years.
- h. *Hazardous materials, including liquids and sewage.* Hazardous materials, including liquids and sewage, shall not be disposed of in a sanitary landfill unless special provisions are made for such disposal through the health department having jurisdiction. This provision in no way precludes the right of a landfill operator to exclude any materials as a part of his or her operational standards.

- i. *Burning.* No refuse shall be burned on the premises.
 - j. *Salvage.* Salvaging (the controlled removal of reusable materials), if permitted, shall be organized so that it will not interfere with prompt sanitary disposal of refuse or create unsightliness or health hazards. Scavenging (the uncontrolled removal of materials) shall not be permitted.
 - k. *Insect and rodent control.* Conditions unfavorable for the production of insects and rodents shall be maintained by carrying out routine landfill operations promptly in a systematic manner. Supplemental insect and rodent control measures shall be instituted whenever necessary.
 - l. *Drainage of surface water.* The entire site, including the fill surface, shall be graded and provided with drainage facilities to minimize runoff onto and into the fill, to prevent erosion or washing of the fill, to drain off rainwater falling on the fill, and to prevent the collection of standing water.
 - m. *Characteristics of cover material.* Cover material shall be of such character that it can be compacted to provide a tight seal and shall be free of putrescible materials and large objects.
 - n. *Water pollution and nuisance control.* Sanitary landfill operations shall be so designed and operated that conditions of unlawful pollution will not be created and injury to ground and surface waters avoided that might interfere with legitimate water uses. Water-filled areas not directly connected to natural lakes, rivers or streams may be filled with specific inert material not detrimental to legitimate water uses and that will not create a nuisance or hazard to health. Special approval of the inert material to be used in this manner shall be required in writing from the health and hospital corporation. Inert material shall not include residue from refuse incinerators.
 - o. *Equipment.* Adequate numbers, types and sizes of properly maintained equipment shall be used in operating the landfill in accordance with good engineering practice and with these rules. Emergency equipment shall be available on the site or suitable arrangements made for such equipment from other sources during equipment breakdown or during peak loads.
- (11) **Completion of landfill.** Upon completion of the landfill operation, or any phase thereof as indicated on the approved site and operational plan, the land shall be graded, backfilled and finished to a surface that will:
- a. Result in a level, sloping or gently rolling topography in substantial conformity or desirable relationship to the original site, and land area immediately surrounding; and
 - b. Minimize erosion due to rainfall. Such graded or backfilled area shall be sodded or surfaced with soil of a quality at least equal to the topsoil of vegetation producing land areas immediately surrounding, and to a depth of at least six (6) inches. The topsoil shall be planted with trees, shrubs, legumes or grasses, as indicated on the approved site and operational plan.
- (h) **Additional development standards for the Special Use XXXXII (SU-42) District.** In addition to the regulations of section 735-701(a) and (b) and subsections (a) through (f) of this section, the following regulations shall apply to all gas conditioning and control facilities, including odorizing, mixing, metering and high pressure regulating substations permitted under such Special Use District XXXXII (SU-42), and where the word "lot" is used in the following twelve (12) paragraphs, it shall be deemed to include, but not be limited to, any area of land designated as a lot on a platted subdivision or described on a duly recorded deed or area or parcel of land or site:

- (1) The storage, utilization or manufacture of all products or materials shall conform to the standards prescribed by the National Fire Protection Association. The requirements pertaining to the storage, utilization or manufacture of all products or materials contained in the standards prescribed by the National Fire Protection Association are hereby incorporated into this article by reference and made a part hereof. Such storage, utilization or manufacture shall not produce a hazard or endanger the public health, safety and welfare.
- (2) All uses shall conform to the Atomic Energy Commission's standards for protection against radiation. The Atomic Energy Commission's standards for protection against radiation are hereby incorporated into this article by reference and made a part hereof.
- (3) All uses shall conform to the Federal Communications Commission's standards governing electromagnetic radiation. The Federal Communications Commission's standards governing electromagnetic radiation are hereby incorporated into this article by reference and made a part hereof.
- (4) No building or structure for uses permitted under such Special Use District XXXXII (SU-42) shall be constructed and no premises shall be used for such purposes on any lot that does not have direct frontage on one (1) permanently surfaced public street.
- (5) All uses permitted under such Special Use District XXXXII (SU-42) shall provide hardsurfaced, off-street parking areas, including as a minimum requirement one (1) space (containing three hundred thirty (330) square feet in addition to the necessary ingress and egress lanes) for each two (2) employees, computed on the basis of the greatest number of persons employed at any one (1) period during the day or night. Such parking areas must not extend within twenty (20) feet of any lot boundary except where the lot boundary abuts an active railroad line. Such parking areas shall not be leased or rented for hire, but shall be for the sole use of the occupants and visitors of the premises.
- (6) The total of the gross floor area of all structures on the lot, excluding the gross floor area of off-street parking building space, shall not exceed one-half (1/2) the area of the lot on which the structures are located.
- (7) A front yard shall be required along every front lot line. A front yard shall be not less than the established setback for abutting land; provided, however, in the event such established setbacks of abutting land shall not be of equal depth, the front yard shall be not less than the depth of the greater, and in the event the abutting land is in an industrial or commercial district, the front yard shall be not less than sixty (60) feet in depth. Provided further that in the event the lot adjoins a dwelling district, the fence and hedge referred to in paragraph (12) hereof shall not be located closer to any street right-of-way than the established setback line of the dwelling district, such fence to be not less than fifteen (15) additional feet from the outside of the building or structure as provided in paragraph (12) hereof. Except for necessary walks, drives and parking areas not exceeding ten (10) percent of the front yard area, a front yard shall be planted in grass or other suitable ground cover.
- (8) A side yard shall be provided along each side lot line. A side yard shall be at least fifty (50) feet in depth (except where it abuts a main line railroad) plus one (1) foot for each foot of height by which the building or structure exceeds twenty (20) feet.
- (9) A rear yard shall be provided along each rear yard line. A rear yard shall be at least fifty (50) feet in depth (except where it abuts an active main line railroad) plus one (1) foot for each foot of height by which the building or structure exceeds twenty (20) feet.

- (10) All signs shall meet the requirements of Chapter 734 of this Code.
 - (11) All gas conditioning and control facilities permitted under such Special Use District XXXXII (SU-42) and equipment relating thereto shall be housed in buildings or structures of masonry construction, unless otherwise prescribed by law or by the standards of the National Fire Protection Association that are incorporated herein by reference and made a part hereof.
 - (12) Each building or structure housing such facilities and equipment shall be enclosed by a six-foot chain link fence, with locked gate, not less than fifteen (15) feet from the outside of such building or structure and a compact hedge not less than six (6) feet in height between such fence and the property line. Such hedge shall not be located closer than twenty-five (25) feet to any street right-of-way. In the event the lot adjoins a dwelling district, the fence and hedge shall not be located closer to any street right-of-way than the established setback line of the dwelling district.
- (i) **Additional regulations applicable to Special Use XXXXIV (SU-44) District.** In addition to the regulations of section 735-701(a) and (b) and subsections (a) through (f) of this section, the following regulations shall apply to Special Use District XXXXIV (SU-44):
- (1) **Permitted uses.** The only commercial activities permitted in this district shall be: pari-mutuel wagering on horse races, providing full service dining facilities by the holder of a satellite facilities license issued under IC 4-31-5.5.
 - (2) **Development standards:**
 - a. All wagering and food and beverage service shall be conducted entirely inside the facility, which shall be designed so that none of the wagering activities, including bet-taking, video monitors, and odds and contest-result displays, shall be visible to any person at any location outside the facility.
 - b. No drive-through service or outside sales shall be permitted.
 - c. No outside speakers or video monitors shall be used to advertise or display the contests, odds or other information about the wagering activities conducted within the facility.
 - d. Minimum parking of one (1) parking space per employee per largest work shift plus one (1) parking space for each seventy-five (75) square feet of gross area of the facility.
 - e. No accessory structures shall be permitted.
 - f. Lighting of parking area:
 1. When parking areas are illuminated, the lighting equipment shall provide good visibility with a minimum of direct glare.
 2. In applying exterior lighting, equipment shall be of an appropriate type and be so located, shielded and directed that the distribution of light is confined to the area to be lighted.
 3. Objectionable light onto adjacent properties and streets shall be avoided to prevent direct glare or disability glare.
 4. Lighting levels for outdoor parking areas shall meet the following minimum average maintained horizontal foot-candles (as specified in Architectural Graphics Standards, Eighth Edition, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York). The minimum average maintained horizontal foot-candles specified in Architectural Graphics Standards for Lighting Levels for Outdoor Parking Areas are

hereby incorporated into this article by reference and made a part hereof.

5. Further, it shall be prohibited to:

(a) Light an area by the use of stringers or unshielded incandescent lamps in which the entire lamp envelope is designed to function as a light emitter; and

(b) Make use of attention attracting lighting from any apparatus of any type similar to that used by emergency vehicles.

g. *Signs.* All signs shall meet the requirements of Chapter 734 of this Code.

(3) No use permitted near specified districts. No use of any land, structure or premises shall be permitted if any portion of the perimeter of the subject lot is located within five hundred (500) feet of the following zoning districts:

- a. Dwelling districts;
- b. Historic preservation districts;
- c. Park districts;
- d. University Quarter districts;
- e. SU-1 District (church);
- f. SU-2 District (school);
- g. SU-37 District (library);
- h. SU-38 District (community center).

In addition to the zoning districts noted above, this regulation shall also apply to any portion of the perimeter of a lot containing a church, elementary school, junior high school, high school, as defined in IC 20-10.1-1, college or university regardless of zoning classification. If such use is a part of or included within an integrated center, the perimeter of the portion thereof or leased space occupied by such use shall be deemed the perimeter of the lot for purposes of the above distance computation.

(G.O. 2, 2002, § 24; G.O. 96, 2009)

Sec. 735-751. Construction of language and definitions.

(a) Construction of language. The language of this article shall be interpreted in accordance with the following regulations:

- (1) The particular shall control the general.
- (2) In the case of any difference of meaning or implication between the text of this article and any illustration or diagram, the text shall control.
- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (4) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (5) A "building" or "structure" includes any part thereof.
- (6) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" or "occupied for."
- (7) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either . . . or," the conjunction shall be interpreted as follows:

- a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
- b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
- c. "Either . . . or" indicates that all the connected items, conditions, provisions, or events shall apply singly but not in combination.

(b) Definitions.

Administrator. Administrator of the division of planning or his/her appointed representative. Where the 1400 series of IC-36-7-4 gives authority to perform a function to Commission staff, the Administrator, or his/her appointed representative, shall be deemed to be Commission staff.

Articulation. The means of dividing a structure's façade into distinct and significant parts through the use of windows, change in building materials, building façade insets, artwork, etc. in order to add scale to a structure and break up large expanses of unadorned walls. Refer to Diagram C. [G.O. 13, 2009, 2008-AO-02]

Assisted-living facility. A residential facility that provides a combination of housing, social activity, supportive services, personalized assistance, and health care, designed to foster independent living, yet respond to the individual needs of those who need help with activities of daily living (ADL - for purposes of this definition this means such activities as walking, eating, dressing, bathing, toileting, and transfer between, or in and out of a chair or bed) and instrumental activities of daily living (IADL - for purposes of this definition this means activities such as doing laundry, cleaning of living areas, meal preparation, engaging in recreational or leisure activities, taking medications properly, managing money and conducting business affairs, using public transportation, writing letters, or using the telephone). Supportive services are available twenty-four (24) hours a day to meet scheduled and unscheduled needs of residents. Such facilities are not licensed as a nursing home. Facilities have single- or double-occupancy living units which contain most dwelling unit features, such as lockable units, a food preparation area, and a full bathroom facility.

Base Panel. The horizontal piece that forms the lowest member of a façade located between finished grade and the base of a window. Refer to Diagram C. [G.O. 13, 2009, 2008-AO-02]

Blended transitions. A connection with a grade of five (5) percent or less between the level of the pedestrian walkway and the level of the crosswalk. (See Diagram A) [2007-AO-02, G.O. 4, 2008]

Building. Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property of any kind, having a permanent roof supported by columns or walls.

Commission. The Metropolitan Development Commission of Marion County, Indiana.

Commitment. An official agreement concerning and running with the land as recorded in the Office of the Marion County Recorder.

Condition. An official agreement between the municipality and the petitioner concerning the use or development of the land as imposed by the Board of Zoning Appeals.

Curb ramps. A perpendicular or parallel ramp and its landing that cuts through or is built up to the curb. [2007-AO-02, G.O. 4, 2008]

Design Manual. The Development Design Manual for Speedway as adopted and amended by the Speedway Town Council and the Metropolitan Development Commission. [G.O. 13, 2009, 2008-AO-02]

Full control of access. The condition where the right of the owner(s) or occupant(s) of abutting property(ies), or of other persons, to access the property(ies), including the location and connection with public streets, is controlled by public authority. Full control of access gives preference to through vehicular traffic movement, by providing access connections with selected public streets only, by limiting crossings at grade and by prohibiting direct driveway connections. Such frontages include, but are not limited to, the frontages along: Binford Boulevard; North Shadeland Avenue between 48th Street to the Fall Creek waterway; and North Keystone Avenue between Woodfield Crossing Boulevard and 96th Street. [2007-AO-02, G.O. 4, 2008]

Green Roof. The roof of a building that is partially or completely covered with vegetation and soil, or a growing medium, planted over waterproofing membrane. [G.O. 13, 2009, 2008-AO-02]

Greenbelt. The portion of a front yard of a lot that is immediately adjacent and parallel to a street right-of-way and specified as such for landscaping purposes. [G.O. 13, 2009, 2008-AO-02]

Gross floor area. The number of the square feet of horizontal floor area of a building measured from the exterior faces of the exterior walls or from the centerline of a wall separating two (2) abutting buildings.

Hardsurfaced. Quality of an outer area being solidly constructed of pavement, brick, paving stone, or a combination thereof.

Height, building. The vertical distance above a reference line measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the height of the highest gable of a pitched or hipped roof. The reference line shall be selected by either of the following, whichever yields a greater building height:

- (1) The elevation of the highest adjoining sidewalk or ground surface within a ten-foot horizontal distance from and paralleling the exterior wall of the building or structure when the sidewalk or ground surface is not more than ten (10) feet above lowest grade;
- (2) An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface is more than ten (10) feet above the lowest grade.

Legally established nonconforming building or structure. Any continuous, lawfully established building or structure erected or constructed prior to the time of adoption, revision or amendment or granted variance of the zoning ordinance, but which fails, by reason of such adoption, revision, amendment or variance, to conform to the present requirements of the zoning district.

Legally established nonconforming use. Any continuous, lawful land use having commenced prior to the time of adoption, revision or amendment, or grant of a variance of the zoning ordinance but which fails, by reason of such adoption, revision, amendment, or variance to conform to the present requirements of the zoning district.

Lot line. The legal boundary of a lot as recorded in the Office of the Marion County Recorder.

Lot line, front. The lot line(s) coinciding with the street rights-of-way; in the case of a corner lot, both lot lines coinciding with the street rights-of-way shall be considered front lot lines; or in the case of a through lot, the lot line which most closely parallels the primary entrance to the primary structure shall be considered the front lot line, or so declared by the Administrator.

Lot line, rear. A lot line which is opposite and most distant from the front lot line, or in the case of a triangularly shaped lot, a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line. However, in the case of a corner lot, any lot line which intersects with a front lot line shall not be considered a rear lot line.

Lot line, side. Any lot line not designated as a front or rear lot line.

Open dumping. A site where refuse is dumped, which due to lack of control may create a breeding place for flies and rats, may catch fire or produce air pollution.

Permitted use. Any use by right authorized in a particular zoning district or districts and subject to the restrictions applicable to that zoning district.

Religious use. A land use and all buildings and structures associated therewith devoted primarily to the purpose of divine worship together with reasonably related accessory uses, which are subordinate to and commonly associated with the primary use, which may include but are not limited to, educational, instructional, social or residential uses. [G.O. 3, 2008; 2007-AO-01]

Sanitary landfill. A method of disposing of refuse on land without creating nuisances or hazards to public health, safety, or welfare by utilizing principals of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, covering it with a layer of suitable cover at the conclusion of each day's operation or at more frequent intervals as necessary.

Setback. The minimum horizontal distance established by ordinance between a proposed right-of-way line or a lot line and the setback line.

Setback line. A line that establishes the minimum distance a building, structure, or portion thereof, can be located from a lot line or proposed right-of-way line.

Sidewalk. A hard-surfaced walk or raised path and any curb ramps or blended transitions along and paralleling the side of the streets for pedestrians. Sidewalks do not include the curb or gutter structures. [2007-AO-02, G.O. 4, 2008]

Sign Band. The horizontal piece of a façade framework, within which a sign is permitted, located between the top of a first story window or first story door and the base of a second story window. Refer to Diagram C. [G.O. 13, 2009, 2008-AO-02]

Site plan. The plan, or series of plans, drawn to scale, for one (1) or more lots on which is shown the existing and proposed location and conditions of the lot including as required by the Improvement Location Permit ordinance, but not limited to: topography, vegetation, drainage, floodplains, marshes, and waterways; open spaces, walkways, means of ingress and egress, utility services, landscaping, buildings, structures, signs, lighting and screening devices, centerlines of rights-of-way, and dimensions.

Street, Corridor. Primary streets within the SZ-1 and SZ-2 Districts, more specifically defined as 16th Street, Holt Road, and 10th Street. [G.O. 13, 2009, 2008-AO-02]

Street, Interior. Streets within the SZ-1 and SZ-2 Districts that are not identified as Corridor Streets shall be considered Interior Streets. [G.O. 13, 2009, 2008-AO-02]

Street, eligible public. Pertaining only to sidewalks, that portion of a public street abutting a lot or project, or that portion of a public street between the lot lines extended from which a lot or project gain access. [2007-AO-02, G.O. 4, 2008]

Structure. A combining or manipulation of materials to form a construction, erection, alteration or affixation for use, occupancy, or ornamentation, whether located or installed on, above, or below the surface of land or water.

Surface, Permeable. A surface that permits water to enter the ground by virtue of its porous nature or by large spaces in the material. [G.O. 13, 2009, 2008-AO-02]

Surface, Impervious. A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. [G.O. 13, 2009, 2008-AO-02]

Thoroughfare. The segment of the Comprehensive Plan for Marion County, Indiana, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to

IC-36-7-4 that sets forth the location, alignment, dimensions, identification and classification of freeways, expressways, parkways, primary arterials, secondary arterials, or other public ways as a plan for the development, redevelopment, improvement, and extension and revision thereof.

Transparency. The ratio of glass of windows and doors compared to the entire face of a building, and shown in a percentage format. Refer to Diagram C. [G.O. 13, 2009, 2008-AO-02]

Yard, front. An open space unobstructed to the sky, extended fully across the lot while situated between the front lot line and a line parallel thereto, which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line.

Yard, rear. An open space unobstructed to the sky extending fully across the lot situated between the rear lot line and a line parallel thereto which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line.

Yard, side. An open space unobstructed to the sky extending the length of the lot situated between a side lot line and a line parallel thereto which passes through the nearest point of any building or structure and terminates at the point of contact with any rear or front yards or any lot line, whichever occurs first.

(G.O. 2, 2002, § 24; 2007-AO-01, G.O. 3, 2008; 2007-AO-02, G.O. 4, 2008)

DIAGRAM B Sign Types in Speedway Zoning Districts

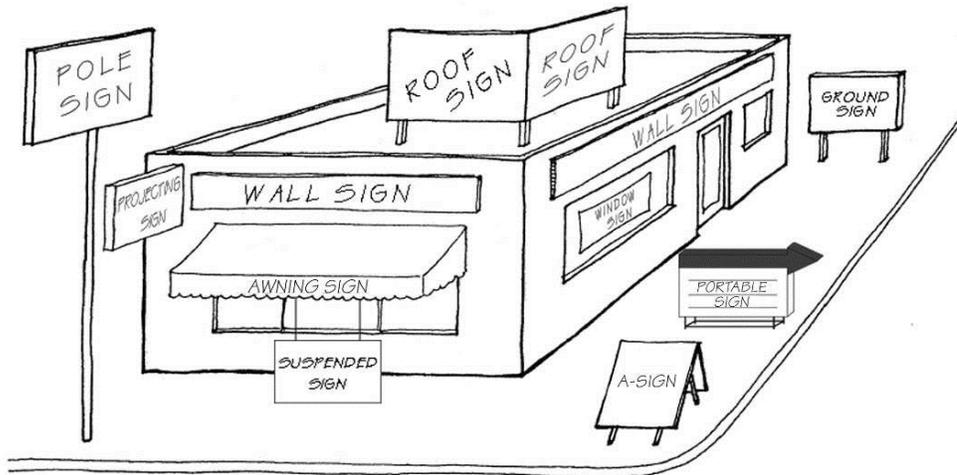
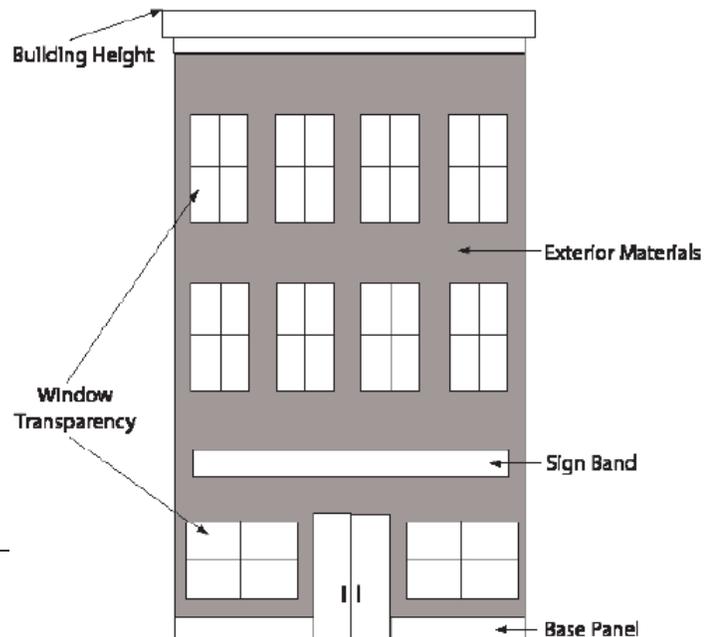


DIAGRAM C Elements of a Building



DIVISION 6. SPEEDWAY DISTRICT REGULATIONS

Sec. 735-760 Speedway District Regulations.

(a) **Statement of Purpose.** The purpose and intent of these districts is to ensure that all development of land in the Speedway Redevelopment Area 1 takes place in accordance with the principles set forth in the Comprehensive Plan and the Speed Zone Master Plan. The Commission shall prescribe in its rules of procedure the requirements for an approval petition for site and development plan consideration which shall be filed. Where the Special Districts Zoning Ordinance directly conflicts with other portions of the Zoning Ordinance, this code shall prevail; however, no development may be approved that conflicts with the Comprehensive Plan.

(1) The Speedway Main Street District (SZ-1) is intended to serve as the primary identity for the Town of Speedway.

The SZ-1 District is designed to permit and facilitate street-level activities focusing on restaurants, personal services, and shopping while the upper stories provide a diverse range of office space and urban-style housing. Due to the intensity, traffic generation, nature of operation, or aesthetics of these uses, industrial uses, automobile service facilities, outside storage, and other similar uses are prohibited.

The SZ-1 District is designed to permit and facilitate a healthy social and economic environment for residents and visitors of all ages that is a pedestrian-oriented place with active street life, healthy retail, as well as common space for community gatherings and racing-season activities. All buildings within the SZ-1 District shall contribute to creating a relatively continuous street wall and create a pedestrian oriented sense of enclosure and place. Building heights and signs may vary from one property to the next; however a general consistency shall be retained in order to create a continuous sense of character within the district. Sidewalks, pedestrian pathways, and parking areas shall give particular attention to streetscape, landscape continuity, and lighting.

(2) Speedway Industrial District (SZ-2) is designed to permit and facilitate uses that are significant employment generators.

The SZ-2 District is designed to permit and facilitate a diverse mix of light and moderate industrial uses, some automobile-related commercial activities, and commercial entertainment. For illustrative purposes, such uses include wholesale activities, warehouses, manufacturing, compounding, processing, packaging, assembly, or treatment of finished or semi-finished products from previously-prepared material, as well as racing, sports and entertainment operations. Due to the inherent risk, intensity, traffic generation, nature of operation or aesthetics of these uses, residential uses, and commercial retail and service uses are prohibited.

The SZ-2 District is designed to permit and facilitate development that is entirely enclosed; strictly adheres to the performance standards; provides sufficient space for current or future needs for manufacturing and wholesaling or related uses while preserving the aesthetics of the community; and utilizes sustainable development techniques to both reduce the environmental impact and increase the intensity of development. In addition to the economic benefits of green roof construction and the utilization of permeable pavement materials, structures utilizing these design techniques realize ecological benefits by reducing the impervious surface area on a site. The SZ-2 District development standards encourage these and other sustainable construction and development practices.

(b) Permitted Uses in the Speedway Districts.

(1) Permitted Speedway Main Street District SZ-1 uses. All uses permitted within the SZ-1 District shall be subject to the Commission's approval, and as indicated on the required site and development plan filed with, and approved by, the Commission as specified in this Article. The following uses are permitted, as approved by the Commission:

- a. Office uses, retail uses, personal service establishments, restaurants, drinking places, theaters, museums, educational facilities, and indoor amusement/recreation establishments.
- b. Residential uses, location above the first floor and possessing a separate entrance is preferred, unless otherwise permitted by the Commission.
- c. Any other similar uses appropriately planned, designed and limited to foster a pedestrian-oriented and diverse environment compatible with the traditional development pattern of downtown Speedway.

(2) Prohibited Speedway Main Street District SZ-1 uses. The following uses shall be prohibited from the SZ-1 district:

- a. Adult entertainment business (as defined in section 732-217).
- b. Automotive services, including but not limited to: storage, outdoor sales, leasing/rental, repair, service, body work, car wash facility, detailing, supply store, rust proofing, tire alignment, tire dealers, tire repair, oil change, lubrication shop.
- c. Fireworks sales.
- d. Fueling station, such as gasoline or ethanol.
- e. Heavy industrial uses listed in Section 733-201(b), (c) and (d).
- f. Sanitary Landfill.
- g. Light industrial uses listed in Section 733-201(a) except those uses that include retail, entertainment or office activities that are located in the building in proximity and along the frontage of the lot.
- h. Outside storage or operations and uses requiring outside storage or display of materials, goods, or equipment or outside operations.
- i. Self-storage or mini-warehouse facility.
- j. Other uses similar and comparable in character to the above prohibited uses.

(3) Permitted Speedway Industrial District SZ-2 uses. All uses permitted within the SZ-2 District shall be subject to the Commission's approval, and as indicated on the required site and development plan filed with, and approved by, the Commission as specified in this Article. The following uses are permitted, as approved by the Commission:

- a. For lots with at least 200 feet of frontage along the realigned 16th Street right-of-way, all SZ-1 uses, except residential uses, developed in accordance with the SZ-1 development standards;
- b. Commercial office centers and associated retail uses;
- c. Light and Moderate industrial uses listed in Section 733-201(a) and (b);
- d. Fueling stations, automotive services; and

- e. Other uses similar and comparable in character to the above permitted uses and as described in Section 733-201.

(4) Prohibited Speedway Industrial District SZ-2 uses. The following uses shall be prohibited in the SZ-2 district:

- a. Adult entertainment business (as defined in Section 732-217).
- b. Fireworks sales.
- c. Medium and Heavy industrial uses listed in Section 733-201(c) and (d).
- d. Residential uses.
- e. Sanitary Landfill.
- f. Self-storage or mini-warehouse facility.
- g. Other uses similar and comparable in character to the above prohibited uses.

(c) Site and development plan consideration. No use, building or structure shall hereafter be established, constructed, altered, converted, expanded, enlarged, modified, reconstructed, relocated, or used on any land in the SZ-1 or SZ-2 District for any purpose other than lawfully existed on or prior to adoption date of this ordinance until a site and development plan for such land shall have been filed with and approved by the Commission. The Commission shall prescribe in its rules of procedure the requirements for an approval petition for site and development plan consideration which shall be filed. In addition, the rules of procedure set forth the fees, hearing process, notice, and amendment procedures relative to any petition. The Commission may consider and act upon any proposed use and site and development plan, approve the same in whole or in part, and impose additional development standards, requirements or conditions thereon at any public hearing of the Commission.

(1) Design Consideration. Evaluation of a project shall be based on the quality of its design and relationship to surroundings. Factors to be considered include, but are not limited to:

- a. Architectural Building Design. In reviewing the architectural design of buildings proposed to be built in the SZ-1 or SZ-2 districts, architectural style is not restricted. Aesthetics of the proposed building or other proposed structures, including:
 - 1. Color and materials.
 - 2. Scale and proportion;
 - 3. Suitability of building materials;
 - 4. Design in relation to surrounding buildings;
 - 5. Design in relation to proposed landscaping; and
 - 6. Use and materials for fencing.
- a. Buildings shall be harmonious with permanent, neighboring development.
- b. Materials shall have architectural character and shall be selected for harmony with adjacent buildings.
- c. Materials shall be suitable to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public rights-of-way.
- d. Materials shall be of durable quality.

- e. Building components, such as windows, doors, eaves, and parapets, shall have good proportions and relationships to one another.
- f. Colors shall be harmonious with existing development and only the use of complementing accents shall be permitted.
- g. Exterior lighting shall be part of the architectural design. Fixtures, standards, and all exposed accessories shall be harmonious with building design.
- h. Monotony of design in single or multiple building projects shall be avoided. Variation of detail and form shall be used to provide visual interest. In multiple building projects, variable siting or individual buildings may be used to prevent a monotonous appearance.
- i. Signs shall be designed as an integral part of the architectural and landscaping plans. The colors, materials, and style of signs shall be architecturally compatible and accentuate the buildings and landscaping on the site. The colors, materials, and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates.

(2) Plan documentation and supporting information. The site and development plan shall be dimensioned and include layout and elevation plans for all proposed buildings and structures, and shall indicate:

- a. Proposed uses.
- b. Any existing uses, buildings and structures; including any proposed to be demolished.
- c. Zoning and existing land uses of adjacent properties.
- d. Proposed buildings and structures.
- e. Elevations of all facades of each building.
- f. Proposed fencing.
- g. Proposed location of trash receptacles or storage.
- h. Off-street parking layouts.
- i. Circulation plan for vehicles and pedestrians.
- j. Vehicular entrances and exits and turnoff lanes.
- k. Setbacks.
- l. Landscaping, screens, walls, fences.
- m. Lighting plan.
- n. Signs, including location, size, design, and illumination.
- o. Sewage disposal facilities.
- p. Storm drainage facilities.
- q. Other utilities if aboveground facilities are needed.
- r. Sample color and materials palette for all proposed structures, including fences.
- s. Information related to the development's environmental impact (such as application for LEED certification, paving permeability, and other sustainable techniques).

(3) Site and development plan requirements. Land in the SZ-1 and SZ-2 Districts is subject to the following site and development requirements. In review of the proposed

site and development plan, the Commission shall assess whether the site and development plan, proposed use, buildings and structures shall:

- a. Be so designed as to create a superior land development plan, in conformity with the Comprehensive Plan of Marion County, Indiana;
- b. Be in conformity with the Speed Zone Master Plan of the Town of Speedway, Indiana;
- c. Create and maintain a desirable, efficient and economical use of land with high functional and aesthetic value, attractiveness and compatibility of land uses, within the district and with adjacent uses;
- d. Utilize sustainable development techniques to both reduce the environmental impact and increase the intensity of development;
- e. Provide sufficient and adequate multi-modal access, parking and loading areas per the standards set forth in this Division;
- f. Integrate active and passive traffic control and multi-modal transportation network with existing and planned public streets and interior roads;
- g. Provide adequately for sanitation, drainage and public utilities;
- h. Provide for pedestrian connectivity and public transit accessibility; and
- i. Allocate adequate sites for all uses proposed - the design, character, grade, location and orientation thereof to be appropriate for the uses proposed - logically related to existing and proposed topographical and other conditions, and consistent with the Comprehensive Plan of Marion County, Indiana and the Speed Zone Master Plan of the Town of Speedway, Indiana.

The Commission may consider and act upon any such proposed use and site and development plan, approve the same in whole or in part, and impose additional development standards, requirements, conditions, or commitments thereon at any public hearing of the Commission.

(4) Findings. The Commission shall make written findings concerning any decision to approve or disapprove a site and development plan filed under this section. The written findings shall be based upon the requirements of subsection (c)(3) above (Site and development plan requirements). The president or secretary of the Commission shall be responsible for signing the written findings.

(d) Public notice. Public notice of the hearing regarding such petition shall be required to registered neighborhood organizations whose boundaries include all or part of the subject request, and otherwise in accordance with the Commission's rules of procedure.

(e) Improvement Location Permit requirements. No building or structure shall be established, constructed, altered, converted, expanded, enlarged, modified, reconstructed, relocated, or used in the SZ-1 or SZ-2 District without an Improvement Location Permit. Such permit shall not be issued until the site and development plan, including the proposed use or uses and plans for such building or structure, shall have been approved by the Commission. Applications for an Improvement Location Permit shall be made upon Department of Metropolitan Development forms and shall include all information specified by such forms.

- (f) Speedway District development standards.** Development shall be in accordance with the following development standards for the SZ-1 and SZ-2 Districts. The illustrations used in this section are only conceptual representations of the desired type of development and are not to be construed as a development standard.

(1) Speedway Main Street District SZ-1 development standards.

a. Lot area. There shall be no minimum or maximum lot area.

b. Lot width. Lot width shall be measured along the frontage of the lot. Minimum lot width shall be 20 feet. There shall be no maximum lot width.

c. Front building setback and yard.

1. No part of any building shall be located closer to the right-of-way line of any street than zero feet. The maximum distance between any right-of-way line of any street and any building located on the lot shall be 5 feet. A front yard of no less than zero feet in depth and no more than 5 feet in depth, measured from and parallel to the lot line, shall be provided along the entire lot width.
2. The composition of the surface area of the front yard shall be developed and maintained in a pedestrian-friendly manner.

d. Side building setback and yard. A side setback and side yard of no less than zero feet in depth, measured from and parallel to all side lot lines, shall be provided along all side lot lines.

e. Rear building setback and yard. A rear setback and rear yard of no less than three feet in depth, measured from and parallel to all side lot lines, shall be provided along all rear lot lines unless subject to the following transitional yard requirements:

1. Where a rear lot line abuts a lot line in an adjacent protected district, a required rear transitional yard and building setback of not less than twenty (20) feet in width, measured from and parallel to the lot line, shall be provided along such rear lot line.
2. Exceptions to the above subsection 735-760 (f)(1)e. 1.:
 - i. Where a dedicated alley separates such rear lot line from the protected district, such required rear transitional yard and building setback shall be not less than ten (10) feet in width.
 - ii. Where the ground area required for required transitional yards exceeds twenty (20) percent of the lot area, the width of the rear transitional yards may be reduced to ten (10) feet and shall provide planting areas, being six-foot in width minimally, and provide a six-foot tall opaque wooden fence or solid wall.
 - iii. Transitional yard requirements shall not apply in those instances where commercial or industrial use, legally established by permanent variance or lawful nonconforming use, exists upon such property or abutting frontage property, although zoned as a protected district.

f. Building height.

1. The minimum building height shall be 24 feet or two stories, whichever is less.
2. The maximum building height shall be 52 feet or four stories, whichever is greater.
3. Maximum building height exceptions.
 - i. HVAC, mechanical equipment, stairwell enclosure, elevator equipment, and any required screening may extend above the maximum building height,

but shall not be greater than 10 feet above the maximum building height. Said structures shall be completely screened from view at any right-of-way and from any protected district.

- ii. Where a rear lot line abuts a lot line in an adjacent protected district, the building height of any structure within thirty (30) feet of the rear lot line shall not be greater than 35 feet or 3 stories, whichever is the lesser.

g. Building use and form.

1. The total floor area of any dwelling unit shall not be less than 600 square feet.
2. Drive-through service windows shall be permitted only if all of the following requirements are satisfied:
 - i. The lot on which the drive-through service window is located is a corner lot;
 - ii. The location of the building with the drive-through service window is at the corner with the intersecting public rights-of-ways and behind the front building line;
 - iii. Vehicular access from Main Street is prohibited; and,
 - iv. Adequate stacking for the drive-through service window is provided.
3. Roofs. Roof line, form and cornice shall be articulated with a treatment in scale with the building and shall be designed integral with the building. Mechanical equipment shall be placed to complement the building or screened with materials consistent with the building's design. Roofs shall not be pitched unless a parapet is provided that completely and effectively screens the pitch from view from any right-of-way. Alternative roof design may be approved at the discretion of the Commission.
4. Transparency of the building facade.
 - i. Minimum transparency of the ground floor shall be 40%.
 - ii. Maximum transparency of the ground floor shall be 85%.
 - iii. Minimum transparency of the floors above the ground floor shall be 25%.
 - iv. Maximum transparency of the floors above the ground floor shall be 60%.
5. Exterior Building Materials. The following standards apply to all buildings except public parking structures.
 - i. Walls on all sides of any building, exclusive of windows and doors, shall be a minimum 80% brick, stone, pre-cast concrete panels, tile, decorative block, wood or hardiplank lap siding, or ceramic. Materials shall be durable enough to last 50 years with low maintenance. Other materials may be approved if determined by the Commission that the materials meet the intent and purpose of the district.
 - ii. All sides of the building shall be of a similar design and complement each other.
 - iii. Trim and ornamentation shall be provided on all sides of any building and shall be metal, concrete, brick, stone, wood, or decorative concrete block.
6. Architectural features and façade requirements.
 - i. Base panel shall be provided. Base panel shall be between 18 and 30 inches tall.

- ii. Sign band. A sign band, being between 12 and 24 inches tall, is recommended to accommodate wall signage.
 - iii. Walls without windows shall not be permitted along or when facing a public right-of-way, public parking area, or park.
 - iv. Articulation for walls located within 10 feet of a public right-of-way shall be, at a minimum, every 10 feet and shall wrap around the sides of the building, at a minimum, 3 feet.
 - v. Proportion. If the building facades along a right-of-way comprise at least 50% of the frontage of a block, new construction or façade rehabilitation shall create or maintain horizontal and vertical spacing of façade elements of surrounding buildings such as windows, entries and rooflines as well as the rhythm of the bays, windows, and openings of the facades.
 - vi. Windows.
 - 1. Ground floor window openings. The height of ground floor window openings shall be equal to or greater than the width of the opening.
 - 2. Upper floor window openings shall be rectangular. The vertical dimension of a window size shall be, at a minimum, two times the horizontal dimension.
- h. Parking.** Off-street parking within 50 feet of the right-of-way of Main Street or West 16th Street shall be prohibited. Off-street parking is discouraged; any off-street parking shall be designed to be unobtrusive to the pedestrian environment. Provisions for bicycle, scooter and motorcycle parking shall be provided in proximity to the primary entrance.
- i. Signs.** Except as modified by this division, the regulations of the following Sections shall apply: Sections 734-100 through 734-204, Sections 734-207, 734-300 and 734-303, Sections 734-400 through 734-701.
- 1. Permitted sign types and size. Permitted and prohibited sign types are identified in Diagram B 'Sign Types in Speedway Zoning Districts'. The following sign types may be permitted:
 - i. Canopy and awning signs. The recommended maximum of sign surface area of a canopy or awning sign shall be 20 square feet with a maximum vertical dimension of two feet.
 - ii. A-frame sign. The maximum of sign surface area per side of an A-frame sign shall be 12 square feet with a maximum horizontal dimension of three feet. A-frame signs shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. EST. A-frame signs shall be designed and placed in a secure manner in all weather conditions and shall not obstruct accessibility or visibility of pedestrians or vehicular movement.
 - iii. Projecting sign. The recommended maximum of sign surface area of a projecting sign is 8 square feet. In addition, it is recommended that horizontally oriented signs have a maximum vertical dimension of two feet and vertically oriented signs have a maximum horizontal dimension of two feet.
 - iv. Suspended sign. Suspended signs shall maintain a clearance of 8.5 feet.
 - v. Wall sign. The recommended placement of a wall sign is to be contained entirely within the sign band.

- vi. Window sign. Window signs shall be permitted on the ground floor only and the maximum sign surface area shall not exceed 50% of the sign surface area of all ground-floor windows on that facade.
 - vii. Sign affixed to the barrier of an approved outdoor seating area associated with a restaurant. Said sign shall be a maximum of 6 square feet in sign surface area with a maximum height of 4 feet. Such outdoor signs may remain in place from 7:00 a.m. to 10:00 p.m. EST.
 - viii. Exempt signs as listed and authorized in Chapter 734-201
2. Prohibited sign types. Off-premises (outdoor advertising) signs, ground signs, pole signs, pylon signs shall be prohibited. Portable signs, except for A-frame signs specifically described above, shall be prohibited.
 3. Sign types eligible for Special Consideration. Animated signs, roof signs, inflatable signs, marquee signs, message centers, and electronic variable message signs may be permitted after special consideration and the adoption of specific findings by the Commission that unique circumstances exist and that the specific design characteristics are appropriate for the district. Findings of fact shall be adopted.
 4. Number of signs.
 - i. Sign affixed to the barrier of an approved outdoor seating area associated with a restaurant. Two one-sided signs shall be permitted if the signs face different directions; or one two-sided sign shall be permitted.
 - ii. Wall Signs. One wall sign shall be permitted for each ground-floor entrance to the building.
 - iii. One of the following sign types shall be permitted for each ground-floor entrance to the building: One awning sign or one projecting sign or one canopy sign.
 - iv. Suspended sign. If attached to an awning sign or canopy sign, one suspended sign shall be permitted for each ground-floor entrance to the building.
 - v. A-frame sign. One A-frame sign shall be permitted for each ground-floor entrance to the building.
 - vi. Window sign. Two window signs shall be permitted for each ground-floor entrance to the building.
 5. Sign location. Sign shall be designed and placed in a secure manner for all weather conditions and shall not obstruct accessibility or visibility of pedestrians or vehicular movement. In accordance with Chapter 734, no sign or sign structure may be placed on or in the right-of-way of an alley or a street, except for the following sign types upon obtaining encroachment authorization from the appropriate governmental agency:
 - i. Sign affixed to the barrier of an approved outdoor seating area associated with a restaurant.
 - ii. A-frame sign.
 - iii. Projecting signs.
 - iv. Awning or canopy sign.
 - v. Suspended sign.
 - vi. Wall sign.

6. Character. The colors, materials, and style of signs shall be architecturally compatible and accentuate the buildings and the district. Signs should be designed to reflect the small-town atmosphere of Main Street while fostering an exciting and festive atmosphere, enhancing a sporting event experience, or demonstrating a unique approach to advertising. Box signs typically do not meet the desired character.
7. Sign illumination. The Commission may authorize the internal or external illumination of signs.

j. Screening of trash receptacles and refuse areas. No outside, unenclosed storage of recyclables or refuse containers exceeding 16 cubic feet in size shall be permitted on any lot. Any refuse or recyclable container, dumpster, or compactor exceeding 16 cubic feet in size shall be located within an area enclosed on all sides by a fence, wall, or similar means of enclosure. The enclosure does not require a roof. The height of the sides of the enclosure shall be the greater of six feet or two feet taller than the container, dumpster, or compactor that is being enclosed. All sides of the enclosure, including doors or gates, shall be opaque.

k. Lighting. Lighting shall be designed to minimize overflow light into the night sky, shield the light filaments from any right-of-way or protected district, prohibit hazardous glare perceptible from any point beyond the lot lines, and provide adequate light for safety.

l. Fencing. Except for use as described under subsection j., fences shall be constructed of materials that complement the design of the primary building. Chain-link fencing shall not be permitted. Barbed wire and razor wire shall be prohibited.

m. Pedestrian Accessibility.

1. Development shall provide sidewalks along eligible public streets, excepting interstate highways, expressways, freeways, as indicated in the current Official Thoroughfare Plan for Marion County, Indiana, and other full control of access frontages as determined by the Administrator; and, pedestrian accessibility to available public transit. Sidewalks shall consist of the walkway and any curb ramps or blended transitions. If required to be installed, the Administrator or the Commission shall be guided by the provisions of Sec. 732-214(c)(5) for the installation of sidewalks in the C-S District.
2. Internal accessibility. Within a lot or integrated center, walkways shall be provided in accordance with a pedestrian plan that shall include a walkway system that functionally connects all of the building's main front entrances with the sidewalk located in the public right-of-way of each of the lot or integrated center's eligible public streets. The walkways may be constructed of asphalt, concrete, pavers, or other materials meeting ADA guidelines. Such private walkways shall provide for identifiable pedestrian crossing treatments along functional pedestrian routes wherever the private walkways cross an interior access drive or interior access driveway.

n. Streetscape.

In order to create cohesiveness within the SZ-1 district, site furnishing elements have been delineated for public spaces along the Main Street Corridor in the Design Manual. For each of the site furnishings, substitutions that provide a similar style may be approved by the Commission. The site furnishings may include items appropriate to the site, such as, benches, trash receptacles, transit shelter, bollards, newspaper racks, trees, tree gates, bike lockers, bike racks, and public art.

(2) Speedway Industrial District SZ-2 development standards.

a. Lot Coverage, Building Setbacks, and yards.

1. No more than 60% of the lot area may be covered by impervious surfaces, including structures, parking, and other hard surfaces. This maximum lot coverage may be increased to 80% impervious surface coverage if appropriate methods for sustainability indicated in subsection j. below are utilized.
2. No part of any building shall be located closer to the right-of-way line of any street than 50 feet. A front yard of no less than 50 feet in depth, measured from and parallel to the lot line, shall be provided along the entire lot width.
3. A side setback and side yard of no less than 25 feet in depth, measured from and parallel to all side lot lines, shall be provided along all side lot lines.
4. A rear setback and rear yard of no less than 25 feet in depth, measured from and parallel to all side lot lines, shall be provided along all rear lot lines.

b. Building height.

1. The building height shall not be greater than 60 feet.
2. Building height exceptions.
 - i. HVAC, mechanical equipment, stairwell enclosure, elevator equipment, and any required screening may extend above the maximum building height, but shall not be greater than ten feet above the maximum building height. Said structures shall be completely screened from view at any right-of-way and from any protected district.
 - ii. Where a lot line abuts a lot line in a protected district, the building height of any structure within one hundred (100) feet of the lot line shall not be greater than 35 feet.

c. Exterior building materials, Architectural features and Façade requirements.

1. Walls on all sides of any building, exclusive of windows, shall be a minimum of 50% brick, stone, pre-cast concrete panels, tile, decorative block, wood or hardiplank lap siding, ceramic or glass. Other materials may be approved if determined that the materials meet the intent and purpose of the districts.
2. Walls without windows shall not be permitted when facing or along a public right-of-way, public parking area, or park.
3. Articulation on all walls shall not be less than every 75 feet.

d. Parking. The design, circulation, and amount of parking shall be in accordance with the standards in Article I, Section 733-211 of this ordinance. In addition, the following standards shall apply:

1. Provisions for adequate bicycle, scooter and motorcycle parking shall be provided in proximity to the primary entrance in accordance with the Design Manual.
2. Placement. No more than one single bay of parking shall be permitted between a public right-of-way and a building.
3. Interior parking lot landscaping. All parking lots, regardless of size, shall provide interior landscaping. Landscaping shall be provided in accordance with the standards in Section 732-214(g)(3)

- e. Signs.** Except as modified by this division, the regulations of the following Sections shall apply: Sections 734-100 through 734-204, Sections 734-207, 734-300 and 734-303, Sections 734-400 through 734-701.
1. Permitted sign types: ground sign, awning sign, wall sign, projecting sign, suspended sign, and window sign.
 2. Prohibited sign types: Off-premises (outdoor advertising) sign, pole sign, pylon sign, and portable sign shall be prohibited.
 3. Sign types eligible for Special Consideration. Animated sign, roof sign, marquee sign, message center, and electronic variable message sign may be permitted after Special Consideration and the adoption of specific findings by the Commission that unique circumstances exist and that the specific design characteristics are appropriate for the district.
 4. Number and size of signs by type.
 - i. Ground signs. One sign per building may be permitted in accordance with the following standards. The integration of signs, particularly the sharing of signs for multiple businesses, is encouraged.
 - (a) Maximum height of a ground sign shall be 10 feet.
 - (b) Maximum sign area of a ground sign shall be 200 square feet.
 - (c) Setback of a ground sign. Ground sign shall be located at least 10 feet from any right-of-way or property line.
 - (d) Separation. Ground sign shall be no closer than 300 feet to another ground sign.
 - (e) Ground sign shall not be located in any designated greenbelt or perimeter planting area.
 - ii. Awning signs, wall signs, projecting signs, suspended signs, and window signs may be located on any of the walls of a building. The total sign surface area of all signs shall not exceed 10% of the area of all facades.
 - iii. Coordinated Sign Plan. A coordinated sign plan for projects that contain five or more permitted signs may be submitted at the time of development plan submittal and approved by the Commission shall be eligible for a 20% increase in permitted sign surface area per permitted sign. Said plan shall indicate the size, design, illumination, and placement of all signs on the site.
 - iv. Sign illumination. The Commission may authorize the internal or external illumination of signs.
 - v. Character. The colors, materials, and style of signs shall be architecturally compatible and accentuate the buildings and landscaping on the site. Signs are recommended to be designed to reflect the small-town atmosphere of Speedway while professionally promoting the businesses that they represent. Box signs typically do not meet the desired character.

f. Landscaping.

1. General.
 - i. Landscaping shall be provided in accordance with the plan approved by the Commission in accordance with the guidance provided by the Design Manual.

- ii. All required landscaping in accordance with the approved plan shall be installed within one year of the date of issuance of an improvement location permit .
- iii. The landscaping shall be properly maintained at all times, upon installation and thereafter. Proper maintenance includes, but is not limited to, replacing dead plantings with identical varieties or a professionally acceptable substitute, proper pruning, provision of adequate water, and keeping the area free of refuse and debris.
- iv. An approved landscaping plan may not be altered, eliminated, or modified, without first obtaining approval by the Commission or their designee.

2. Greenbelt. Landscaping along Street frontage. A greenbelt shall be provided along each frontage. Greenbelts shall be landscaped and shall be otherwise unoccupied except for steps, walks, driveways, lighting, and similar structures. Parking areas shall not be permitted in a greenbelt.

i. Greenbelt along a Corridor Street.

(a) Minimum width shall be 20 feet.

(b) Plantings in the greenbelt along a Corridor Street shall be in accordance with the Design Manual.

ii. Greenbelt along an Interior Street.

(a) Minimum width shall be 10 feet.

(b) Plantings in the greenbelt along an Interior Street shall be in accordance with the Design Manual.

3. Building perimeter plantings. A minimum planting area equal to an area measuring an average of 10 feet in depth and extending along the entirety of each wall of the building shall be landscaped adjacent to that wall of the building. Sidewalks may be permitted in these areas, but shall not occupy more than 50% of the area on any side of the building. If an approach driveway or loading area cuts into a planting area adjacent to the building, additional planting area equal to the area displaced by the driveway shall be added to the building perimeter planting. These perimeter planting areas need not be rectangular in shape as long as the required total area is landscaped and dispersed on at least three different sides of the building.

4. Property perimeter plantings. A minimum property perimeter planting area shall be provided along the perimeter of the property except for frontage areas and shall be in accordance with the Design Manual.

g. Screening of trash receptacles, recyclable receptacles, refuse areas, and outside material/equipment storage.

- 1. No outside, unenclosed storage or display of materials or equipment shall be permitted on any lot. All materials and equipment shall be contained within an area enclosed in proximity on all sides by a solid fence, wall, mound, or similar means of enclosure. The enclosure is not required to have a roof. The sides of the enclosure shall be the greater of six feet or two feet taller than the assemblage of material or equipment that is being enclosed. All sides of the enclosure structure, including doors or gates, shall be opaque.
- 2. No outside, unenclosed storage of recyclables or refuse containers exceeding 16 cubic feet in size shall be permitted on any lot. Any refuse or recyclable container, dumpster, or compactor exceeding 16 cubic feet in size shall be located within an area enclosed on all sides by a fence, wall, or similar means of enclosure. The enclosure does not

require a roof. The height of the sides of the enclosure shall be the greater of six feet or two feet taller than the container, dumpster, or compactor that is being enclosed. All sides of the enclosure, including doors or gates, shall be opaque.

- h. Lighting.** Lighting shall be designed to minimize overflow light into the night sky, shield the light filaments from any right-of-way or protected district, prohibit hazardous glare perceptible from any point beyond the lot lines, and provide adequate light for safety.
- i. Fencing.** Except for use as described under subsection g., fences shall be constructed of materials that complement the design of the primary building. Chain-link fencing is strongly discouraged. Barbed wire and razor wire shall be prohibited.
- j. Sustainability.**

The purpose of this section is to promote health, safety, and welfare within the SZ-2 district and its environment by minimizing the harms and maximizing the benefits, through provisions designed to allow alternatives to the traditional building design and stormwater management. It is the intent of this section to encourage the use of Best Management Practices (BMPs) which are structural, vegetative, or managerial practices designed to treat, prevent, or reduce degradation of water quality due to stormwater runoff as well as the environmental impacts of building construction. All development projects subject to review under the requirements of this ordinance shall be designed, constructed, and maintained using BMPs to minimize environmental impacts while maintaining and contributing to the aesthetic values of the project.

1. Green Roof Construction. None of the building surface area under green roof construction shall be counted towards the impervious surface cover calculations.
2. Parking Lot and other surfaced elements. In order to break up or disconnect the flow of runoff over impervious surfaces, the use of pervious pavement materials is encouraged and includes, but is not limited to, pervious asphalt, pervious concrete, grid systems, or block pavers. Surface areas constructed with pervious techniques and materials, shall not be counted towards the impervious surface cover calculations.
3. The Commission may grant an increase in allowable impervious surface coverage for projects utilizing some or all of the following types of elements of sustainability:
 - i. Sustainable Architecture. Sustainable architecture design practice emphasizes efficiency of heating and cooling systems, alternative energy sources such as passive solar, appropriate building siting, reused or recycled building materials, on-site power generation (solar technology, ground source heat pumps, wind power), rainwater harvesting for gardening and washing, and on-site waste management such as green roofs that filter and control stormwater runoff.
 - ii. Nonstructural Stormwater Management Strategies. To the maximum extent practicable, the stormwater drainage standards adopted by the Town of Speedway shall be met by incorporating nonstructural stormwater management strategies into the site design. The nonstructural stormwater management strategies incorporated into the site design shall:
 - (a) Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
 - (b) Maximize the protection of natural drainage features and vegetation;
 - (c) Minimize the decrease in the "time of concentration" from preconstruction to post construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;

- (d) Minimize land disturbance including clearing and grading;
 - (e) Minimize soil compaction;
 - (e) Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;
 - (f) Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas.
- iii. Other sustainable strategies or practices that achieve the same intent outlined above.
- (G.O. 13, 2009, 2008-AO-02)

Chapter 735 ZONING -- OTHER DISTRICTS *

ARTICLE VIII. WELLFIELD PROTECTION *

** Editor's note: This article consists of the wellfield protection ordinance, G.O. 57, 1995, as amended by G.O. 204, 1995; G.O. 205, 1995; G.O. 178, 1996, adopted Dec. 16, 1996; G.O. 34, 1997, adopted Mar. 17, 1997; G.O. 76, 1998; and G.O. 54, 1998, adopted Apr. 6, 1998. Future amendments will be indicated by a parenthetical history note following the amended section.*

Sec. 735-800. Establishment of official zoning map; establishment of wellfield protection districts.

(a) Establishment of the official zoning map.

- (1) The county is divided into zoning districts, as shown on the official zoning map, which together with all explanatory matter thereon, is adopted by reference and declared to be a part of all zoning ordinances for Marion County, Indiana.
- (2) The official zoning map shall be maintained in electronic form, and depicted in various formats and scales as appropriate to the need. The Director of the Department of Metropolitan Development shall be the custodian of the official zoning map.
- (3) When changes are made in zoning district boundaries, such changes shall be made on the official zoning map promptly after the amendment has been adopted in accordance with IC 36-7-4-600 Series.
- (4) No changes shall be made to the official zoning map except in conformity with the requirements and procedures set forth in the zoning ordinance and state law.

(b) Establishment of wellfield protection districts. The following secondary Wellfield Protection Zoning Districts for Marion County, Indiana, are hereby established, and land within the county is hereby classified, divided and zoned into such districts as designated on the official zoning map.

Wellfield Protection Zoning Districts	Zoning District Symbols
One Year Time-of-Travel Protection Area (secondary)	W-1
Five Year Time-of-Travel Protection Area (secondary)	W-5

(c) Studies and evaluations of the W-1 and W-5 districts. The W-1 and W-5 districts shall be reevaluated by the Department of Metropolitan Development, with input from a committee including representatives from the Department of Public Works, the Department of Metropolitan Development, Health and Hospital Corporation of Marion County, Indiana, and applicable water utilities, no less frequently than every five (5) years to determine scientific reasonableness of the districts' maps.

(d) Reports.

- (1) The Department of Metropolitan Development shall provide progress reports on the studies and evaluations as required in subsection (c) above to the chairman of the Metropolitan Development Committee of the City-County Council, the Board of Public Works and to the Commission, the first of which reports shall be within thirty (30) days of the initiation of the study provided for in subsection (c) above, and thereafter such reports shall be provided on a quarterly basis.

- (2) Every water utility having a wellfield within a W-1 or W-5 district shall on or before January 15, 1998, prepare and file with the chairman of the Metropolitan Development Committee of the City-County Council, the Board of Public Works, the Commission and the Health and Hospital Corporation of Marion County the water utility's water quality monitoring plan for that year, including therein a description of the program designed to alert the water utility of any potential contamination of the groundwater underlying each of the water utility's wellfields. Any amendment to such plan by a water utility shall be filed within thirty (30) days of that amendment with the chairman of the Metropolitan Development Committee of the City-County Council, the Board of Public Works, the Commission, and the Health and Hospital Corporation of Marion County.

(G.O. 31, 2001, § 12; G.O. 2, 2002, § 25; G.O. 91, 2003, § 1; G.O. 49, 2004, §§ 1—4; G.O. 21, 2010)

Sec. 735-801. General regulations.

The following regulations shall apply to all land within the Wellfield Protection Zoning Districts. These regulations shall be in addition to all other primary and secondary zoning district regulations applicable to such land, and in case of conflict, the more restrictive regulations shall apply.

- (a) **Applicability of regulations.** The following regulations shall apply to all land within the Wellfield Protection Zoning Districts, with the exceptions of single- and multi-family residential land uses. After the effective date of this article: No building, structure, premises or part thereof shall be constructed, erected, enlarged, extended, or relocated except in conformity with these regulations and for uses permitted by this article and until the proposed site and development plan has been filed with and approved on behalf of the Commission by a technically qualified person. Such request shall be in the form of an application for an Improvement Location Permit, following all requirements for plan submission and documentation of section, 730-300 et seq. of this Code and shall contain the information specified in section 735-802(c)(1) through (12).

(b) **Development plans required.**

- (1) In the W-1 district or the W-5 district, a site and development plan is required to be filed with and approved on behalf of the Commission by the technically qualified person for any of the land uses listed in subsection (b)(2) below when an Improvement Location Permit is required. However, those listed land uses in the W-1 district that, in their ordinary course of business, have less than the threshold amount of one (1) gallon of liquids in the aggregate or six (6) pounds of water soluble solids in the aggregate and those land uses in the W-5 district that, in their ordinary course of business, have less than the threshold amount of one hundred (100) gallons of liquids in the aggregate or six hundred (600) pounds of water soluble solids in the aggregate on site are excluded from this site and development plan requirement. In determining thresholds, the following substances shall be exempted:
- a. Reasonable quantities of substances used for routine building and yard maintenance stored inside a facility.
 - b. Liquids required for normal operation of a motor vehicle in use in that vehicle.
 - c. Substances contained within vehicles for bulk deliveries to the site.
 - d. Beverages and food at restaurants, supermarkets, convenience stores, and other retail food establishments.
 - e. Uncontaminated public water supply water, groundwater and/or surface water.
 - f. Substances, which are packaged in pre-sealed containers, sold at retail establishments.

- g. Substances utilized for the production and treatment of public water supply.
 - h. Substances which, because of their inherent properties, are determined from time to time by the technically qualified person to pose no significant threat to groundwater.
- (2) Land uses requiring a site and development plan approval. (Development associated with the land uses listed below, but used exclusively for offices, does not require a site and development plan.)

Primary land uses:

- Agricultural chemical storage
- Animal feedlots or stockyards
- Asphalt or tar production
- Automotive supplies distribution
- Blast furnaces, steel works, rolling or finishing mills
- Building cleaning or maintenance services company
- Building materials production
- Car or truck wash
- Chemical or petroleum storage or sales
- Chemical, blending or distribution
- Clay, ceramic or refractory minerals mining or quarrying
- Construction contractors' equipment or materials storage
- Creosote manufacturing or treatment
- Dry cleaning plants or commercial laundries
- Educational, engineering or vocational shops or laboratories
- Electroplating operations or metal finishers
- Equipment repair
- Fat rendering
- Food or beverage production (excluding restaurants, catering and other retail food establishments)
- Furniture or wood strippers, refinishers
- Fuel dispensing facilities
- Golf courses or driving ranges
- Hazardous waste treatment, storage or disposal
- Hospitals
- Laboratories: medical, biological, bacteriological, chemical
- Landscape or lawn installation or maintenance service (commercial)
- Large institutional uses: convalescent or nursing homes, correctional or penal institutions, schools, colleges or universities
- Leather tanning or finishing
- Limestone, sand or gravel mining or quarrying
- Machine, tool or die shop
- Manufacture of:
 - Autos or trucks
 - Cement

Chemicals or gases
Colors, dye, paint or other coatings
Communication equipment
Detergents or soaps
Explosives, matches, or fireworks
Glass or glass products
Light portable household appliances; electric hand tools; electrical components or subassemblies; electric motors; electric or neon signs
Machinery, including electrical or electronic machinery; or equipment or supplies (circuits or batteries)
Major electric or gas household appliances
Marine equipment
Musical instruments
Office machinery, electrical or mechanical
Paper, paper box or paper products
Recording instruments
Tools or implements, machinery or machinery components
Wood products
Materials transport or transfer operations (truck terminals)
Metal mining
Mortuary or other embalming services
Motor or body repair: auto, truck, lawnmower, airplane, boat, motorcycle
Municipal waste landfill or transfer station
Oil or gas production wells
Oil or liquid materials pipelines
Painting or coating shops (utilizing liquids or water soluble solids)
Pesticide or fertilizer application services
Petroleum refining
Photographic processing facilities
Printing industries (utilizing liquid inks)
Radioactive waste handling or storage
Road salt storage
Rubber or plastics processing or production
Scrap or junk yards
Slaughterhouse or meat packing
Sludge treatment or disposal
Solid waste treatment, storage or disposal (involving potential groundwater contaminants)
Stamping or fabricating metal shops using press, brakes, or rolls
Textile production
Warehousing of potential groundwater contaminants
Wastewater treatment facilities
Wood preservers or treaters

Accessory land uses:

Car or truck wash (if an underground storage tank is used)

Dry cleaning plants (if forty (40) gallons or more of petroleum or chlorinated solvents are used or stored in a single container on-site)

Motor or body repair: auto, truck, lawnmower, airplane, boat, motorcycle (if fifty-five (55) gallons or more in aggregate of petroleum or chlorinated solvents are used or stored on-site)

Fuel dispensing facilities

Outdoor road salt storage (if over one (1) ton in bulk)

- (3) Where an existing use is being expanded, the site and development plan shall generally describe the entire site but only the expansion development is subject to review. Only those chemicals to be used, stored, or handled in the expanded area shall be calculated in determining threshold amounts.

(c) **Commitments.** The Commission may permit or require commitments.

(d) **State statutory basis.** The applicable Indiana Planning and Zoning Laws pertaining to this article are the 1) 1400 Series - Development Plans of IC 36-7-4 and; 2) 600 Series - Zoning Ordinance (IC 36-7-4-600. Regulations contained in, and revisions to, this article reflect the provisions of the 1400 Series - Development Plans, and the 600 Series - Zoning Ordinance.

(G.O. 2, 2002, § 25; G.O. 91, 2003, § 1; G.O. 21, 2010)

Sec. 735-802. Wellfield Protection District regulations.

Statement of purpose. Because of the risk that certain chemicals pose to groundwater quality, it is recognized that the further regulation of the use and storage of such chemicals related to land use activities is essential in order to preserve public health and economic vitality within Marion County.

(a) **Permitted Wellfield Protection District uses.** All land uses permitted in the applicable underlying zoning districts shall be those allowed in the W-1 and W-5 Overlay Districts.

(b) **Site and development plan consideration.** Upon the application for an improvement location permit, the technically qualified person, on behalf of the metropolitan development Commission, shall consider and either approve, disapprove, or approve subject to any conditions, amendments, or commitments, the proposed site and development plan. Comments from the Health and Hospital Corporation of Marion County and applicable water utilities shall be solicited by the technically qualified person prior to approval of a site and development plan, and if such comments are provided timely by the Health and Hospital Corporation or applicable water utilities, the technically qualified person shall consider them and may give them such weight as he or she shall determine to be appropriate.

(c) **Plan documentation and supporting information.** The site and development plan shall include:

- (1) Any existing uses*
- (2) Setbacks*
- (3) Landscaping, screens, walls, fences*
- (4) Sewage disposal facilities*
- (5) Vicinity map (U.S.G.S. quadrangle preferred)
- (6) Brief history of site of new building or addition (usage, historical environmental concerns, abandoned wells, underground storage tanks, septic tanks)

(7) Site map (drawn to scale) including:

- All existing and proposed structures*
- Paved and nonpaved areas*
- Utility lines (inside and outside structures) including sanitary sewers, storm sewers, storm retention ditches/basins/french drains/dry wells, etc. (both proposed and existing)
 - Floor drain locations and outlets
 - Chemical/product storage locations
 - Waste storage locations
 - Liquid transfer areas
 - Site surface water bodies (streams, rivers, ponds)*
 - Underground storage tanks
 - Aboveground storage tanks

(8) Proposed containment area detail drawings--area, heights, materials, specifications, if applicable

(9) Description of proposed operations including chemicals/products used or generated, chemical/product storage area descriptions, waste generation quantities, equipment cleaning/maintenance procedures, heating source (oil/gas), liquid transfer/loading areas.

(10) Methods and locations of receiving, handling, storing, and shipping chemicals/products and wastes.

(11) Response measures and reporting.

(12) Description of slopes near containment vessels and waste storage areas*

Such site and development plan shall be provided to the Health and Hospital Corporation of Marion County and applicable water utilities when sent to the technically qualified person.

* Information required by Chapter 730, Article III, Improvement Location Permits.

(d) Site and development requirements. Land in the W-1 and W-5 Districts is subject to the following site and development requirements. In review of the proposed site and development plan, the technically qualified person shall assess whether the site and development plan:

- (1) Is consistent with the Comprehensive Plan of Marion County, Indiana.
- (2) Will prevent potential groundwater contaminants associated with human activity from interfering with each community public water supply system's ability to produce drinking water that meets all applicable federal primary drinking water standards after undergoing conventional groundwater treatment.
- (3) Will not pose an unreasonable risk to groundwater within a designated wellfield protection area.
- (4) Complies with subsection (h) of this section.

The technically qualified person shall consider and act upon any such proposed site and development plan; and may approve the same in whole or in part, or impose additional conditions, or commitments thereon. (It is the intent of this article that review of site and development plans be done in an expeditious manner. Generally this review would occur within fourteen (14) days from receipt of plan documentation and supporting information required in subsection (c) of this section.

(e) Public notice. Public notice of the filing of an application under this section and public notice of the decision by the Department of Metropolitan Development relative to such application shall

not be required because this application is being treated as an improvement location permit application.

(f) Staff approval.

- (1) Standards for review and disposition. The technically qualified person shall be required to use the standards of subsections (d) and (h) of this section in the review and disposition of such plans.
- (2) Appeal of staff approval. Any party of interest or aggrieved person shall have the right to appeal action by the technically qualified person before the metropolitan development Commission to approve or disapprove a site and development plan. Such appeal shall be filed as an approval petition within ten (10) business days of approval or denial of the approval as specified in, and following, the rules of procedure of the metropolitan development Commission.
- (3) Commission findings. The Commission shall make written findings concerning any decision to approve or disapprove a site and development plan filed under this subsection (d) above. The president or secretary of the Commission shall be responsible for signing the written findings.
- (4) Public information. The decision of the technically qualified person to approve or disapprove a site and development plan and the file on which the decision is based are public records and are available for examination by any person. The department of metropolitan development shall, within two (2) business days of the decision, send by fax a summary of the decision (including the docket number of the case, the address, a summary of the request, any waivers granted, and a summary of the action taken by the technically qualified person) to:
 - a. Members of the city-county council;
 - b. The president of the Marion County Alliance of Neighborhood Associations, Inc.
 - c. Indianapolis Chamber of Commerce.
 - d. Health and Hospital Corporation of Marion County.
 - e. Applicable water utilities.

The validity of the decision of the technically qualified person shall not be affected by any failure to comply in all respects with this public information provision.

(g) Improvement location permit requirements. No building or structure shall be constructed, erected, converted, enlarged, extended, reconstructed or relocated in the Wellfield Protection Districts of Indianapolis, Marion County, Indiana, without an Improvement Location Permit, and such permit shall not be issued until the proposed site and development plan, if required in section 735-801(b), has been approved in accordance with this section.

(h) Development standards. In addition to the site and development requirements of subsection (d) of this section, all development within the W-1 and W-5 Districts shall be reviewed by the technically qualified person for conformity with the following requirements:

- (1) Prior to approving a site and development plan, a technically qualified person may:
 - a. Impose conditions or require commitments to protect the groundwater supply in addition to the requirements stated in subsection (h)(2) of this section.
 - b. Substitute conditions or commitments that protect the groundwater supply for one (1) or more of the requirements in subsection (h)(2) of this section.
 - c. Waive one (1) or more of the requirements in subsection (h)(2) of this section (notice of the proposed issuance or granting of any such waiver shall be provided

to the Health and Hospital Corporation of Marion County and the applicable water utilities).

In determining whether conditions or commitments should be made applicable, in determining whether conditions and commitments should be substituted for requirements, and in determining whether requirements should be waived, the risk to the groundwater supply posed by the development and the costs of various methods of protecting the groundwater supply shall be considered. The technically qualified person shall make findings supporting the substitution of conditions or commitments for requirements or the waiver of requirements.

- (2) Land in the W-1 and W-5 Districts is subject to the following requirements:
- a. All known abandoned wells shall be identified and sealed in accordance with applicable law.
 - b. No surface impoundments, ponds, or lagoons shall be established except for:
 1. Stormwater detention and retention ponds; and
 2. Recreation or landscaping purposes.
 - c. In the W-1 District, detention and retention ponds shall meet one (1) of the following criteria:
 1. They are constructed in a manner that provides an effective barrier to the migration of potential groundwater contaminants into the groundwater; or
 2. There are existing developed site features, including the location of the proposed pond, to prevent the migration of potential groundwater contaminants into the groundwater.
 - d. The development shall be connected to municipal sanitary sewers or combined sewers. Floor drains, if present, must be connected to sanitary sewers or combined sewers or routed to a temporary holding area for removal.
 - e. All trash dumpsters shall be located on hardsurfaced areas that drain to storm sewers or combined sewers.
 - f. All areas that may be used for the storage of potential groundwater contaminants shall be constructed in a manner to prevent a release from the storage area from reaching the groundwater.
 - g. All vehicle or equipment repair and shop areas shall be located within an enclosed building that includes a floor constructed of material that forms an effective barrier to prevent the migration of fluids or other materials into the groundwater.
 - h. The following restrictions apply to new, outdoor storage areas only in the W-1 District:
 1. No aboveground storage tank of liquid (for underground storage tanks see requirement m.) of greater than one thousand (1,000) gallons is allowed.
 2. No storage of water soluble solids of more than six thousand (6,000) pounds per container is allowed in any one (1) containment area.
 3. Restrictions of 1. and 2. above may be waived by the technically qualified person if the tanks or other storage container is at least two hundred (200) feet from a public water supply system (PWSS) well, is above ground, and is located where at least twenty-five (25) feet or a suitable thickness of naturally occurring or compacted low permeability fine grained materials overlie the aquifer used by the PWSS.

- i. Except for fuel stored in accordance with subsection (h)(2)n. at a fuel dispensing facility, all tanks holding more than forty (40) gallons of liquids for more than twenty-four (24) hours must be in a location or containment area capable of preventing any release from the tank from reaching the groundwater table. A containment area capable of containing one hundred ten (110) percent of the largest such tank in that location would satisfy this requirement.
 1. The containment area shall be constructed to meet at least one (1) of the following requirements:
 - (a) A secondary containment structure designed to prevent and control the escape or movement of potential groundwater contaminants into groundwater for a minimum period of seventy-two (72) hours before removal; or
 - (b) A storage tank designed and built with an outer shell and a space between the tank wall and the outer shell that allows and includes interstitial monitoring.
 2. Where practical, the secondary containment structure shall be designed to allow drainage or pumping into a holding area designed to contain the discharge until it can be properly removed.
 3. The secondary containment structure shall be properly maintained and shall be free of vegetation, cracks, open seams, open drains, siphons, or other openings that jeopardize the integrity of the structure.
 4. Secondary containment systems shall be designed so that the intrusion of precipitation is inhibited or that stormwater is removed to maintain system capacity.
- j. While being stored, water soluble solids must be kept dry at all times.
- k. Sludges that could release liquids or water soluble solids must be contained so that neither could enter the groundwater.
- l. The transfer area for the bulk delivery of liquids shall be required to accommodate and contain a release that occurs during loading and unloading of a tank as follows:
 1. The liquid transfer area shall be constructed in a manner to prevent a release in the transfer area from reaching the groundwater.
 2. The portion of the liquid transfer area intended to contain releases shall be maintained so that it is free of vegetation, cracks, open seams, open drains, siphons, or other openings that jeopardize the integrity of the area.
- m. In the W-1 District, existing underground storage tanks (USTs) may be replaced or upgraded only in accordance with requirement n. Replacements and upgrades to existing USTs at fuel dispensing facilities are not subject to the volume limitations. No other new USTs are permitted in the W-1 District.
- n. In the W-1, the following requirements apply only to fuel dispensing facilities, or replacement or upgraded USTs as referenced in requirement m. For all other tanks, see requirement i.
 1. Approved USTs shall be double walled.
 2. Approved USTs shall include the following three (3) methods of release detection:
 - (a) Inventory control as defined in 40 CFR 280.43(a);

- (b) Monthly 0.2 in tank leak test as defined in 40 CFR 280.43(d); and
 - (c) Interstitial monitoring of a double walled approved UST as defined by 40 CFR 280.43(g).
- 3. Connected piping must include the following three (3) methods of release detection:
 - (a) Inventory control;
 - (b) Continuous detection for three-gallon per hour line leak, as specified in 40 CFR 280.44(a) except that automatic shutoff is required at ninety-five (95) percent tank capacity; and
 - (c) Double walled line that is continuously monitored to detect the presence of liquid in the interstitial space and provided an alarm as specified in 40 CFR 280.44c via 280.43g.
- o. In the W-5 District, the requirements of 40 CFR Part 280 apply to existing, registered USTs that are replaced or upgraded and USTs installed at new fuel dispensing facilities. In addition, the construction standards of 40 CFR Part 280, applicable to nonpetroleum USTs, shall be applicable to the following in the W-5 District:
 - 1. Such a tank that is covered by state or federal hazardous waste regulations;
 - 2. Heating oil tanks for on-site use;
- p. The following requirements apply to all excavation activities associated with the removal of sand and gravel materials:
 - 1. If the extraction of sand and gravel involves the removal of materials below the normal groundwater level, the work shall be accomplished by way of a dragline, floating dredge, or an alternative "wet" excavation method.
 - 2. There shall be no dewatering of sites utilized for sand and gravel extraction.
 - 3. No form of solid waste, sludge, or any other form of waste material of any kind, including, but not limited to, construction/demolition debris, shall be used on the site. Clean natural earth fill materials may be used without restriction as to origin or placement on site.
 - 4. All fuels, oils, lubricants, hydraulic fluids, petroleum products or other similar materials on site shall be secondarily contained.
- q. Dewatering of sites shall be permitted only for the following purposes:
 - 1. To prevent water damage to structures; and
 - 2. To protect groundwater quality; and
 - 3. The temporary dewatering for the construction of sewers and other underground facilities, including foundation structures.
- r. Class V injection wells (as defined in 40 CFR 146) shall be prohibited with the exception of the following:
 - 1. Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump, if noncontact; and
 - 2. Cooling water return flow wells used to inject water previously used for cooling, if noncontact; and

3. Barrier recharge wells used to replenish the water in an aquifer or to improve groundwater quality, provided the injected fluid does not contain potential groundwater contaminants; and
4. Wells associated with the recovery of geothermal energy for heating, aquaculture and production of electric power, if noncontact.

(G.O. 91, 2003, § 1; G.O. 96, 2009; G.O. 21, 2010)

Sec. 735-803. Construction of language and definitions.

- (a) **Construction of language.** The language of this article shall be interpreted in accordance with the following regulations:
- (1) The particular shall control the general.
 - (2) In the case of any difference of meaning or implication between the text of this article and any illustration or diagram, the text shall control.
 - (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
 - (4) Words used in the present tense shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
 - (5) A "building" or "structure" includes any part thereof.
 - (6) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
 - (7) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either . . . or," the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - c. "Either . . . or" indicates that all the connected items, conditions, provisions, or events shall apply singly but not in combination.
- (b) **Definitions.** The words in the text or illustrations of this article shall be interpreted in accordance with the following definitions. The illustrations and diagrams in this section provide graphic representation of the concept of a definition; the illustration or diagram is not to be construed or interpreted as a definition itself.

Abandoned well. A well whose use has been permanently discontinued or which is in a state of disrepair such that it cannot be used for its intended purpose or for observation purposes.

Aboveground storage tank. Any one (1) or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of potential groundwater contaminants and the volume of which (including the volume of underground pipes connected thereto) is less than ten (10) percent beneath the surface of the ground. Flow-through process tanks are excluded from the definition of aboveground storage tanks.

Approved underground storage tank. A stationary device designed to contain an accumulation of potential groundwater contaminants and constructed of nonearthen materials, for example, steel or fiberglass, which has been approved for use by the Steel Tank Institute or the Fiberglass Petroleum Tank and Pipe Institute.

Building. Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property of any kind, having a permanent roof supported by columns or walls.

Chlorinated solvent. Any liquid solution containing at least ten (10) percent of a chemical or chemicals classified as a chlorinated organic compound. If the concentration of the chlorinated organic compound in the liquid is not known, the entire volume of the liquid solution shall be considered to be a chlorinated solvent.

Commission. The Metropolitan Development Commission of Marion County, Indiana.

Commitment. An official agreement concerning and running with the land as recorded in the Office of the Marion County Recorder.

Condition. An official agreement between the municipality and the petitioner concerning the use or development of the land as imposed by the technically qualified person.

Connected piping. All underground piping including valves, elbows, joints, flanges, and flexible connectors attached to a tank system.

Containment area. An aboveground area with floors and sidewalls that have been constructed of a material which will prevent migration of fluids into the groundwater.

Development plan. As enabled by 1400 Series--Development Plans IC 36-7-4-1400 through IC 36-7-4-1499.

Dewatering. Any removal of groundwater specifically designed to lower groundwater levels.

Disposal. Discharge, deposit, injection, dumping, spilling, leaking, or placing of any potential groundwater contaminants into or on any land or water.

Excavation. The breaking of ground, except common household gardening, ground care and agricultural activity.

Fuel dispensing facility. Any facility where gasoline or diesel fuel is dispensed into motor vehicle fuel tanks from an underground storage tank.

Groundwater. Any water occurring within the zone of saturation in a geologic formation beneath the surface of the earth.

Hardsurfaced. (Pertains to this article only.) Quality of an outer area being solidly constructed of asphalt, concrete, or other health and hospital corporation approved material.

Interstitial monitoring. A system designed, constructed and installed to detect a leak from any portion of a storage tank or connected piping that routinely contains potential groundwater contaminants by monitoring the space between the primary (inner) tank or connected piping and the secondary (outer) tank or connected piping.

Legally established nonconforming use. Any continuous, lawful land use having commenced prior to the time of adoption, revision or amendment, or granted a variance of the zoning ordinance, but which fails, by reason of such adoption, revision, amendment or variance to conform to the present requirements of the zoning district.

Liquid. A liquid is a substance or mixture which is fluid at twenty (20) degrees Centigrade (sixty-eight (68) degrees Fahrenheit).

Liquid transfer area. An off-street area maintained and intended for temporary parking of a commercial vehicle while transferring potential groundwater contaminant to and from a facility.

Permitted use. Any use by right authorized in a particular zoning district or districts and subject to the restrictions applicable to that zoning district.

Potential groundwater contaminant. Any material which, because of its toxicity and mobility in groundwater, poses a significant hazard to the quality of groundwater resources used for public water supply.

Premises. A platted lot or part thereof or unplatted lot or parcel of land, either occupied or unoccupied by any structure, and includes any such building, accessory structure, adjoining alley, easement, or drainage way.

Release. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (surface water, groundwater, drinking water supply, land surface, subsurface strata).

Shop area. A production or repair area equipped with tools and machinery.

Site plan. The plan, or series of plans, drawn to scale, for one (1) or more lots on which is shown the existing and proposed locations and conditions of the lot including as required by Chapter 730, Article III, Improvement Location Permits, but not limited to: topography, vegetation, drainage, floodplains, marshes, and waterways; open spaces, walkways, means of ingress and egress, utility services, landscaping, buildings, structures, signs, lighting and screening devices, centerlines of rights-of-way, and dimensions.

Storage. The long-term deposit (more than twenty-four (24) hours) of any goods, material, merchandise, vehicles, or junk.

Structure. A combining or manipulation of materials to form a construction, erection, alteration or affixation for use, occupancy, or ornamentation, whether located or installed on, above, or below the surface of land or water.

Surface impoundment. A natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.

Tank. A tank is a stationary device designed to contain an accumulation of liquids and which is constructed of nonearthen materials, for example, concrete, steel, or plastic, that provides structural support.

Technically qualified person. A technically qualified person is either an employee of the Department of Metropolitan Development, or any person with whom the Department of Metropolitan Development has a services contract. Such technically qualified person is a person who is competent to evaluate site and development plans for contamination risk to groundwater quality. Examples of technically qualified persons include professional engineers, certified professional geologists and environmental and other scientists with specialized training and experience in hydrogeology, contaminant transport, and hazardous materials management.

Underground storage tank. Any one (1) or combination of tanks (including underground pipes connected thereto) that is regulated under 40 CFR Part 280. Notwithstanding the exceptions in 40 CFR Part 280, for the purpose of this article an underground storage tank also includes:

- (1) A tank which would otherwise be regulated by 40 CFR Part 280 but for the fact that it contains hazardous waste as regulated under Subtitle C of the Federal Solid Waste Disposal Act.
- (2) A tank which would otherwise be regulated by 40 CFR Part 280 but for the fact that it is used to store heating oil for consumptive use on the premises where stored.

Vehicle or equipment repair area. An area designated, designed and intended for the purpose of repairing automotive vehicles or equipment.

Well. A bored, drilled or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension.

Sec. 735-804. Groundwater protection.

- (a) **Groundwater protection fund.** There is created a groundwater protection fund, funds from which shall be used only for those specific activities identified in subsection (c) below.
- (b) **Groundwater protection fee.** Each public water supply system that pumps groundwater from one (1) or more wells located within a W-1 or W-5 District shall pay into the groundwater protection fund a percentage of the annual fee assessed by the Commission, such percentage to be determined by dividing the number of customers served by the water supply system at the end of the calendar year by the total number of customers served at the end of the calendar year by all public water supply systems that pump from one (1) or more wells within a W-1 or W-5 District. The annual fee assessed by the Commission for any calendar year shall be based on the Commission's approved budget for the specific activities identified in subsection (c) below, but shall not exceed two hundred thousand dollars (\$200,000.00). Within thirty (30) days following the approval of the Commission's budget for the specific activities described in subsection (c) below during the following year, the Commission shall notify the public water supply systems that pump groundwater from one (1) or more wells located within a W-1 or W-5 District as to the amount of the annual fee to be assessed all such systems for the following year. Each public water supply system subject to this article that pumps groundwater from one (1) or more wells within a W-1 or W-5 District shall report, in writing, to the Commission on or before January 31 of each year, the number of customers served at the end of the prior calendar year. On or before March 1 of each year, the Commission shall determine the amount of the annual fee to be assessed and notify each of the water supply systems that pumps groundwater from one (1) or more wells within a W-1 or W-5 District as to the portion of such annual fee to be paid by such public water supply system. The public water supply system shall pay the full amount of its portion of the annual fee assessed by the Commission on or before March 15 of each year.
- (c) **Groundwater protection costs.** The funds in the groundwater protection fund shall be used solely to pay for:
 - (1) Administrative costs incurred in the implementation of this article;
 - (2) Study costs incurred in accordance with the provisions of section 735-800(a); and
 - (3) Costs incurred in establishing and maintaining a wellfield education and registration program.

(G.O. 91, 2003, § 2; G.O. 21, 2010)

Sec. 735-805. Severability.

If any provision of this article shall be held invalid, its invalidity shall not affect any other provisions of this article that can be given effect without the invalid provision, and for this purpose the provisions of this article are hereby declared to be severable.

Sec. 735-806. Compliance.

This article shall be in full force and effect upon its adoption in compliance with IC 36-7-4.

Chapter 735 ZONING -- OTHER DISTRICTS *

ARTICLE IX. WIRELESS COMMUNICATIONS *

** Editor's note: This article consists of the wireless communication ordinance, G.O. 111, 1998, adopted Aug. 3, 1998. Future amendments will be indicated by a parenthetical history note following the amended section.*

Sec. 735-900. Statement of purpose.

This article creates the framework for wireless communications regulations, so that wireless communications facilities can be sited in a manner which provides comprehensive service to the community, which protects the community from clutter and design, which is compatible with existing and future land use, and which reinforces the need for an urban landscape which contributes to a sense of place and sense of community. These regulations have been developed in accordance with the technological considerations known at this time, with some anticipation for future changes in the wireless communications industry. Changes to the industry which were not anticipated will be considered in future amendments to this article.

The purpose of the wireless communications regulations set forth in this article shall be to: encourage facilities to be located in areas least disruptive to residential, park and greenway uses and functions, including wildlife habitats, and to be as unobtrusive and invisible as reasonably possible; encourage designs and use of colors which are compatible with the adjacent land uses; retain current residents and attract new residents to the city; encourage and facilitate installation of necessary and desirable wireless communications infrastructure; preserve and improve the appearance of the city as a place in which to live and work as an attraction to nonresidents who come to visit or trade; safeguard and enhance property values; protect public and private investment in buildings and open spaces; supplement and be a part of the regulations imposed and the plan set forth under the Comprehensive Plan for Marion County; and promote the public health, safety, morals and general welfare.

(G.O. 100, 2000, § 1.10)

Sec. 735-901. Application of regulations.

The regulations of this article shall apply to the location, erection, and maintenance of all wireless communications facilities (WCF) within Marion County, Indiana.

(G.O. 100, 2000, § 1.20)

Sec. 735-902. General regulations.

The provisions of this article shall apply to all wireless communications facilities in Marion County.

(G.O. 100, 2000, § 2.00)

Sec. 735-903. Wall-mounted and roof-mounted WCF.

(a) When permitted in D-A, D-S, D-1, D-2, D-3, D-4, D-5 and D-5II Districts, wall-mounted and roof-mounted WCF shall be in compliance with the following requirements:

- (1) WCF shall be no greater than three (3) square feet in area and no more than six (6) inches deep (excluding antennas).
- (2) Antennas may extend no more than twenty-four (24) inches from the wall or other surface to which they are mounted.
- (3) WCF shall be compatible with the color(s) of the wall on which they are located.

- (4) WCF shall be located in a place least obtrusive to public view.
- (5) Administrator's approval is required for all wall-mounted and roof-mounted WCF.

(b) In all other districts, where permitted by this article, wall-mounted WCF shall be in compliance with the following requirements:

- (1) Wall-mounted WCF may extend a maximum twenty-four (24) inches from the facade on which the WCF is located. The distance shall be measured from the point on the wall where the WCF is attached, at right angles from the wall, to the furthestmost extension of the WCF.
- (2) Wall-mounted WCF shall be compatible with the color(s) of the wall on which they are located.
- (3) Wall-mounted WCF shall be designed to be compatible with the design and materials of the building on which the WCF will be attached, and located in a place least obtrusive to public view.
- (4) The total area of all wall-mounted WCF located on a facade shall not exceed two (2) percent of the area of the facade on which the structure is located.
- (5) Wall-mounted WCF may extend a maximum of ten (10) feet above the wall on which they are located.
- (6) Administrator's approval is required for all wall-mounted WCF.

(G.O. 100, 2000, § 2.10)

Sec. 735-904. Landscaping.

A landscape yard shall be provided around the entire perimeter of a tower site to screen the fence and the equipment structure, exclusive of vehicular or pedestrian entrances. This yard shall be planted to provide a continuous landscape screen around the site. This may be done by one (1) of the following methods:

- (1) Shrubs. Shrubs must have a minimum height of four (4) feet and shall be planted at a maximum of four (4) feet on center. The shrubs must be either evergreen shrubs or densely twigged deciduous shrubs.
- (2) Deciduous ornamental trees or multi-stemmed trees. Deciduous ornamental trees or multi-stemmed trees must have a dense branching pattern that extends to the ground and shall be a minimum size of one and one-half (1 1/2) caliper inches at time of planting and shall be planted at a maximum of ten (10) feet on center.
- (3) Evergreen trees. Evergreen trees must have a dense branching pattern and shall be planted at a maximum of twelve and one-half (12.5) feet on center.
- (4) Existing trees and shrubs. Existing trees and shrubs may be used to screen the site. If the existing vegetation does not form a continuous screen around the site or does not extend from the ground to a height of six (6) feet, it must be supplemented with additional vegetation.
- (5) Combination. A combination of the above methods may be used, provided that the vegetation forms a continuous screen around the site or extends from the ground to a height of six (6) feet.
- (6) Maintenance. Where multiple users of a site are involved, the owner of the site shall be responsible for the installation and maintenance of all landscaping.

The landscape yard shall be a minimum of ten (10) feet in width. If using method (3), the yard shall be twenty (20) feet in width to accommodate the larger width of the vegetation.

The minimum size of all required landscape plant materials, at the time of planting, including replacement trees and shrubs, shall be as required in section 732-214(g)(1)g. of this Code.

The required landscaping must be maintained at all times and replaced if it dies, for as long as the use remains.

The Administrator shall have the power to modify or waive any of the foregoing landscape requirements and approve alternatives for those requirements as long as the alternative plan is appropriate for the site and its surroundings and is compatible and consistent with the intent of the stated standards.

(G.O. 100, 2000, § 2.20)

Sec. 735-905. Guy anchorages.

Any guy anchorages shall not be located within any front, side or rear transitional yard, and in any event, shall be set back at least thirty (30) feet from any lot line.

(G.O. 100, 2000, § 2.30)

Sec. 735-906. Provisions for more than one user.

- (a) **Sufficient land shall be secured by the initial WCF tower provider to reserve adequate area for more than one (1) equipment structure.**
- (b) **All towers shall be designed and constructed so that more than one (1) wireless communications company may attach equipment to the tower.** When applying for an Improvement Location Permit, the owner of the tower shall provide assurance that the tower is available for use by other wireless communications providers.

(G.O. 100, 2000, § 2.40)

Sec. 735-907. More than one tower in a half mile.

If any tower is proposed within one-half-mile radius of another tower, prior to obtaining an Improvement Location Permit, the entity requesting the new tower must:

- (1) Identify all towers within one-half-mile radius of the proposed tower; and
- (2) Provide information to the Administrator outlining the reason(s) those towers cannot be used for additional WCF.

If there is space available for additional WCF on any of those towers, as required by section 735-906 of this article, or by previous variance condition or commitment, or if the reason(s) are found by the Administrator not to be justified, the Improvement Location Permit for the new tower shall not be granted.

(G.O. 100, 2000, § 2.50)

Sec. 735-908. Existing towers.

Any tower which is legally established on the effective date of this article may be used for wireless communication facilities, as long as the height is not increased, nor the location of the tower changed.

(G.O. 100, 2000, § 2.60)

Sec. 735-909. Signs prohibited.

No lettering, symbols, images, trademarks, signs or advertising of any kind shall be placed on, or affixed to, any part of a tower or structure, other than as required by the Federal Aviation Administration, by Federal Communications Commission or other agency regulations, or as required to protect public health and safety.

(G.O. 100, 2000, § 2.70)

Sec. 735-910. Where permitted.

Wireless communication facilities may be located in the zoning districts indicated on the following chart, subject to the standards referenced on the chart. Sites located within a locally designated historic district are also subject to the requirements of IC 36-7-11.1, and sites located within the Meridian Street Preservation Area are subject to the requirements of IC 36-7-11.2, and this article is not intended to alter or affect the authorities of the Indianapolis Historic Preservation Commission (IHPC) or the Meridian Street Preservation Commission (MSPC), or the foregoing Indiana statutes.

Wireless communications facilities may also be located:

- (1) On signs as regulated by section 735-914 of this article;
- (2) In high-power electric transmission line easements or rights-of-way as regulated by section 735-913(1) of this article; and
- (3) In public rights-of-way, as regulated by section 735-913(2) of this article.

Zone	Wall-Mounted WCF	Roof-Mounted WCF	Monopole Tower for WCF	All Other Towers for WCF	Height Category
D-A	Yes	Yes	No	No	5
D-S	Yes	Yes	No	No	5
D-1	Yes	Yes	No	No	5
D-2	Yes	Yes	No	No	5
D-3	Yes	Yes	No	No	5
D-4	Yes	Yes	No	No	5
D-5	Yes	Yes	No	No	5
D-5II	Yes	Yes	No	No	5
D-6	Yes	Yes	No	No	4
D-6II	Yes	Yes	No	No	4
D-7	Yes	Yes	No	No	4
D-8	Yes	Yes	No	No	4
D-9	Yes	Yes	No	No	4
D-10	Yes	Yes	No	No	4
D-P	(Note 1)	(Note 1)	(Note 1)	(Note 1)	(Note 1)
C-1	Yes	Yes	No	No	4
C-2	Yes	Yes	No	No	4
C-3	Yes	Yes	No	No	4
C-3C	Yes	Yes	No	o	4
C-4	Yes	Yes	Yes	No	3
C-5	Yes	Yes	Yes	No	3

Zone	Wall-Mounted WCF	Roof-Mounted WCF	Monopole Tower for WCF	All Other Towers for WCF	Height Category
C-6	Yes	Yes	Yes	No	2
C-7	Yes	Yes	Yes	No	2
C-ID	Yes	Yes	Yes	No	2
C-S	Yes	Yes	(Note 2)	(Note 2)	(Note 2)
CBD-1	Yes (Note 3)	Yes (Note 3)	Yes (Note 3)	No	1 (Note 3)
CBD-2	Yes (Note 3)	Yes (Note 3)	Yes (Note 3)	No	1 (Note 3)
CBD-3	Yes (Note 3)	Yes (Note 3)	No	No	4
CBD-S	(Note 4)	(Note 4)	(Note 4)	(Note 4)	(Note 4)
I-1 (U/S)	Yes	Yes	No	No	4
I-2 (U/S)	Yes	Yes	Yes	No	2
I-3 (U/S)	Yes	Yes	Yes	Yes	2
I-4 (U/S)	Yes	Yes	Yes	Yes	2
HD (1/2)	Yes (Note 5)	Yes (Note 5)	Yes	Yes	(Note 5)
UQ (1/2)	Yes (Note 5)	Yes (Note 5)	Yes	Yes	(Note 5)
PK-1	Yes (Note 8)	Yes (Note 8)	Restricted (Note 11)	No	(Note 11)
PK-2	Yes (Note 5)	Yes (Note 5)	(Note 9)	(Note 9)	(Note 9)
SU-1	Yes	Yes	(Note 6)	(Note 6)	(Note 6)
SU-2	Yes	Yes	(Note 6)	(Note 6)	(Note 6)
SU-3	Yes	Yes	(Note 6)	(Note 6)	(Note 6)
SU-5	Yes	Yes	Yes	Yes	1
SU-9	Yes (Note 5)	Yes (Note 5)	(Note 10)	(Note 10)	(Note 10)
SU-10	Yes	Yes	(Note 6)	Note 6)	(Note 6)
SU-13	Yes	Yes	Yes	Yes	1
SU-18	Yes	Yes	Yes	Yes	1
SU-23	Yes	Yes	Yes	Yes	1
SU-28	Yes	Yes	Yes	Yes	1
SU-35	Yes	Yes	Yes	Yes	1
SU (all other)	Yes	Yes	No	No	4 (Note 7)

Note 1: Provisions for wireless communications must be provided in the D-P development statement.

Note 2: Provisions for wireless communications must be provided in the C-S rezoning ordinance. If no specific provisions were listed, wall- and roof-mounted WCF are subject to height Category 4.

Note 3: The appropriateness of the request will be evaluated in the regional center review process.

Note 4: Provisions for wireless communications must be provided in the CBD-S rezoning ordinance.

Note 5: The appropriateness of the request will be evaluated in the special districts review process.

- Note 6:** Requires special exception.
- Note 7:** Requires Administrator's approval.
- Note 8:** All WCF must be camouflaged to fit in with the surrounding environment. The appropriateness of the request will be evaluated in the special districts review process.
- Note 9:** If proposed tower is within five hundred (500) feet of a dwelling, it requires special exception, where height will be determined. The height of wall- and roof-mounted WCF, and towers will be determined in the special districts review process.
- Note 10:** If proposed tower is within five hundred (500) feet of a dwelling district, requires special exception, where height will be determined. Wall- and roof-mounted WCF subject to height Category 4. Towers over five hundred (500) feet from a dwelling district subject to height Category 1.
- Note 11:** Generally, towers are highly discouraged from location in PK-1 Districts. In certain areas, however, a tower might be appropriate, because the land use of the specific PK-1 District might not be that typically considered a park. Towers might be permitted by special exception only on the following PK-1 sites: salt depositories; maintenance areas which are not readily accessible or visible to the public; existing or proposed sports facility lighting structures; within high-power electric transmission line easements; and in areas not readily accessible to the public on the periphery of parks adjacent to federal interstate highways or active railroad lines.

(G.O. 100, 2000, § 3.10)

Sec. 735-911. Height regulations.

- (a) **Category 1 (CBD-1, CBD-2, SU-5, SU-13, SU-18, SU-23, SU-28, SU-35, SU-9 limited).** No height restrictions.
- (b) **Category 2 (C-6, C-7, C-ID, I-2, I-3, I-4).**
- (1) In the C-6, C-7 and C-ID Districts, no height restrictions for freestanding WCF located five hundred (500) feet or more from a protected district or a greenway. In the I-2, I-3 and I-4 Districts, no height restrictions for freestanding WCF located three hundred (300) feet or more from a protected district or a greenway.
 - (2) Within five hundred (500) feet of a protected district or a greenway, in the C-6, C-7, and C-ID Districts, the height for a freestanding WCF is limited to a maximum of twenty-five (25) feet higher than the building height permitted by the district where the WCF is located. Within three hundred (300) feet of a protected district or a greenway, in the I-2, I-3 and I-4 Districts, the height for a freestanding WCF is limited to a maximum of twenty-five (25) feet higher than the building height permitted by the district where the WCF is located.
 - (3) Roof-mounted WCF subject to the following:
 - a. Height may be ten (10) feet greater than the existing building height.
 - b. Height may be increased to twenty (20) feet greater than the existing building height, if the height increase is approved by the Administrator.
 - (4) Wall-mounted WCF may extend a maximum of ten (10) feet above the wall on which they are located.

(c) Category 3 (C-4, C-5).

- (1) Maximum height of ninety (90) feet allowed for freestanding WCF located five hundred (500) feet or more from a protected district or a greenway.
- (2) Within five hundred (500) feet of a protected district or a greenway, the height for a freestanding WCF is limited to a maximum of five (5) feet higher than the building height permitted by the district where the WCF is located.
- (3) Roof-mounted WCF subject to the following:
 - a. Height may be ten (10) feet greater than the existing building height.
 - b. Height may be increased to twenty (20) feet greater than the existing building height, if the height increase is approved by the Administrator.
- (4) Wall-mounted WCF may extend a maximum of ten (10) feet above the wall on which they are located.

(d) Category 4 (D-6, D-6II, D-7, D-8, D-9, D-10, C-1, C-2, C-3, C-3C, C-S, CBD-3, I-1, SU limited).

- (1) Roof-mounted WCF subject to the following:
 - a. Height may be ten (10) feet greater than the existing building height.
 - b. Height may be increased to twenty (20) feet greater than the existing building height, if the height increase is approved by the Administrator.
- (2) Wall-mounted WCF may extend a maximum of ten (10) feet above the wall on which they are located.

(e) Category 5 (D-A, D-S, D-1, D-2, D-3, D-4, D-5, D-5II). Wall-mounted and roof-mounted WCF antennas may extend a maximum of two (2) feet above the wall or roof on which they are located.

(G.O. 100, 2000, § 3.20)

Sec. 735-912. Equipment structures for WCF.

- (a) Commercial, industrial, and dwelling districts.** Equipment structures shall be located in compliance with the specific accessory structure requirements for the district in which the site is located.
- (b) Central business districts.** Equipment structures are subject to the regional center approval process requirements.
- (c) Hospital districts, university quarter districts, and park districts.** Equipment structures are subject to the special district approval process requirements for HD-1, HD-2, UQ-1 UQ-2 and PK-2, or special exception process as required for PK-1.
- (d) Special Use Districts.**
 - (1) Equipment structures shall not exceed three hundred (300) square feet in area, with a maximum height of fifteen (15) feet.
 - (2) The location of equipment structures shall be subject to Administrator's approval.

(G.O. 100, 2000, § 3.30)

Sec. 735-913. High-power electric transmission line easements or rights-of-way and public rights-of-way.

Wireless communications facilities may be located in high-power electric utility transmission line and substation easements or rights-of-way and public rights-of-way, under the following circumstances:

- (1) High-power electric transmission line easements or rights-of-way.
 - a. Existing utility structures. WCF may be located on existing utility structures, as long as the height of the WCF and the structure together is not more than one hundred ten (110) percent of the height of the existing structure.
 - b. New WCF structures. New WCF structures shall only be located within the footprint of an existing utility structure (except in PK-1, where the location is subject to a special exception). WCF may be located on new structures, as long as the height of the WCF and the new structure together is not more than one hundred ten (110) percent of the height of the existing utility structure.
 - c. Design. Each WCF provider shall obtain written consent of the owner of the electric transmission line structure and submit a copy of such consent along with all plans to the Administrator, and shall have its WCF design package approved by the Administrator, prior to installation of any WCF on utility structures.
 - d. Equipment structures for WCF. Equipment structures shall not exceed three hundred (300) square feet in area for each structure, with a maximum height of fifteen (15) feet.
- (2) Public rights-of-way.
 - a. Local and collector streets (any streets not indicated in the Official Thoroughfare Plan for Marion County, Indiana).
 1. Wireless communications facilities may be located on utility poles, as long as the pole is not increased in height.
 2. Extension from poles: WCF shall extend no more than four (4) feet from the pole, measured from the pole to the furthest point of the WCF from the pole.
 3. Equipment structures for WCF: Equipment structures shall not exceed eight (8) square feet in area, with a maximum projection of two (2) feet from the utility pole, and shall be attached to the same utility pole as the WCF.
 4. Design: Each WCF provider shall obtain written consent of the owner of the utility pole and submit a copy of such consent along with all plans to the Administrator, and shall have its WCF design package approved by the Administrator, prior to installation of any WCF on utility poles.
 - b. All other streets (all streets indicated in the Official Thoroughfare Plan for Marion County, Indiana).
 1. WCF may be located on utility poles, as long as the height of the WCF and the pole together is not more than one hundred ten (110) percent of the height of the existing pole.
 2. Extension from poles: WCF shall extend no more than four (4) feet from the pole, measured from the pole to the furthest point of the WCF from the pole.
 3. Equipment structures for WCF:

- (a) Interstate highways: Equipment structures in rights-of-way of interstate highways shall not exceed three hundred (300) square feet in area, with a maximum height of fifteen (15) feet.
 - (b) All other streets: Equipment structures shall not exceed eight (8) square feet in area.
4. Design: Each WCF provider shall obtain written consent of the owner of the utility pole and submit a copy of such consent along with all plans to the Administrator, and shall have its WCF design package approved by the Administrator, prior to installation of any WCF on utility poles.

(G.O. 100, 2000, § 3.40)

Sec. 735-914. Signs.

Sign-mounted wireless communications facilities may be located on legally established signs under the following circumstances:

- (1) WCF may be incorporated into a sign face, or located on a sign structure, as long as the sign face and structure are in compliance with all aspects of Chapter 734 of this Code. If the WCF is located on the outside of the sign face and structure, and is visible, the area of the antenna shall be included in the measurement of the sign area permitted by Chapter 734.
- (2) Administrator's approval is required prior to installation of WCF on any sign or sign structure.
- (3) Equipment structures for WCF shall not exceed two hundred (200) square feet in area, with a maximum height of ten (10) feet. Equipment structures shall be in compliance with section 735-912 of this article.
- (4) Where signs have been approved by variance, WCF may be integrated into the sign or sign structure, only if all parameters and conditions of the variance are met.

(G.O. 100, 2000, § 3.50)

Sec. 735-915. Special exception.

Where wireless communications facilities are permitted by special exception, an application for a wireless communication facility must be filed with the Board of Zoning Appeals having jurisdiction. A public hearing and notice to adjoining property owners and registered neighborhood organizations is required in accordance with the rules of procedure of the Board of Zoning Appeals. The Board may grant the special exception only if the following conditions are met:

- (1) The grant will not be injurious to the public health, safety, morals, convenience or general welfare; and
- (2) The grant will not materially and substantially interfere with the lawful use and enjoyment of adjoining property and the surrounding community;
- (3) The grant will assure that the design of the WCF is compatible with the surrounding environment, by camouflage, integration with existing structures, or other design-related solution;
- (4) The grant is consistent with the 1996 Telecommunications Act; and
- (5) The grant is consistent with the statement of purposes as set forth in section 735-900.

Written findings shall be adopted by the Board, after its decision has been rendered.

(G.O. 100, 2000, § 3.60)

Sec. 735-916. Tower removal.

- (a) Any tower which ceases to be used for a period of more than one (1) year shall be removed.
- (b) Before obtaining an Improvement Location Permit for a tower, an applicant which is not also the owner of the property must provide recordable evidence of a written agreement (a lease, a memorandum of lease, an affidavit or other recordable instrument) between the WCF operator and the property owner that the WCF operator has agreed to remove the tower as required by this section and further granting a right of access to the Department of Metropolitan Development to enforce this section and cause removal of the tower. If the Department of Metropolitan Development causes the removal of the tower pursuant to this section, the WCF operator, its successors, all other past users of the tower and the owner of the property upon which the tower is located shall be jointly and severally liable for the costs incurred by the Department of Metropolitan Development in accomplishing the removal.
- (c) Within thirty (30) days after use of a tower has ceased, the last user shall notify the Administrator of the discontinued use.

(G.O. 100, 2000, § 3.70)

Sec. 735-917. Improvement Location Permit.

An Improvement Location Permit application for a WCF shall include the following:

- (1) Site and landscape plans, drawn to scale.
- (2) A description of the WCF and its design.
- (3) Documentation, establishing the structural integrity of the WCF.
- (4) A statement that the WCF meets the standards of the American National Standards Institute.
- (5) A statement regarding the availability of another WCF provider to use a tower, as required in section 735-906.
- (6) Proof of ownership of the proposed site, or property owner's consent to use the site for WCF.
- (7) Copies or other evidence of any necessary easements.
- (8) A map indicating the existing topography of the site.
- (9) For a variance or special exception, a graphic or photographic representation shall be submitted which shows the height of the WCF, in relation to its surroundings.

(G.O. 100, 2000, § 3.80)

Sec. 735-918. Definitions.

The words in the text of this article shall be interpreted in accordance with the following definitions.

Accessory. A subordinate structure, building or use that is customarily associated with, and is appropriately and clearly incidental and subordinate in use to the primary structure and use, and is located on the same lot as the primary structure or use.

Administrator. Administrator of the Division of Planning of the Department of Metropolitan Development, or his/her appointed representative.

Antenna. A device used to collect or broadcast electromagnetic waves, including both directional antennas, such as panels and microwave dishes, and omnidirectional antennas, such as satellite dishes.

Building. Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property of any kind, having a permanent roof supported by columns or walls.

Building height. The vertical distance above a reference line measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the height of the highest gable of a pitched or hipped roof. The reference line shall be selected by either of the following, whichever yields a greater building height:

- (1) The elevation of the highest adjoining sidewalk or ground surface within a ten-foot horizontal distance from and paralleling the exterior wall of the building or structure when the sidewalk or ground surface is not more than ten (10) feet above lowest grade;
- (2) An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface is more than ten (10) feet above the lowest grade.

Camouflage. A structural design or treatment, including colors, intended to conceal and make a WCF visibly compatible with the surrounding area.

Equipment structure. Any structure needed to house apparatus needed for the operation and maintenance of a wireless communication antenna, and located on the same site as the wireless communication antenna.

Greenway. A linear open space that connects parklands, improves recreational opportunities, and aids in the protection of wildlife and scenic regions. Greenways regulated by this article are the responsibility of the Indianapolis Department of Parks and Recreation, as outlined in Chapter 241 of this Code, and shall include the corridors described in the Indianapolis Greenways Plan.

High-power electric transmission line. A line segment in an electric utility system having an operating voltage of sixty-nine thousand (69,000) volts or greater.

Protected district. Specific classes of zoning districts which, because of their low intensity or the sensitive land uses permitted by them, require additional buffering and separation when abutted by certain more intense classifications of land use. For purposes of this article, a protected district shall include any Dwelling district, Hospital district, Parks district, University Quarter district, SU-1 (Church) district, or SU-2 (School district).

Right-of-way. Specific and particularly described strip of land, property, or interest therein devoted to and subject to the lawful use, typically as a thoroughfare of passage for pedestrians, vehicles, or utilities, as officially recorded by the Office of the Marion County Recorder.

Sign. Any structure, fixture, placard, announcement, declaration, device, demonstration or insignia used for direction, information, identification or to advertise or promote any business, product, goods, activity, services or any interests.

Sign structure. Any structure, including the supports, uprights, bracing and framework which supports or is capable of supporting any sign.

Structure. A combination or manipulation of materials to form a construction, erection, alteration or affixation for use, occupancy, or ornamentation, whether located or installed on, above, or below the surface of land or water.

Tower. A structure designed and intended to support one (1) or more antennas. This term includes lattice-type structures, either guyed or self-supporting, and monopoles, which are self-supporting pole-type structures, tapering from base to top and supporting a fixture designed to hold one (1) or more antennas.

Utility pole. Any pole or structure utilized for electric, telephone, telegraph, cable television, radio, microwave, television services, street lights, other lighting standards, or comparable purposes.

Wireless communications facility (WCF). Any facility used by a licensed commercial wireless telecommunications provider to provide service, including but not limited to cellular, personal communication services, specialized mobilized radio, enhanced specialized mobilized radio, paging, and other similar services that are marketed to the general public.

WCF design package. Information used to portray all visual aspects of wireless communications facilities, and the apparatus needed to attach it to a structure, including, but not limited to, dimensions, colors, and materials.

(G.O. 100, 2000, § 4.00; G.O. 2, 2002, § 27)

Sec. 735-919. Standards of Administrator's approval.

Where the Administrator has been given the authority to review and approve certain aspects of WCF, the following standards shall be considered:

- (1) The visual impact of the proposed WCF on the adjacent properties, and the community as a whole.
- (2) The recommendations of the comprehensive plan or the most recently adopted neighborhood plan for the site in question.
- (3) Current trends in the WCF industry and their potential impact on the community.
- (4) Consistency with other designs approved in other areas of the city.
- (5) Compliance with the Telecommunications Act of 1996.
- (6) Necessary or desirable infrastructure requirements of the community.

The Administrator's decision may be appealed in accordance with the provisions of the rules of procedure of the Board of Zoning Appeals.

(G.O. 100, 2000, § 5.00)

Sec. 735-920. Excluded cities.

Prior to applying for an Improvement Location Permit (ILP) for a WCF in an excluded city, the WCF provider shall provide a written letter to the excluded city, indicating their intent. The letter shall be mailed at least five (5) days prior to applying for the ILP, and shall include the proposed location, type, and design of the WCF, and a contact person for the WCF provider. The WCF provider shall submit a copy of the letter, and proof of mailing with the application for the ILP.

(G.O. 100, 2000, § 6.00)

Sec. 735-921. Severability.

If any provision of this article shall be held invalid, its invalidity shall not affect any other provisions of this article that can be given effect without the invalid provision, and for this purpose the provisions of this article are hereby declared to be severable.

(G.O. 100, 2000, § 7.10)

Sec. 735-922. Compliance.

This article shall be in full force and effect upon its adoption in compliance with IC 36-7-4.

(G.O. 100, 2000, § 7.20)