

CITY-COUNTY GENERAL ORDINANCE NO. 85, 1997
Proposal No. 208, 1997

METROPOLITAN DEVELOPMENT COMMISSION
DOCKET NO. 97-AO-5

A GENERAL ORDINANCE to amend certain sections of the Code of Indianapolis and Marion County, Appendix D, as amended, the Zoning Ordinance for Marion County, and fixing a time when the same shall take effect.

WHEREAS, IC 36-7-4 establishes the Metropolitan Development Commission (MDC) of Marion County, Indiana as the single planning and zoning authority for Marion County, Indiana, and empowers the MDC to approve and recommend to the City-County Council of the City of Indianapolis and of Marion County, Indiana ordinances for the zoning or districting of all lands with the County for the purposes of securing adequate light, air, convenience of access, and safety from fire, flood and other danger; lessening or avoiding congestion in public ways; promoting the public health, safety, comfort, morals, convenience, and general public welfare; securing the conservation of property values; and securing responsible development and growth; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Commercial Zoning Ordinance of Marion County, Indiana, Code of Indianapolis and Marion County, Indiana, Appendix D, Part 12 (adopted under Metropolitan Development Commission docket numbers 69-AO-1, 75-AO-3, 76-AO-3, 79-AO-4, 80-AO-1, 92-AO-4, 94-AO-7, 96-AO-1, and 96-AO-4), as amended, pursuant to IC 36-7-4 be amended as follows:

A. That Section 2.04, A, 15 be amended by deleting the stricken language and inserting the underscored language as follows:

15. Indoor commercial ~~or amusement/recreational amusement~~ establishments, including:

B. That Section 2.04, B, 1 be amended by deleting the stricken language and inserting the underscored language as follows:

d. Taverns, package liquor stores, ~~fast food or drive-through restaurants~~, night club establishments, and such establishments, where ~~food or alcoholic beverages may be carried out (except drug stores or grocery stores) or may likely consumed on the premises~~ 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 said Protected District by an intervening street (see Section 2.16, Diagram J); 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. Fast food or drive-through restaurants, and such establishments where food may be carried out 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 said Protected District by an intervening street (see Section 2.16, Diagram J).

- f. 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.

- eg. Gasoline service stations, convenience markets, service centers or functions, services, operation and sales shall not include the following:

C. That Section 2.05, A, 5 be amended by deleting the stricken language and inserting the underscored language as follows:

5. Commercial ~~or amusement/recreational amusement~~ establishments; including:

D. That Section 2.05, B, 1 be amended by deleting the stricken language and inserting the underscored language as follows:

- d. Taverns, package liquor stores, ~~fast food or drive-through restaurants,~~ night club establishments, and such establishments where ~~food or~~ alcoholic beverages may be carried out (except drug stores or grocery stores) ~~or may likely consumed on the premises 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 said Protected District by an intervening street (see Section 2.16, Diagram J); ~~and,-~~
- (4) not be located within five hundred (500) feet, measured in any direction, of any 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 commercial amusement/recreation establishment.

- e. Fast food or drive-through restaurants, and such establishments where food may be carried out 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 said Protected District by an intervening street (see Section 2.16, Diagram J).

f. Any 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.

eg. Gasoline service stations, convenience markets, service centers or functions, shall be subject to the following regulations:

E. That Section 2.07, A, 4 be amended by deleting the stricken language and inserting the underscored language as follows:

4. Commercial ~~or amusement/recreational amusement~~ establishments, including:

F. That Section 2.07, B, 1 be amended by inserting the underscored language for a new subheading "g" as follows:

g. 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 said Protected District by an intervening street (see Section 2.16, Diagram J); and,
- (4) not be located within five hundred (500) feet, measured in any direction, of any 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 commercial amusement/recreation establishment.

h. Fast food or drive-through restaurants, and such establishments where food may be carried out 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 said Protected District by an intervening street (see Section 2.16, Diagram J).

- i. Any 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.

G. That Section 2.07, B, 1 be amended by realphabetizing subsections "g." through "i." as "j." through "l." to incorporate the new subsection noted in F. above.

H. That Section 2.16, B, 17, be amended by inserting the underscored language as follows:

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

I. That Section 2.16, B, 119, be amended by deleting the stricken language and inserting the underscored language as follows:

119. *Night club.* An establishment engaged primarily in offering entertainment to the general public, in the form of music for dancing or live ~~and~~ 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 ordinance, 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 a commercial amusement/recreation establishment.

SECTION 3. Severability. If any provision of this Ordinance shall be held invalid, its invalidity shall not affect any other provisions of the Ordinance that can be given effect without the invalid provision, and for this purpose the provisions of this Ordinance are hereby declared to severable.

SECTION 4. Attestation. This ordinance shall be in full force and effect upon its adoption with IC 36-7-4.

The foregoing was passed by the City-County Council this 9th day of June, 1997 at 9:55 p.m.

